# Notice

***Environmental Protection Act 1994***

**Environmental Evaluation**

## Notice to conduct or commission an environmental evaluation

*This notice to conduct or commission an environmental evaluation is issued by the administering authority pursuant to section 326B OR 326BA of the* Environmental Protection Act 1994.

Hopegate Pty Ltd

ACN 056 293746

30 – 60 Gilston Road

Nerang, QLD, 4211

Your reference: EPPR00238913

Our reference: C-CPLRC-100066251/ ENF E-100318616

Click here to enter a date.

**Take notice**: that under the *Environmental Protection Act 1994* (the Act) a notice to conduct or commission an environmental evaluation is issued to Hopegate Pty Ltd ACN 056 293746 (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The notice to conduct or commission an environmental evaluation is issued in with respect to the activities of Hopegate Pty Ltd on land described as 30-60 Gilston Road, Nerang at Lot 2 on RP210515 and Lot 1 on RP102492 (the premises).

### A. Grounds

The notice to conduct or commission an environmental investigation is issued on the following grounds:

1. Section 326B(1) of the Act states that this section applies if the administering authority is satisfied on reasonable grounds that (b) an activity or proposed activity is causing or is likely to cause environmental harm.

2. Section 326B(2) of the Act states that the authority may, by written notice (an **investigation notice**), require the person who has carried out, is carrying out or is proposing to carry out the activity to (a) conduct or commission an investigation (an **environmental investigation**) about the event or activity; and (b) submit an environmental report about the investigation to the authority.

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



Queensland Government

1. Hopegate Pty Ltd (Hopegate) holds an environmental authority EPPR00238913 (EA) for environmentally relevant activity (ERA) 25 Meat Processing 1(b) – Processing, not including rendering, in a year, the following quantity of meat or meat products – more than 5000t but not more than 50,000t (the activity).
2. The EA authorises the activity to occur at 30-60 Gilston Road, Nerang at Lot 2 on RP210515 and Lot 1 on RP102492 in Nerang, Queensland (the premises).
3. You operate a chicken abattoir at the premises.
4. Environmental harm is defined in section 14 of the Act as follows:

   *(1) Environmental harm is any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.*

   *(2) Environmental harm may be caused by an activity—*

   *i. whether the harm is a direct or indirect result of the activity; or*

   *ii. whether the harm results from the activity alone or from the combined effects of the activity and other activities or factors.*

5. Environmental nuisance is defined under section 15 of the Act as follows:

   *Environmental Nuisance is unreasonable interference or likely interference with an environmental value caused by—*

   i. *aerosols, fumes, light, noise, odour, particles or smoke; or*

   *ii. an unhealthy, offensive or unsightly condition because of contamination; or*

   *iii. another way prescribed by regulation.*

6. Environmental value is defined in section 9 of the Act as follows:

   *Environmental value is—*

   *i. a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or*

   *ii. another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.*

7. Public amenity is an environmental value that may be adversely affected by odour.
8. The Environment Protection (Noise) Policy 2019 defines environmental values in section 9, stating *the environmental values to be enhanced or protected under this policy are – (b) the qualities of the acoustic environment that are conducive to human health and wellbeing, including by ensuring a suitable acoustic environment for individuals to do any of the following – (i) sleep; (ii) study or learn; (iii) be involved in recreation, including relaxation and conversation; and (c) the qualities of the acoustic environment that are conducive to protecting the amenity of the community.*

**Odour**

9. The Department of Environment and Science's (the department) *Odour Impact Assessment from Developments* (2013) states that the term nuisance is used to describe the cumulative effect on people caused by repeated events of annoyance over an extended period of time.
10. The department's *Odour Impact Assessment from Developments* (2013) defines a Sensitive Receptor means: (a) a dwelling, mobile home or caravan park, residential marina or other residential premises; or (b) a motel, hotel or hostel; or (c) a kindergarten, school, university or other educational institution; or (d)

a medical centre or hospital; or (e) a protected area; or (f) a public park or gardens; or (g) a commercial place or part of the place potentially affected. It includes the curtilage of such any place and any place known or likely to become a sensitive place in the future.

