

Date : 16/05/2019 2:27:08 PM
From : "CAGNEY Justin"
To : "ELLWOOD Dean"
Subject : Enforceable Undertaking - APBC
Attachment : image001.png;image003.jpg;image002.png;
Dean,

Please find draft content below as discussed.

In relation to the application for an Enforceable Undertaking made by Abbot Point Bulkcoal Pty Ltd (APBC) dated 13 May 2019, the department has made the decision to accept the Enforceable Undertaking.

Consistent with other administrative decision making processes set out in the *Environmental Protection Act 1994* (EP Act), the required documentation will be finalised in the coming days and the department expects to be in a position to provide the Notice of Decision and signed copy of the Enforceable Undertaking to APBC on Monday 20 May 2019. A copy of the Enforceable Undertaking is required to be published on the department's website and the department will endeavour to meet this requirement as a priority after APBC has received the documents.

Section 507 of the EP Act requires that the department take all reasonable steps to have proceedings in relation to the alleged contravention discontinued as soon as practicable after accepting an Enforceable Undertaking. The department's Litigation branch will be engaged early next week to arrange for the current proceedings in the Bowen Magistrates Court to be discontinued as soon as possible.

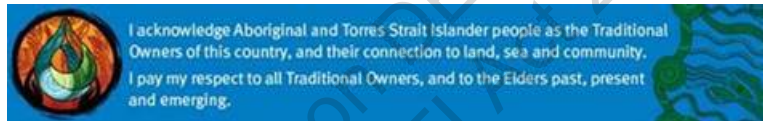
Regards,



Justin Cagney
Program Manager Compliance
Coal and Central Queensland Compliance
Department of Environment and Science

P 07 4837 3318

209 Bolsover Street Rockhampton 4700
PO Box 413 Rockhampton 4700



Date : 20/05/2019 2:21:17 PM

From : "CAGNEY Justin"

To : "s.73"

Cc : "ELLWOOD Dean", "WELLS Melissa"

Subject : Enforceable Undertaking

Attachment : EU NOD APBC 16052019.pdf;image001.png;image003.jpg;image004.png;

Good afternoon s.73

I refer to the application for an enforceable undertaking made by Abbot Point Bulkcoal Pty Ltd on 13 May 2019.

Please find attached Notice of Decision to accept the enforceable undertaking.

A copy of the enforceable undertaking is required to be published on the department's website and the department will meet this requirement as a priority, however please be aware it may take two or three days for the website to be updated.

Section 507 of the *Environmental Protection Act 1994* requires that the department take all reasonable steps to have proceedings in relation to the alleged contravention discontinued as soon as practicable after accepting an enforceable undertaking. The department's Litigation branch will arrange for the current proceedings in the Bowen Magistrates Court to be discontinued as soon as possible.

Regards,



Justin Cagney
Program Manager Compliance
Coal and Central Queensland Compliance
Department of Environment and Science

P 07 4837 3318

209 Bolsover Street Rockhampton 4700
PO Box 413 Rockhampton 4700



Date : 16/05/2019 4:33:35 PM
From : "ELLWOOD Dean"
To : "s.73"
Cc : "CAGNEY Justin"
Subject : EU

s.73

In relation to the application for an Enforceable Undertaking made by Abbot Point Bulkcoal Pty Ltd (APBC) dated 13 May 2019, the department has made the decision to accept the Enforceable Undertaking.

Consistent with other administrative decision making processes set out in the *Environmental Protection Act 1994* (EP Act), the required documentation will be finalised in the coming days and the department expects to be in a position to provide the Notice of Decision and signed copy of the Enforceable Undertaking to APBC [on Monday 20 May 2019](#). A copy of the Enforceable Undertaking is required to be published on the department's website and the department will endeavour to meet this requirement as a priority after APBC has received the documents.

Section 507 of the EP Act requires that the department take all reasonable steps to have proceedings in relation to the alleged contravention discontinued as soon as practicable after accepting an Enforceable Undertaking. The department's Litigation branch will be engaged early next week to arrange for the current proceedings in the Bowen Magistrates Court to be discontinued as soon as possible.

Regards
Dean Ellwood

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Date : 14/05/2019 9:06:46 AM

From : "LOWE Trinity"

To : "ELLWOOD Dean"

Subject : FW: ESR ALERT - Enforceable Undertaking likely to be accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

Attachment : 090519 - MR - Greater marine protection for Abbot Point.docx;

Dean

Alert & Draft Media release as requested.

