

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.

Motoland Pty Ltd
9 Meaden Street
SOUTHBANK VIC 3006

Our reference: 211006-000044

26 November 2021

Dear Sir/Madam

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Motoland Pty Ltd (you) by the administering authority. The administering authority is the Chief Executive of the Ipswich City Council (Council).

The EPO is issued in respect to the activities regarding earthworks at Motoland situated on land described as Lot 138 on S3161 situated at 62 Coal Road, Chuwar, Lot 137 on S3161 at 145-179 Robin Street, Chuwar and Lot 136 on S3161 situated at Lot 136 Unnamed Road, Chuwar.

A. Grounds

This EPO is issued on the following grounds:

- to secure compliance with the *Environmental Protection (Noise) Policy 2019*; and
- to secure compliance with noise standards under s. 440Q of the Act; and
- to secure compliance with depositing prescribed water contaminants in waters under s. 440ZG of the Act; and
- to secure compliance with the General Environmental Duty (GED) under s. 319 of the Act.

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

- Motorcycling QLD is the land owner for Lot 138 on S3161, Lot 137 on S3161 and Lot 136 on S3161
- A development approval issued in 1974, Development Approval #4147, grants the use of motorcycling activity from the above lots.
- Motoland Pty Ltd is the occupier for these lots that currently undertakes motorcycling activity to which the approval relates.

- The approval #4147 contains two conditions:
 - (a) the provision of an effluent disposal system to the satisfaction of the Council
 - (b) the provision of a 2 metre landscaped buffer strip around the perimeter of the property
- From 3 October, 2021, Ipswich City Council (Council) has received complaints in regard to environmental nuisance from 25 separate complainants. The majority of these complaints were for noise nuisance specifically related to motorcycle activity and earthworks activity (including the use of a high capacity storage water truck). The motorcycling activity occurs on a weekend, the earthworks is conducted during the work week and before and after motorcycling activity on the weekend. There were a small amount of complaints raised for stormwater contamination and dust nuisance.
- As the approval conditions are not prescriptive in relation to intensity levels or operational timeframes in regard to environmental nuisance, regulation was carried out under the *Environmental Protection Act 1994* and subordinate regulations and policies under this Act.
- Multiple noise monitoring inspections were undertaken by Authorised Officers, Lee Mason and Victoria Keevers from various locations between October and November 2021. These monitoring inspections occurred on 9 October, 17 October, 24 October, 3 November and 6 November, 2021. There were several environmental noise nuisances identified according to the Act and also the acoustic quality objectives under the *Environmental Protection (Noise) Policy 2019*. All measurements were taken with a type 1 sound level meter, fast speed in 15 minute timeframes. If the noise level has been 'adjusted', this is primarily due to tonality. Specifically, the noise monitoring reports gave light to the level of compliance from various locations as per the below:
 - On 9 October 2021, whilst motorcycling activity was being undertaken, a contravention of noise standard under s. 440X (e.g. above 70dBA LAeq) of the Act was identified outside the boundary of 146-190 Robin Street, Chuwar (north of lot 137S3161). Specifically, the noise levels depicted levels at 78.3dBA LAeq and 76.2dBA LAeq, with peak noise reported at 89.7dBA LAMax and 92.8dBA LAMax, respectively. The monitoring report also indicated that the levels were well above acoustic quality objectives (e.g. above 50 dBA LAeq for residence outdoors) under the *Environmental Protection (Noise) Policy 2019*.
 - On 24 October 2021, whilst motorcycling activity was being undertaken, a contravention of noise standard s. 440X (e.g. above 70dBA LAeq) of the Act was identified within the boundary of 26 Coal Road, Chuwar (east of lot 136S3161). At this time, there were approximately 12 riders operating on the track closest to this property. Specifically, the noise level was 70.3dBA LAeq (not adjusted) with a maximum level of 83.7dBA LAMax. The monitoring report also indicated that the levels were well above acoustic quality objectives (e.g. above 50 dBA LAeq for residence outdoors) under the *Environmental Protection (Noise) Policy 2019* at a sensitive receptor.
 - On 6 November 2021, whilst motorcycling activity was being undertaken, noise levels were well above the acoustic quality objectives (e.g. above 50 dBA LAeq for residence outdoors) at 139 Robin Street, Chuwar. The noise at the boundary of this property was 67dBA LAeq (adjusted). It is also noted that the maximum noise level reached 91dBA LAMax from this location. These levels were reasonably consisted for 3 monitoring sessions on this day.
 - On 6 November 2021, whilst a water truck was in operation (in isolation) at the site, a contravention of noise standard s. 440T (e.g. 5dBA LA90 above background) of the Act was identified at the boundary of 139 Robin Street, Chuwar. I also note that there was a contravention of the this standard for regulated timeframes as a 'pump' is not to make an