11. The premises borders directly onto many residential properties on Kotara Street, Onslow Street, Tyson Court and Mandarin Court in Nerang.

12. Community reporters have described the way that the odour affects their ability to enjoy the amenity of their home environment as:
    a) causing them to close up their house and turn on air conditioning units to reduce odour in the house (which has associated increased electricity costs);
    b) having a reluctance to utilise their outdoor entertaining areas because of the unpredictable nature of the odour impact;
    c) being embarrassed to host friends and family because of perceptions of the odour; and
    d) having to re-wash clothes because the clothes have absorbed the odour.

13. Departmental records indicate that community reports alleging odour nuisance have been a longstanding issue. Based on the community reports and the investigations conducted by the department, as described in paragraph 24 and 25, the department considers that there has been an unreasonable interference or likely interference with the 'public amenity' environmental value caused by odour at a nuisance sensitive place.

14. Condition B2 of the EA states that *"Notwithstanding any other condition of this development approval, no release of contaminants from the approved place is to cause a noxious or offensive odour beyond the boundaries of the approved place".*

15. Condition B3 of the EA states *"Notwithstanding any other condition of this development approval, this development approval does not authorise any release of contaminants which causes or is likely to cause environmental nuisance beyond the boundaries of the approved place".*

16. The department considers that your EA does not authorise the release of any odours from the activity that are likely to cause an environmental nuisance beyond the boundary of the approved place.

17. On 9 June 2017, the department issued Hopegate with a Penalty Infringement Notice for an allegedly offensive odour occurring beyond the boundary of the approved place, at a sensitive receptor which was confirmed as emanating from the live bird area at the premises.

18. On 22 January 2018, authorised officers detected offensive odour at a sensitive receptor and beyond the boundary of the approved place and confirmed it to be from the premises. On 16 July 2018, the department issued an environmental protection order to Hopegate to investigate works to control odour

from the site. The EPO was subsequently finalised on 20 May 2019 and Hopegate installed some measures to control odour.

19. Between 21 December 2020 and 30 May 2022, the department received a total of 96 odour reports from 11 reporters in the community within the vicinity of the premises:

    a) 81.25% of reports have come from residents to the south and southeast of the facility;

    b) 18.75% of reports are from residents that reside on the western boundary which borders the facility; and

    c) 5 out of 10 properties that border the facility on the western side (Mandarin Court) have reported being impacted by odour.

20. The live bird area is located on the southeast corner of the premises and is the building, operation or activity conducted at the premises that is closest to residential properties. The live bird area is approximately 40m from residential property boundaries to the south and approximately 45m from property boundaries to the west (at its closest point).

21. The description of odour from community reporters in 2020 – 2022 is consistent with that of the live bird area and wastewater as confirmed by authorised officers who have attended the premises.

22. In June 2018, The Odour Unit (TOU) provided an Odour Investigation Report which modelled the vertical discharge of the ventilated live bird area and showed the emissions from the live bird area alone were between 2.5 and 5 odour units (ou), which is above the ground concentration level of below 2.5 ou as recommended in the department's *Odour Impact Assessment from Developments* (2013).

23. TOU was engaged by Hopegate to undertake a physical performance assessment of the live bird area and produced a final report titled *'Nerang Park Poultry – Biofilter Condition and Physical Performance Assessment – Final Report'*, dated June 2021. The report states that a smoke test showed that air was exiting through the western opening of the live bird area. TOU concluded that *'to what level, if any, the fugitive emissions are impacting the surrounding community will require further investigation'.*

24. On fourteen (14) occasions between March 2021 and July 2022, authorised officers have observed slightly unpleasant or offensive odour at sensitive receptors to the south, southeast and east of the site. This odour was described as a live bird or chicken odour, faecal or manure as well as wastewater at times. Authorised officers have attended the premises and confirmed the source of the odour to be occurring from the premises.