Cheers

Trin

From: ESR <ESR@des.qld.gov.au>

Sent: Thursday, 9 May 2019 3:18 PM

To: MERRICK Jamie; TRACEY Alena; Pamela Frost; Hannah Jackson; Angus.Sutherland@ministerial.qld.gov.au;

sonja.litz@ministerial.qld.gov.au; SEELIG Tim; MACGROARTY Robynne; DLO DES; Media DES

Cc: ESR; ELLWOOD Dean; WELLS Melissa

Subject: ESR ALERT - Enforceable Undertaking likely to be accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

Importance: High

ALERT CATEGORY:

- Enforcement activity.

ALERT NAME:

- Enforceable Undertaking likely to be accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

CUSTOMER DETAILS:

- Abbot Point Bulkcoal Pty Ltd (APBC).
- Abbot Point Coal Terminal, Bowen, Lot 48 on SP243724, Lot 49 on SP243724, Lot 50 on SP243721, Lot 51 on SP243721, Lot 52 on SP243721, Lot 3 on SP227557, Lot 4 on SP227557, Lot 58 on SP240224 and Lot 49 on SP185904.
- Contact [REDACTED] s.73 Abbot Point Bulkcoal Pty Ltd.
- Environmental Authority (EA) EPPR00577113.

SUMMARY OF ISSUE/S:

- APBC operates the Abbot Point Coal Terminal (the Terminal) under environmental authority EPPR00577113 which authorises it to conduct environmental relevant activities 50(1a) for bulk material handling and 63(1b)(i) for sewage treatment.
- The Terminal is located in Central Queensland, approximately 25km north of Bowen and has been in operation since 1984.
- The offence relates to a release during Tropical Cyclone (TC) Debbie in March 2017 from an authorised discharge location named W2. At the sampling point, total suspended solids were measured at 806mg/L and 834mg/L which exceeded the temporary emissions licence limit of 100mg/L.
- The Department of Environment and Science (DES) originally issued a penalty infringement notice (PIN) in the amount of \$12,190 for the contravention of the licence. APBC elected to contest the PIN and DES commenced a prosecution in the Bowen Magistrates Court.
- On 5 September 2018, prosecution proceedings were commenced against APBC for one offence of failing to comply with a condition of a temporary emissions licence, contrary to section 357I of the *Environmental Protection Act 1994* (the Act).
- The matter is listed for a five day hearing before the Bowen Magistrates Court on **22 July 2019**.
- On 26 April 2019, DES received an application for an enforceable undertaking from APBC under section 507 of the EP Act in relation to the matter.
- As an alternative to prosecution, an enforceable undertaking seeks to achieve environmental outcomes. Such outcomes are often of greater value than any fine which may have been imposed by a Court.
- DES considers that this undertaking, which requires APBC to install monitoring at a cost of over \$100,000, will help protect the marine environment.

POTENTIAL IMPACTS / RISKS:

- In accordance with section 507 of the EP Act, if DES decides to accept the enforceable undertaking, DES must take all reasonable steps to have the current proceedings discontinued as soon as possible.
- DES must also publish a copy of the enforceable undertaking on its website.
- There is significant public interest in the Terminal, particularly in relation to release events and compliance with the environmental authority for the site.

DEPARTMENT ACTIONS:

[HISTORICAL ACTIONS]

- On 11 September 2018, DES issued APBC with a 2018/19 Pre Wet Season Preparedness Letter, inviting APBC to submit information detailing any changes or improvements to on site water management systems or infrastructure that have been undertaken since the 2017/18 wet season.
- On 13 December 2018, DES attended a meeting at the Terminal. During the meeting, APBC provided an overview of operations at the coal terminal and a detailed briefing on the water management system improvements being

implemented at the site. APBC has invested significantly in undertaking major upgrades to the water management system on site.

- DES is currently undertaking a monitoring program in the Caley Valley Wetland to identify and describe any adverse impacts on environmental values as a result of activities conducted at the Terminal.
- DES officers most recently attended the Caley Valley Wetlands on 5 and 6 March 2019 to continue sampling in accordance with the monitoring program.
- DES has commenced prosecution proceedings against APBC for the offence of contravening a condition of a temporary emissions licence during TC Debbie in March 2017. The matter was mentioned in the Bowen Magistrates Court on 5 March 2019, where the matter was listed for a five day hearing commencing 22 July 2019.