audible noise between 10pm and 7am (observation for the contravention was made before 7am).

- Council has received copies of noise diaries from three complainants over a period of three weeks who have indicated that earthworks have been conducted outside of general business hours. Some operational timeframes have allegedly occurred up until 10pm or later and have begun as early as 5.30am. These diaries are in addition to other complaints raised from others who have reiterated feedback that is consistent with these timeframes.
- I am satisfied that Motoland Pty Ltd have not taken appropriate measures (e.g. physical barrier, buffer or adjustment of operational timeframes) that demonstrates that they have made an attempt to address or minimise noise nuisance.
- On 29 October 2021, officers Mason and Keevers attended the site and discussed erosion and sediment control matters with Motoland staff. This site inspection was a direct response to complaints made in relation to stormwater contamination of Sandy Creek due to the ongoing earthworks and the additional tracks created. From our inspection, there was an absence or lack of maintenance regarding batter stabilisation, general sediment basin maintenance and other erosion and sediment control measures which include, but not limited to: rock check dams, bunds (various materials such as mulch or top soil), rock spillways for basins, rock lined chutes, drainage channels, drainage infrastructure and vegetation management (rehabilitation) for stabilisation. This was evident at the western end of the site closest to Sandy Creek. However, it must also be noted that an additional retention basin has been created on site to capture stormwater in a rain event at the western end of site.
- Despite the creation of a retention basin, I am satisfied that Motoland Pty Ltd have not installed industry standard measures to minimise stormwater contamination.
- On 9 October 2021 and 6 November 2021, dust was observed emanating from site across Robin Street, at the northern end of lot 138S3161. From a visual inspection, the dust was dense enough that it could effect visibility for drivers along Robin Street and or cause a nuisance depending on wind speed and direction. A water truck is used on site, however, this is utilised for break times before and after motorcycle activity. Given that a water truck or other dust suppression system is not used whilst motorcycle activity is being undertaken, dust is leaving the site as a result.
- I am satisfied that Motoland Pty Ltd have not taken appropriate measures to minimise dust whilst motorcycle activity is being undertaken.

B. Requirements

In accordance with this EPO, you are required to do the following:

Requirement number	Requirement
1	(i) By 21 January 2022, Motoland Pty Ltd, must engage a suitably qualified person (e.g. acoustic engineer) who must conduct sound monitoring of the motorcycle activity and submit the findings of the sound monitoring via a report back to Council. The sound monitoring of the subject site must include at least 8 separate days of data for motorcycle noise activity from the time as to when the motorcycle activity commences on a particular day until completion during that day. Currently, this activity has been consistent on a weekend.