25. On 20 September 2022, the department attended a meeting at the premises. Before arriving at the premises, authorised officers observed an offensive odour on Mandarin Court at approximately 2 pm. Authorised officers conducted odour monitoring and observed strong and offensive odour under south easterly wind conditions, placing them down wind of the live bird area on the premises. Officers described the odour as characteristic of a live bird odour as experienced at the premises previously.

26. As a result, the department considers that activities at the premises are causing or are likely to cause environmental harm, in particular environment nuisance (odour).

**Noise**

27. On 18 October 2021, the department received reports of noise nuisance resulting from the premises, impacting residents located in Tyson Court, Nerang, south of the premises.

28. Condition F2 of the EA states that *'The emission of noise from the approved place must not result in greater levels than those specified in Table 1 of the Noise Schedule'.* Schedule F, Table 1 states that the noise level at a noise sensitive place (measured at the adjusted maximum sound pressure level)

must not exceed background noise level plus 5 dB(A) between 6pm – 10pm and must not exceed the background noise level plus 3 dB(A) between 10pm - 7am.

29. Schedule J of the EA states that the meaning of a noise sensitive place includes – *(a) a dwelling, mobile home or caravan park, residential marina or other residential premises.*

30. On 4 May 2022, the department undertook attended noise monitoring at a residential premises in Tyson Court and on Kotara Street. The noise monitoring identified that the noise emanating from the premises exceeded the limits specified in the environmental authority. The noise was described as humming of fans, coming from the live bird area, compressors, refrigeration units and vehicle movements. The noise monitoring showed an exceedance of limits within the EA between 6pm – 10pm and 10pm – 7am in the order of 9 – 13dB.

31. The EA sets noise limits to protect environmental values and the department is satisfied that the noise emanating from the premises is not permitted under the EA, and that environmental values are impacted by noise emissions.

32. The department considers that the substantial exceedance of noise limits is likely to affect the quality of the acoustic environment that is conducive for individuals to sleep, be involved in recreation including relaxation and conversation.

33. The department considers it likely that the activities occurring at the premises are causing an environmental nuisance, specifically noise nuisance.

34. The department considers that it is reasonable to require you to conduct an environmental investigation which examines the source, cause and extent of environmental harm resulting from emissions of odour and noise. The department considers it necessary to require you to conduct an environmental investigation to identify appropriate measures to ensure that there is no offensive odour from the facility at sensitive receptors and to ensure that noise is within the authorised limits of the environmental authority.

## B. Requirements

### Part 1: Engage suitably qualified person/s and develop plan for investigation

(a) By **28 October 2022**, you must engage independent appropriately qualified person/s (AQP/s) to carry out the requirements of this investigation notice and confirm engagement to the department in writing to goldcoast.es@des.qld.gov.au. The written confirmation must include each persons' academic qualifications, suitable experience relevant to the scope of work of the investigation that each AQP will undertake. Note: the definition of an AQP can be found at the bottom of this notice.

(b) By **11 November 2022,** you must submit an investigation plan, or plans, to the department that outlines how the requirements of the notice will be met in the required timeframe. This investigation plan must outline what each AQP is responsible for and the timeframe in which the tasks will be completed.

(c) You must provide the department with **monthly updates** on the implementation of the investigation plan which describes the progress toward achieving the requirements of this notice by 5:00 pm on the last business day of each month.