[PLANNED ACTIONS]

- On **Friday 10 May 2019**, DES is likely to be in a position to accept the enforceable undertaking from APBC under section 507 of the EP Act.
- On **Monday 13 May 2019**, if accepted, DES will likely update DES' website with a copy of the enforceable undertaking and release a media statement (draft attached).

LOCALITY DETAILS AND PHOTOGRAPHS:

- Abbot Point Coal Terminal is situated at the Port of Abbot Point, approximately 25 kilometres north-west of Bowen, Central Queensland.

KEY COMMUNICATION MESSAGES:

- As an alternative to prosecution, an enforceable undertaking seeks to achieve environmental outcomes. Such outcomes are often of greater value than any fine which may have been imposed by a Court.
- In accordance with the Act, if the enforceable undertaking is accepted, DES will take steps to discontinue the prosecution. DES expects Abbot Point Bulkcoal Pty Ltd to fully comply with the undertaking and will monitor its compliance. Failing to comply with the undertaking attracts significant penalties.

CONTACT DETAILS:

- Name: Melissa Wells, Executive Director, Coal and Central Queensland Compliance.
- Phone number: (07) 4987 9343.
- Division: Environmental Services and Regulation.

This email is an initial alert in respect of this matter.

If further advice or action is required, it will be communicated via normal channels such as a briefing note.

END

Draft media release

Deadline: ASAP	Briefing officer:
Media Services contact: Kieran Lewis	Phone:
Phone: 3339 5887 / <small>h4p4(6) Personal informati</small>	DDG:
Approved: Annie Ireland, Justin Cagney, Melissa Wells	Phone:
Geographical area/s of interest: Queensland wide	

Greater marine protection for Abbot Point

An agreement between Abbot Point Bulkcoal Pty Ltd and the Queensland Government will mean greater marine protection for waters off Abbot Point.

Abbot Point Bulkcoal is to invest \$100,000 in installing monitoring equipment to record any stormwater discharges to the marine environment from its Abbot Point Coal Terminal, north of Bowen.

The company is also continuing work to improve water management at the coal terminal.

The \$100,000 investment by Abbot Point Bulkcoal is by way of an “Enforceable Undertaking” agreement the company has signed with the Department of Environment and Science (DES).

Under the *Environmental Protection Act 1994*, an Enforceable Undertaking is an agreement that may be considered as an alternative to prosecution.

In this case, DES today [add date], accepted an Enforceable Undertaking from Abbot Point Bulkcoal in relation to the discharge event that occurred at the coal terminal during Tropical Cyclone Debbie in March 2017.

DES had originally issued Abbot Point Bulkcoal with a \$12,190 penalty infringement notice, alleging the event contravened the company’s temporary emissions licence for discharges at that time.

Abbot Point Bulkcoal elected to contest the infringement notice and DES commenced a prosecution in the Bowen Magistrates Court, which is currently listed for a hearing commencing 22 July 2019.

However, the company has now applied for an Enforceable Undertaking under the Environmental Protection Act, and DES has accepted that this agreement be entered into.

The positive environmental outcomes from an Environmental Undertaking are often of much greater value than any fine that may have been imposed by a Court.

In accordance with the Environmental Protection Act, DES will now take steps to discontinue the prosecution.

DES expects Abbot Point Bulkcoal to comply fully with the undertaking and will monitor its compliance.

Failing to comply with an Enforceable Undertaking may attract significant penalties, including a fine of more than \$4 million for a wilful contravention by a company.

A copy of the Enforceable Undertaking is available on the DES website at [\[add URL\]](#).

ENDS

AGENCY BACKGROUND (for internal information):

During Tropical Cyclone Debbie, Abbot Point Bulkcoal Pty Ltd was granted a temporary emissions licence which allowed discharges to occur subject to certain limits. A discharge event occurred from an authorised discharge location known as W2, which flows into the marine environment. No environmental harm is known to have occurred but sampling of the discharge revealed a total suspended solids concentration of over 800mg/L when the licence allowed discharges of up to 100 mg/L.

The current maximum penalties relating to failing to comply with an Enforceable Undertaking are \$4,079,687.50 for wilful contravention for a company and \$2,937,375 for non-wilful for a company. (Penalties for an individual differ.)

Date : 21/05/2019 2:53:58 PM
From : "LOWE Trinity"
To : "CAGNEY Justin"
Subject : FW: Here's the story- did you want it on PDF as well?
Attachment : image001.png;image002.png;image004.png;

From: TRACEY Ben
Sent: Tuesday, 21 May 2019 2:49 PM
To: LOWE Trinity
Subject: Here's the story- did you want it on PDF as well?