	<p>Provisions and conduct for sound monitoring must include (but not limited to) a sound level meter and a noise logger from either within or at the boundary of a sensitive receptor from the following locations (but not limited to) listed below:</p> <p>135 Robin Street, Chuwar</p> <p>26 Coal Road, Chuwar</p> <p>2 Blackwall Road, Chuwar</p> <p>The monitoring from the sound level meter will require at least 6 samples (but not limited to) each with a 15-minute duration from each sensitive receptor on at least 3 separate dates when motorcycle activity occurs.</p> <p>The noise logging must be captured for at least 8 full days when motorcycle activity occurs.</p> <p>(ii) Upon completion of the sound monitoring, an acoustic report with all recorded data must be submitted to Council with recommendations as to how the activity affects the surrounding community including the sensitive receptor/s. The suitably qualified person must also recommend the type of control measures required to achieve acoustic quality objectives criteria at a sensitive receptor and the surrounding community. As stipulated above, the report must be submitted to Council by 21 January 2022.</p> <p>(iii) The installation of the control measures recommended by the acoustic consultant will be considered by Council upon receiving of the report. The relevant timeframe required for the installation of such control measures will be directly proportional to the type of control measure recommended and corresponding application requirements (if any). Therefore, timeframes allocated to this specific requirement will remain in force until further notice from Council.</p> <p>Note: Suitably qualified person means a person who has demonstrable professional qualifications, training, skills and/or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.</p>
2	<p>(i) By 19 November 2021, Motoland Pty Ltd, must comply with the revised operational timeframes which correlates with the General Works policy under the Ipswich City Council Planning Scheme and the noise standards under s. 440T of the Act. The timeframe for conducting earthworks is as follows:</p> <p style="padding-left: 40px;">(1) (a) A person must not carry out earthworks in a way that makes an audible noise- On a business day or weekend, before 6.30a.m. or after 6.30p.m; and</p> <p style="padding-left: 40px;">(2) (b) From 6.30a.m. to 6.30p.m, cannot make a noise of more than 5dB(A) above the background level from the closest sensitive receptor.</p> <p>(ii) By 21 January 2022, Motoland Pty Ltd, must engage a suitably qualified person (e.g. acoustic engineer) who must conduct sound monitoring of the motorcycle activity and submit the findings of the sound monitoring via a report to submit back to Council. The sound monitoring of the subject site must include at least 8 separate days of data for earthworks noise activity from the time as to when the motorcycle activity commences on a particular</p>

	<p>day until completion during that day. Currently, this activity will frequently occur from Monday – Friday and before and after motorcycle activity on the weekend.</p> <p>Provisions and conduct for sound monitoring must include (but not limited to) a sound level meter and a noise logger from either within or at the boundary of a sensitive receptor from the following locations (but not limited to) listed below:</p> <p>135 Robin Street, Chuwar</p> <p>26 Coal Road, Chuwar</p> <p>2 Blackwall Road, Chuwar</p> <p>The monitoring from the sound level meter will require at least 6 samples (but not limited to) each with a 15-minute duration from each sensitive receptor on at least 3 separate dates when earthwork activities occur.</p> <p>The noise logging must be captured for at least 8 full days when earthwork activities occur.</p> <p>(iii) Upon completion of the sound monitoring, an acoustic report with all recorded data must be submitted to Council with recommendations as to how the activity affects the surrounding community including the sensitive receptor/s. The suitably qualified person must also recommend the type of control measures required to achieve acoustic quality objectives criteria at a sensitive receptor and the surrounding community. As stipulated above, the report must be submitted to Council by 21 January 2022.</p> <p>(iv) The installation of the control measures recommended by the acoustic consultant will be considered by Council upon receiving of the report. The relevant timeframe required for the installation of such control measures will be directly proportional to the type of control measure recommended and corresponding application requirements (if any). Therefore, timeframes allocated to this specific requirement will remain in force until further notice from Council.</p> <p>Note: Suitably qualified person means a person who has demonstrable professional qualifications, training, skills and/or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.</p>
3	<p>(i) By 19 November 2021, Motoland Pty Ltd, must comply with the revised operational timeframes which correlate to the noise standard under s. 440T of the Act.</p> <p>An occupier of the premises must not use, or permit the use of, the pump on any day-</p> <ul style="list-style-type: none"> (a) before 7a.m, if it makes an audible noise; or (b) from 7a.m. to 7p.m, if it makes a noise of more than 5dB(A) above the background level; or (c) from 7p.m. to 10p.m, if it makes a noise of more than 3dB(A) above the background level; or (d) after 10p.m, if it makes an audible noise <p>(ii) By 21 January 2022, Motoland Pty Ltd, must engage a suitably qualified person (e.g. acoustic engineer) who must conduct sound monitoring of the water truck activity and</p>