### Part 2: Evaluate odour emission sources and determine the causes of odour nuisance

(a) You must require the AQP to evaluate both point and fugitive air emission sources which are likely to contribute to the generation and release of odour. The evaluation must:

i. Include an investigation of emissions from all potential sources (determining the activity and timing, both seasonally and diurnally, responsible for worst case emissions); and

ii. Detail the description, position, role and effectiveness of all air pollution control equipment for odour in the processes; and

iii. Investigate factors and circumstances which are likely to contribute to the generation and release of odour to the atmosphere from all potential point and fugitive sources under normal and abnormal operating conditions and determine the causes of odour nuisance. Within this investigation consider variables such as:

   a. characteristics of odour; and
   b. air exchange rate of the building; and
   c. particular operational processes taking place during the time of day and night; and
   d. influence of meteorological conditions such as wind, temperature, humidity, etc; and

iv. Investigate all potential sources of odour and operational processes that could be responsible for odour reports during non-live bird receival and processing times (after 1300 hours to 2300 hours) and ensure these emissions are represented in the sampling.

(b) You must require the AQP to develop and undertake a sampling program to quantify the odour emissions from all potential sources identified under requirement 2.(a) of this notice. The sampling program must:

i. Ensure that odour concentration analysis (olfactometry), temperature measurements, differential pressure measurements and velocity measurements are undertaken;

ii. Be based on the Australian and New Zealand Standard, namely: AS/NZS 4323.3:2001, Stationary source emissions - Determination of odour concentration by dynamic olfactometry;

iii. For area sources, odour emissions must be sampled using Australian/New Zealand Standard AS/NZS 4323.4:2009 "Stationary source emissions –Method 4: Area source sampling – Flux chamber technique"; and

iv. Include source sampling and measurement to determine odour emission rate from all potential sources at the premises (under worst case scenarios).

(c) You must require the AQP to determine the actual contribution of odour emissions from the individual sources in terms of odour concentration and mass odour emission rate (based on sampling results) and rank the sources from highest to lowest.

### Part 3: Field odour survey

(a) You must require the AQP to undertake field inspections and field odour surveys for odours downwind of the site using the "field odour survey" techniques to determine the effects of odour in the receiving environment. This field odour survey must be carried out by:

i. an experienced odour assessor; and

ii. consider the FIDOL (frequency, intensity, duration, offensiveness and location) factors; and

iii. the trained odour assessors must have an accredited n-butanol threshold within the acceptance criteria of 20ppb to 80ppb (as per AS4323.3).

(b) The field odour surveys must meet the following requirements:

i. The assessor must conduct a walk-through exercise along the premises fence line or streets along the east, south and west boundary of the premises in the downwind direction;

ii. Be conducted under meteorological conditions in which the residents to the east, west and south of the site are downwind of the live bird area or wastewater tanks;

iii. Must be timed to occur during worse case emissions from activities on the site;

iv. At each measurement location odour intensity must be recorded at 10 second intervals over a 10-minute period;

v. Be conducted for sufficient period (at least 10 days) through October – December. Where offensive odour is detected and sufficient data is collected during the first four days, no further odour surveys are required.

vi. Include three hours in the morning (e.g. 5am to 8am) and three hours in the evening (e.g. 5pm to 8pm); and

vii. Where odour is detected, the assessor must try to locate a source on the premises, by commenting on the odour's characteristics and if required, attending the premises to determine the source of the odour. The assessor may also investigate potential offsite odour sources where the odour is not thought to be occurring from the premises.

(c) The following information must be recorded for each field odour survey:

i. Odour intensity rank (scale of 0 to 6) in accordance with VDI3882.1;

ii. Odour character or source of odour;

iii. Duration of odour presence descriptor, (e.g. Not present, Fleeting, Intermittent or occasional; Mostly present, Continuous);

iv. Hedonic tone (VDI3882.2, none point scale) or a simple scale in the range of pleasant to extremely offensive or noxious (i.e. pleasant, neutral, slightly unpleasant, offensive, strongly offensive, noxious or extremely offensive or noxious);

v. Time of observation, location and wind conditions;

vi. Meteorological parameters must be recorded at each measurement location (including wind speed and direction, ambient temperature, relative humidity, precipitation, cloud cover and general weather conditions); and

vii. Other comments.