Adani strikes \$15M deal with state to protect reef



by [CAITLAN CHARLES](#)

21st May 2019 1:00 PM

ADANI will splash \$15 million on protecting the Great Barrier Reef with a host of upgrades to its Abbot Point Operations.

The company has reached a new agreement with the Queensland Government that will result in greater marine protection through more investment in water monitoring equipment at the Abbot Point site.

This agreement will bring court proceedings relating to stormwater release during Cyclone Debbie to an end.

"More than \$15 million in upgrades are in the process of final execution in what will be a series of multi-million dollar projects that will include increasing the volume of water storage ponds; upgrade of a bund wall; including new piping and pump facilities; as well as our early works program on the redesign of remaining water management infrastructure at other release points," an Abbot Point Operations spokesperson said.

The company has spent the past two years evolving and improving their environmental management practices, including significant enhancements in their infrastructure and the way they operate.

"As part of this commitment to continually improve our environmental management, we welcome the Queensland Government's acceptance of an Enforceable Undertaking application that we lodged voluntarily in order to deliver additional water quality monitoring at our site," the spokesperson said.

"This Enforceable Undertaking will help ensure positive environmental outcomes are achieved in the near term instead of continuing prolonged court proceedings in the Magistrates Court related to an alleged floodwater release during Cyclone Debbie.

"This new water monitoring infrastructure will allow us to measure water quality in real-time to assist in managing stormwater impacting our site. It will give the regulator and the community further confidence that our operations are being managed safely and responsibly.

"It is proposed that this new automated water quality monitoring system would be installed at the authorised floodwater release point opposite the ocean to provide real-time monitoring of water flows."

This new initiative is in addition to a three-year program that is under way at the terminal to improve water and environmental management, according to the company.

Design and construction of the additional water storage pond and upgrades to all other release points, including upgrades to sumps, pumps and piping is expected to be complete by 2021.



Ben Tracey
A/Principal Media Officer
Media Services | Corporate Services
Department of Environment and Science

P 07 3339 5845
media@des.qld.gov.au
400 George St, Brisbane QLD 4000
GPO Box 2454, Brisbane QLD 4001

Date : 21/05/2019 3:26:23 PM

From : "LOWE Trinity"

To : "Media DES"

Cc : "GRANT Andrea"

Subject : FW: UPDATE to ESR ALERT - Enforceable Undertaking accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

Attachment : image001.png;image007.png;image003.png;image005.png;image008.png;

FYI

Cheers

Trin

From: LOWE Trinity

Sent: Tuesday, 21 May 2019 3:18 PM

To: Estelle Roux

Cc: Elizabeth Fellows; justin.carpenter@premiers.qld.gov.au; ESR; ELLWOOD Dean; WELLS Melissa

Subject: UPDATE to ESR ALERT - Enforceable Undertaking accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

Hi Estelle,

The enforceable undertaking requires the installation of an automatic monitoring station for real-time recording of any future stormwater discharges from the site at discharge location W2 (the discharge location where the alleged offence occurred previously). The cost of this installation is expected to be approximately \$100,000.

In addition to the requirements under the enforceable undertaking, the operator is commissioning a number of improvements to the site's water management infrastructure to mitigate and manage water from high intensity and sustained rainfall events. The total cost of these additional works is reportedly in the order of \$15M. These works are being undertaken at the direction of the company, without any formal requirement issued by the department.

Thanks & Cheers

Trinity



Trinity Lowe

Executive Officer

Office of the Deputy Director General
Environmental Services and Regulation Division
Department of Environment and Science

P 07 3330 5812

Level 7 400 George St Brisbane

From: Estelle Roux [<mailto:estelle.roux@premiers.qld.gov.au>]

Sent: Tuesday, 21 May 2019 2:02 PM

To: LOWE Trinity

Cc: ESR; Elizabeth Fellows

Subject: RE: UPDATE to ESR ALERT - Enforceable Undertaking accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

Good afternoon Trinity,

We just noticed a Daily Mercury article about "Adani strikes \$15M deal with state to protect reef". The figure is very different from the draft media release, is there an updated ESR alert or media release?