	<p>submit the findings of the sound monitoring via a report back to Council. Currently, this activity will frequently occur from Monday – Friday and before and after motorcycle activity on the weekend.</p> <p>Provisions and conduct for sound monitoring must include (but not limited to) a sound level meter and a noise logger from either within or at the boundary of a sensitive receptor from the following locations (but not limited to) listed below:</p> <p>135 Robin Street, Chuwar</p> <p>26 Coal Road, Chuwar</p> <p>2 Blackwall Road, Chuwar</p> <p>The monitoring from the sound level meter will require at least 6 samples (but not limited to) each with a 15-minute duration each sensitive receptor on at least 3 separate dates when water truck activity occurs.</p> <p>The noise logging must be captured for at least 4 full days when water truck activity occurs.</p> <p>(iii) Upon completion of the sound monitoring, an acoustic report with all recorded data must be submitted to Council with recommendations as to how the activity affects the surrounding community including the sensitive receptor/s. The suitably qualified person must also recommend the type of control measures required to achieve acoustic quality objectives criteria at a sensitive receptor and the surrounding community. As stipulated above, the report must be submitted to Council by 21 January 2022.</p> <p>(iv) The installation of the control measures recommended by the acoustic consultant will be considered by Council upon receiving of the report. The relevant timeframe required for the installation of such control measures will be directly proportional to the type of control measure recommended and corresponding application requirements (if any). Therefore, relative timeframes allocated to this specific requirement will remain in force until further notice from Council.</p> <p>Note: Suitably qualified person means a person who has demonstrable professional qualifications, training, skills and/or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.</p>
4	<p>(i) By 7 January 2022, Motoland Pty Ltd, must engage a suitably qualified person who must attend site and draft an erosion and sediment control (ESC) plan. The ESC plan must also include a dust management plan for earthworks conducted on site. A copy of these plans must be provided to Council and signed by the suitably qualified person. The ESCP is to be in accordance with current best practice erosion and sediment control, for example the IECA 2008 <i>Best Practice Erosion and Sediment Control</i> – (“IECA 2008”) International Erosion Control Association (Australasia).</p> <p>(ii) By 7 January 2022, implement all ESC measures as per plan drafted by the suitably qualified person. A Council officer will conduct an inspection to determine compliance with the measures on site according to the recommendations made within the ESC plan.</p> <p>(iii) By 7 January 2022, submit to Council, a completed Erosion and Sediment Control Inspection Certificate which is signed by the suitably qualified person.</p>

	<p>Note: Suitably qualified person means a person who has demonstrable professional qualifications, training, skills and/or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.</p>
5	<p>(i) By 21 January 2022, Motoland Pty Ltd, must engage a suitably qualified person (e.g. environmental consultant) to undertake at least 3 inspections (at least 3 hours per inspection) of the site under dry conditions to determine the impact of dust from motorcycle activity on all surrounding properties.</p> <p>(ii) By 21 January 2022, a dust monitoring report must be submitted by the suitably qualified person to Council which demonstrates the impact of dust per inspection, the corresponding weather conditions per inspection, the level of motorcycle activity per inspection and recommendations for controlling dust on site.</p> <p>(iii) The installation of the control measures recommended by the acoustic consultant will be considered by Council upon receiving of the report. The relevant timeframe required for the installation of such control measures will be directly proportional to the type of control measure recommended and corresponding application requirements (if any). Therefore, timeframes allocated to this specific requirement will remain in force until further notice from Council.</p> <p>Note: Suitably qualified person means a person who has demonstrable professional qualifications, training, skills and/or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.</p>

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 \$856,250 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$4,281,250.

- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling \$616,500.
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$3,082,500

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

- The maximum penalty for an individual is 50 penalty units, totalling \$ 6,850.
- The maximum penalty for a corporation is 250 penalty units, totalling \$ 34,250.

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 \$ 6,850
- The maximum penalty for a corporation is 250 penalty units, totalling \$ 34,250.

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 administering authority, may be able to apply to have the administering authority 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 please see ([ESR/2015/1572](#)).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.

Should you have any queries in relation to the notice, please contact Mr Lee Mason on telephone number (07) 3810 7338 or Lee.Mason@ipswich.qld.gov.au.

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>.

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Signature

26.11.2021

Date

Peter Clifton

Environmental Health Manager (Planning and
Regulatory Services)

Delegate of the Chief Executive

Ipswich City Council

Environmental Protection Act 1994

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