(d) You must require the AQP to present the results of the field odour surveys in tables, graphs and maps including the analysis of odour intensity data, the observed odour characters and hedonic tones across the assessment period, time and date of measurement, weather conditions and a detailed description of the on on-site activities. Measurement data collected from field odour surveys must also be analysed to assess odour impact and annoyance potential.

(e) You must require the AQP to discuss the impacts of odour in the receiving environment from the current odour mitigation measures based on results of the odour survey.

### Part 4: Investigate operational procedures for the site

a) You must require the AQP to review the current **operational processes** adopted at the premises including adequacy of policies, standards, practices and training in relation to environmental performance and management and identify if the operational processes are being effectively implemented on site.

b) This review must be conducted by the AQP and must include an in person site inspection to assess the implementation of these processes in conditions that are representative of day to day operations.

c) The review of operational processes must include:

i. Receival of live birds at the premises and management of arrival times to optimise the use of the live bird shed storage capacity;

ii. The use of the truck and hardstand washdown during live bird receival;

iii. Crate washing and crate storage on the hard stand area;

iv. Cleaning the live bird area and hardstand areas;

v. Maintenance of all live bird area fans and stacks;

vi. Use of fans in the live bird area during live bird receival, cleaning and when not in use;

vii. The use of the ammonia refrigeration system; and
viii. Waste management for each of the following:
    a. Offal storage and transfer to waste trucks;
    b. Sludge spirotainer collection; and
    c. Any by products of the process including but not limited to products for petfood.

d) You must require the AQP to review and benchmark each operational process against;
    i. comparable national and international best available technology; and
    ii. industry best management practice.

e) Where the review and benchmarking identify any inadequacy found to exist or improvements that could enhance odour management, the AQP must recommend options to address each inadequacy and improvement.

### Part 5: Investigate odour management and control systems

a) You must require the AQP to review adequacy, capacity and performance of the current odour management and control systems on site in relation to environmental performance. This review must include detailed assessment of the:
    i. Live bird area building and receival area (including building size, structure, openings, doors, windows, ventilation, insulation, surface materials and sprinkler or deodoriser systems) and live bird area fans;
    ii. Wastewater treatment tanks;
    iii. Offal storage and transfer area;
    iv. Sludge spirotainer collection system; and
    v. Should consider the increase in production over the last three years.

b) You must require the AQP to benchmark the existing systems identified above against comparable national and international best available technology and industry best management practice relating to the control of air emissions from that process and activity.

c) You must require the AQP to review industry best practice options which are applicable to the premises and which will reduce the odour emissions to the extent that no emissions capable of causing environmental nuisance are generated from the premises. This review must include potential:
    i. Changes to design, dimensions, capacity of existing infrastructure and equipment used on site; and
    ii. Improvements to current air emission control systems; and
    iii. Supplementation of additional air emission control equipment to current system; and
    iv. Introduction of new air emission control system technology.

(b) You must require the AQP to compare the "pros and cons" of the technologies available and where any inadequacy is found in existing systems, recommend options to address each inadequacy.

### Part 6: Remediation measures

(a) Based on the findings of Parts 2 – 5 of this investigation notice, you must require the AQP to make recommendations that will achieve no offensive odour emissions at sensitive receptors. The recommendations must consider at least the following matters:
    i. Implementation of best practice environmental management for control of air emissions from the activities carried out at the premises to achieve long term environmental outcomes, including to fully enclose the live bird area.
    ii. Improvements to current air emission control systems, supplementation of additional air emission control equipment to the current system and introduction of new air emission control system technology to minimise/ eliminate odour at identified release locations.
    iii. Practices and procedures that will be employed in both the short and long term, including:

a. management of the live bird area building and receival area – storage, processing and cleaning; and
b. maintenance procedures, waste management procedures and/or preventative measures necessary to prevent or minimise the likelihood of unplanned odour releases; and
c. training initiatives for staff to improve the management of odour sources at the premises.

iv. Any planned capital works and other improvements to be carried out for the prevention or minimisation of air pollutants releases including a timetable for completion of these works.

v. Include a feasibility study for the measures recommended by the AQP.