Many thanks,

Estelle



Estelle Roux

Senior Policy Officer

Environment Policy

Department of the Premier and Cabinet

P 07 3003 9357 M (6) Personal info

Level 30, 1 William Street, Brisbane QLD 4000
PO Box 15185, City East, QLD 4002

From: LOWE Trinity <Trinity.Lowe@des.qld.gov.au>

Sent: Monday, 20 May 2019 11:37 AM

To: Jamie Merrick (DES) <Jamie.merrick@des.qld.gov.au>; Alena Tracey (DES) <alena.tracey@des.qld.gov.au>; Pamela Frost <Pamela.Frost@ministerial.qld.gov.au>; Hannah Jackson <Hannah.Jackson@ministerial.qld.gov.au>;

Angus.Sutherland@ministerial.qld.gov.au; sonja.litz@ministerial.qld.gov.au; SEELIG Tim <Tim.Seelig@des.qld.gov.au>; Robynne Macgroarty (DES) <robynne.macgroarty@des.qld.gov.au>; DLO DES <DLO.DES@des.qld.gov.au>; Media DES <Media@des.qld.gov.au>
Cc: Andrea Grant (DES) <Andrea.grant@des.qld.gov.au>; ELLWOOD Dean <Dean.Ellwood@des.qld.gov.au>; LAWRENCE Rob <Rob.Lawrence@des.qld.gov.au>; WELLS Melissa <Melissa.Wells@des.qld.gov.au>; CAGNEY Justin <Justin.Cagney@des.qld.gov.au>; Justin Carpenter <justin.carpenter@premiers.qld.gov.au>; Elizabeth Fellows <elizabeth.fellows@premiers.qld.gov.au>
Subject: UPDATE to ESR ALERT - Enforceable Undertaking accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.
Importance: High

Please find below updates in relation to this alert.

- On 13 May 2019, the department received an updated enforceable undertaking from APBC. The updated document included minor changes to the terms of the undertaking in relation to the time frames for deliverables.
- **On 16 May 2019, the department made a decision to accept the enforceable undertaking (EU) received on 13 May 2019 from APBC.**
- On 20 May 2019, the department will provide the Notice of Decision and signed enforceable undertaking to APBC.
- In accordance with section 507 of the EP Act, the department must take all reasonable steps to have the current proceedings discontinued as soon as possible. The department's Litigation branch has been engaged and will move to discontinue proceedings as a priority.
- The department must also publish a copy of the enforceable undertaking on its website. A copy of the enforceable undertaking will be published within the Enforcement Register on the department's website, consistent with other enforceable undertakings accepted by the department. The department's Communication Services has been engaged and will publish the document (EU) after the applicant has received the decision notice and the EU.
- The department's Media Services has been engaged and a draft media statement is attached.



Trinity Lowe
Executive Officer
Office of the Deputy Director General
Environmental Services and Regulation Division
Department of Environment and Science

P 07 3330 5812
Level 7 400 George St Brisbane

From: ESR <ESR@des.qld.gov.au>
Sent: Thursday, 9 May 2019 3:18 PM
To: MERRICK Jamie; TRACEY Alena; Pamela Frost; Hannah Jackson; Angus.Sutherland@ministerial.qld.gov.au; sonja.litz@ministerial.qld.gov.au; SEELIG Tim; MACGROARTY Robynne; DLO DES; Media DES
Cc: ESR; ELLWOOD Dean; WELLS Melissa
Subject: ESR ALERT - Enforceable Undertaking likely to be accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.
Importance: High

ALERT CATEGORY:

- Enforcement activity.

ALERT NAME:

- Enforceable Undertaking likely to be accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

CUSTOMER DETAILS:

- Abbot Point Bulkcoal Pty Ltd (APBC).
- Abbot Point Coal Terminal, Bowen, Lot 48 on SP243724, Lot 49 on SP243724, Lot 50 on SP243721, Lot 51 on SP243721, Lot 52 on SP243721, Lot 3 on SP227557, Lot 4 on SP227557, Lot 58 on SP240224 and Lot 49 on SP185904.
- Contact: s.73 Abbot Point Bulkcoal Pty Ltd.
- Environmental Authority (EA) EPPR00577113.

SUMMARY OF ISSUE/S:

- APBC operates the Abbot Point Coal Terminal (the Terminal) under environmental authority EPPR00577113 which authorises it to conduct environmentally relevant activities 50(1a) for bulk material handling and 63(1b)(i) for sewage treatment.
- The Terminal is located in Central Queensland, approximately 25km north of Bowen and has been in operation since 1984.
- The offence relates to a release during Tropical Cyclone (TC) Debbie in March 2017, from an authorised discharge location named W2. At the sampling point, total suspended solids were measured at 806mg/L and 834mg/L which exceeded the temporary emissions licence limit of 100mg/L.
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- On 5 September 2018, prosecution proceedings were commenced against APBC for one offence of failing to comply with a condition of a temporary emissions licence, contrary to section 357I of the *Environmental Protection Act 1994* (the Act).
- The matter is listed for a five day hearing before the Bowen Magistrates Court on **22 July 2019**.
- On 26 April 2019, DES received an application for an enforceable undertaking from APBC under section 507 of the EP Act in relation to the matter.
- As an alternative to prosecution, an enforceable undertaking seeks to achieve environmental outcomes. Such outcomes are often of greater value than any fine which may have been imposed by a Court.
- DES considers that this undertaking, which requires APBC to install monitoring at a cost of over \$100,000, will help protect the marine environment.

POTENTIAL IMPACTS / RISKS:

- In accordance with section 507 of the EP Act, if DES decides to accept the enforceable undertaking, DES must take all reasonable steps to have the current proceedings discontinued as soon as possible.
- DES must also publish a copy of the enforceable undertaking on its website.
- There is significant public interest in the Terminal, particularly in relation to release events and compliance with the environmental authority for the site.

DEPARTMENT ACTIONS:

[HISTORICAL ACTIONS]

- On 11 September 2018, DES issued ABPC with a 2018/19 Pre Wet Season Preparedness Letter, inviting APBC to submit information detailing any changes or improvements to on site water management systems or infrastructure that have been undertaken since the 2017/18 wet season.
- On 13 December 2018, DES attended a meeting at the Terminal. During the meeting, APBC provided an overview of operations at the coal terminal and a detailed briefing on the water management system improvements being implemented at the site. APBC has invested significantly in undertaking major upgrades to the water management system on site.
- DES is currently undertaking a monitoring program in the Caley Valley Wetland to identify and describe any adverse impacts on environmental values as a result of activities conducted at the Terminal.
- DES officers most recently attended the Caley Valley Wetlands on 5 and 6 March 2019 to continue sampling in accordance with the monitoring program.
- DES has commenced prosecution proceedings against APBC for the offence of contravening a condition of a temporary emissions licence during TC Debbie in March 2017. The matter was mentioned in the Bowen Magistrates Court on 5 March 2019, where the matter was listed for a five day hearing commencing 22 July 2019.

[PLANNED ACTIONS]

- On **Friday 10 May 2019**, DES is likely to be in a position to accept the enforceable undertaking from APBC under section 507 of the EP Act.
- On **Monday 13 May 2019**, if accepted, DES will likely update DES' website with a copy of the enforceable undertaking and release a media statement (draft attached).

LOCALITY DETAILS AND PHOTOGRAPHS:

- Abbot Point Coal Terminal is situated at the Port of Abbot Point, approximately 25 kilometres north-west of Bowen, Central Queensland.

KEY COMMUNICATION MESSAGES:

- As an alternative to prosecution, an enforceable undertaking seeks to achieve environmental outcomes. Such outcomes are often of greater value than any fine which may have been imposed by a Court.
- In accordance with the Act, if the enforceable undertaking is accepted, DES will take steps to discontinue the prosecution. DES expects Abbot Point Bulkcoal Pty Ltd to fully comply with the undertaking and will monitor its compliance. Failing to comply with the undertaking attracts significant penalties.

CONTACT DETAILS:

- Name: Melissa Wells, Executive Director, Coal and Central Queensland Compliance.
- Phone number: (07) 4987 9343.
- Division: Environmental Services and Regulation.

This email is an initial alert in respect of this matter.

If further advice or action is required, it will be communicated via normal channels such as a briefing note.

END

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Published on DES Disclosure Log
RTI Act 2009

Date : 21/05/2019 2:46:32 PM

From : "LOWE Trinity"

To : "ELLWOOD Dean"

Cc : "WELLS Melissa"

Subject : Question from DPC: UPDATE to ESR ALERT - Enforceable Undertaking accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

Attachment : image002.png;image005.png;image004.png;image006.png;

Dean

FYI – Justin is working up a couple of Dot Points to go back to DPC.

Cheers

Trin

From: Estelle Roux [mailto:estelle.roux@premiers.qld.gov.au]

Sent: Tuesday, 21 May 2019 2:02 PM

To: LOWE Trinity

Cc: ESR; Elizabeth Fellows

Subject: RE: UPDATE to ESR ALERT - Enforceable Undertaking accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

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Many thanks,

Estelle



Estelle Roux

Senior Policy Officer

Environment Policy

Department of the Premier and Cabinet

P 07 3003 9357 M (6) Personal info

Level 30, 1 William Street, Brisbane QLD 4000

PO Box 15185, City East, QLD 4002

From: LOWE Trinity <Trinity.Lowe@des.qld.gov.au>

Sent: Monday, 20 May 2019 11:37 AM

To: Jamie Merrick (DES) <Jamie.merrick@des.qld.gov.au>; Alena Tracey (DES) <alena.tracey@des.qld.gov.au>; Pamela Frost <Pamela.Frost@ministerial.qld.gov.au>; Hannah Jackson <Hannah.Jackson@ministerial.qld.gov.au>; Angus.Sutherland@ministerial.qld.gov.au; sonja.litz@ministerial.qld.gov.au; SEELIG Tim <Tim.Seelig@des.qld.gov.au>; Robynne Macgroarty (DES) <robynne.macgroarty@des.qld.gov.au>; DLO DES <DLO.DES@des.qld.gov.au>; Media DES <Media@des.qld.gov.au>
Cc: Andrea Grant (DES) <Andrea.grant@des.qld.gov.au>; ELLWOOD Dean <Dean.Ellwood@des.qld.gov.au>; LAWRENCE Rob <Rob.Lawrence@des.qld.gov.au>; WELLS Melissa <Melissa.Wells@des.qld.gov.au>; CAGNEY Justin <Justin.Cagney@des.qld.gov.au>; Justin Carpenter <justin.carpenter@premiers.qld.gov.au>; Elizabeth Fellows <elizabeth.fellows@premiers.qld.gov.au>

Subject: UPDATE to ESR ALERT - Enforceable Undertaking accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

Importance: High

Please find below updates in relation to this alert.

- On 13 May 2019, the department received an updated enforceable undertaking from APBC. The updated document included minor changes to the terms of the undertaking in relation to the time frames for deliverables.
- **On 16 May 2019, the department made a decision to accept the enforceable undertaking (EU) received on 13 May 2019 from APBC.**
- On 20 May 2019, the department will provide the Notice of Decision and signed enforceable undertaking to APBC.
- In accordance with section 507 of the EP Act, the department must take all reasonable steps to have the current proceedings discontinued as soon as possible. The department's Litigation branch has been engaged and will move to discontinue proceedings as a priority.
- The department must also publish a copy of the enforceable undertaking on its website. A copy of the enforceable undertaking will be published within the Enforcement Register on the department's website, consistent with other enforceable undertakings accepted by the department. The department's Communication Services has been engaged and will publish the document (EU) after the applicant has received the decision notice and the EU.
- The department's Media Services has been engaged and a draft media statement is attached.

Trinity Lowe

Executive Officer

Office of the Deputy Director General

Environmental Services and Regulation Division

Department of Environment and Science

From: ESR <ESR@des.qld.gov.au>

Sent: Thursday, 9 May 2019 3:18 PM

To: MERRICK Jamie; TRACEY Alena; Pamela Frost; Hannah Jackson; Angus.Sutherland@ministerial.qld.gov.au; sonja.litz@ministerial.qld.gov.au; SEELIG Tim; MACGROARTY Robynne; DLO DES; Media DES

Cc: ESR; ELLWOOD Dean; WELLS Melissa

Subject: ESR ALERT - Enforceable Undertaking likely to be accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

Importance: High

ALERT CATEGORY:

- Enforcement activity.

ALERT NAME:

- Enforceable Undertaking likely to be accepted from Abbot Point Bulkcoal Pty Ltd under section 507 of the Environmental Protection Act 1994.

CUSTOMER DETAILS:

- Abbot Point Bulkcoal Pty Ltd (APBC).
- Abbot Point Coal Terminal, Bowen, Lot 48 on SP243724, Lot 49 on SP243724, Lot 50 on SP243721, Lot 51 on SP243721, Lot 52 on SP243721, Lot 3 on SP227557, Lot 4 on SP227557, Lot 58 on SP240224 and Lot 49 on SP185904.
- Contact: s.73 Abbot Point Bulkcoal Pty Ltd.
- Environmental Authority (EA) EPPR00577113.

SUMMARY OF ISSUE/S:

- APBC operates the Abbot Point Coal Terminal (the Terminal) under environmental authority EPPR00577113 which authorises it to conduct environmentally relevant activities 50(1a) for bulk material handling and 63(1b)(i) for sewage treatment.
- The Terminal is located in Central Queensland, approximately 25km north of Bowen and has been in operation since 1984.
- The offence relates to a release during Tropical Cyclone (TC) Debbie in March 2017, from an authorised discharge location named W2. At the sampling point, total suspended solids were measured at 806mg/L and 834mg/L which exceeded the temporary emissions licence limit of 100mg/L.
- The Department of Environment and Science (DES) originally issued a penalty infringement notice (PIN) in the amount of \$12,190 for the contravention of the licence. APBC elected to contest the PIN and DES commenced a prosecution in the Bowen Magistrates Court.
- On 5 September 2018, prosecution proceedings were commenced against APBC for one offence of failing to comply with a condition of a temporary emissions licence, contrary to section 357I of the *Environmental Protection Act 1994* (the Act).
- The matter is listed for a five day hearing before the Bowen Magistrates Court on **22 July 2019**.
- On 26 April 2019, DES received an application for an enforceable undertaking from APBC under section 507 of the EP Act in relation to the matter.
- As an alternative to prosecution, an enforceable undertaking seeks to achieve environmental outcomes. Such outcomes are often of greater value than any fine which may have been imposed by a Court.
- DES considers that this undertaking, which requires APBC to install monitoring at a cost of over \$100,000, will help protect the marine environment.

POTENTIAL IMPACTS / RISKS:

- In accordance with section 507 of the EP Act, if DES decides to accept the enforceable undertaking, DES must take all reasonable steps to have the current proceedings discontinued as soon as possible.
- DES must also publish a copy of the enforceable undertaking on its website.
- There is significant public interest in the Terminal, particularly in relation to release events and compliance with the environmental authority for the site.

DEPARTMENT ACTIONS:

[HISTORICAL ACTIONS]

- On 11 September 2018, DES issued APBC with a 2018/19 Pre Wet Season Preparedness Letter, inviting APBC to submit information detailing any changes or improvements to on site water management systems or infrastructure that have been undertaken since the 2017/18 wet season.
- On 13 December 2018, DES attended a meeting at the Terminal. During the meeting, APBC provided an overview of operations at the coal terminal and a detailed briefing on the water management system improvements being implemented at the site. APBC has invested significantly in undertaking major upgrades to the water management system on site.

- DES is currently undertaking a monitoring program in the Caley Valley Wetland to identify and describe any adverse impacts on environmental values as a result of activities conducted at the Terminal.
- DES officers most recently attended the Caley Valley Wetlands on 5 and 6 March 2019 to continue sampling in accordance with the monitoring program.
- DES has commenced prosecution proceedings against APBC for the offence of contravening a condition of a temporary emissions licence during TC Debbie in March 2017. The matter was mentioned in the Bowen Magistrates Court on 5 March 2019, where the matter was listed for a five day hearing commencing 22 July 2019.

[PLANNED ACTIONS]

- On **Friday 10 May 2019**, DES is likely to be in a position to accept the enforceable undertaking from APBC under section 507 of the EP Act.
- On **Monday 13 May 2019**, if accepted, DES will likely update DES' website with a copy of the enforceable undertaking and release a media statement (draft attached).

LOCALITY DETAILS AND PHOTOGRAPHS:

- Abbot Point Coal Terminal is situated at the Port of Abbot Point, approximately 25 kilometres north-west of Bowen, Central Queensland.

KEY COMMUNICATION MESSAGES:

- As an alternative to prosecution, an enforceable undertaking seeks to achieve environmental outcomes. Such outcomes are often of greater value than any fine which may have been imposed by a Court.
- In accordance with the Act, if the enforceable undertaking is accepted, DES will take steps to discontinue the prosecution. DES expects Abbot Point Bulkcoal Pty Ltd to fully comply with the undertaking and will monitor its compliance. Failing to comply with the undertaking attracts significant penalties.

CONTACT DETAILS:

- Name: Melissa Wells, Executive Director, Coal and Central Queensland Compliance.
- Phone number: (07) 4987 9343.
- Division: Environmental Services and Regulation.

This email is an initial alert in respect of this matter.

If further advice or action is required, it will be communicated via normal channels such as a briefing note.

END

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