(b) You must require the AQP to carry out dispersion modelling for both emissions during processing time (early morning - midday) and outside of processing time (e.g. night time cleaning) to confirm the effectiveness of the proposed remediation measures.

(c) Based on Part 6(a) and (b), the AQP must consider if it is possible for remediation measures to be implemented at the current premises to achieve no offensive odour at a sensitive receptor for future operation of this facility.

### Part 7: Noise assessment

(a) You must require the AQP to develop and implement a noise investigation plan for the premises which must include the following:

i. An appropriate duration and geographical extent of the investigation; and
ii. An audit of all activities, equipment and infrastructure at the premises to identify all actual and potential noise nuisance sources that may contribute to noise nuisance beyond the boundary of the premises (both during the day and night); and
iii. Identification of sensitive receptors that may be impacted by noise from your activity; and
iv. Noise monitoring in compliance with the department's Noise Measurement Manual over an appropriate timeframe to inform the investigation and assess impacts to sensitive receptors.
v. Noise monitoring carried out during the day and night to assess the impact to sensitive receptors.
vi. Identification of existing noise mitigation measures at the premises.
vii. An assessment of the adequacy and effectiveness of all existing noise mitigation measures.
viii. A comparison of existing noise mitigation measures (technology, infrastructure and procedures) against noise mitigation best practice.

(b) You must require the AQP to:

i. Complete the noise monitoring in accordance with the plan required in requirement Part 7(a) by **3 March 2023**;
ii. Propose recommended actions with implementation timeframes to ensure the activity operates in compliance with the environmental authority;
iii. Develop procedures for assessing noise complaints from the community and assess potential impacts from changes to operations prior to implementing changes; and
iv. Ensure any proposed changes to procedures, equipment, infrastructure, technology and operations to address noise nuisance do not adversely increase odour nuisance.

### Part 8: Consideration of both odour and noise amelioration measures

(a) You must require the AQPs who carried out requirements Part 2 to 7 to jointly consider all proposed changes to address odour and noise nuisance to assess recommendations for noise mitigation measures which may adversely affect odour mitigation measures, and vice versa.

### Part 8: Reporting

The environmental report must be submitted to the department on or before**: Friday, 31 March 2023** at goldcoast.es@des.qld.gov.au. The final environment report must include:

a) your response to the recommendations made by the appropriately qualified person; and

b) Timeframes for implementing the recommendations.

As the recipient of this notice, you are also required to provide:

1. a statutory declaration in accordance with s.326E of the Act, to accompany the environmental report submitted to the department.

Copies of template statutory declarations from the Queensland Government website at www.qld.gov.au, using the publication number as a search term:

1. Statutory declaration environmental evaluation for recipient (ESR/2016/1997)

Take notice:

1. The requirements of this notice to conduct or commission an environmental investigation take effect immediately upon service of this notice.
2. This notice remains in force until further notice from the department; and
3. You are responsible for meeting the costs of conducting or commissioning the environmental evaluation, preparing the environmental report and providing any further information as requested by the department.

## C. Reviews and appeals

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the Act.

A person who is dissatisfied with an original decision made by the Department of Environment and Science (the department) may apply to have that decision internally reviewed.

Information about initiating an appeal in relation to this notice is contained within the Internal Reviews and Appeals Information Sheet (available at www.qld.gov.au using the publication number ESR /2015/1742 as a search term)

A request for review or appeal is to be made using the approved form 'Application for review of original decision' (available at www.qld.gov.au using the publication number ESR/2015/1573 as a search term.

Applications for reviews are to be sent to Permit and Licence Management, Department of Environment and Science: via email at palm@des.qld.gov.au , or by mail to the following address: GPO. Box 2454, Brisbane, QLD, 4001.

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 to 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 be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

You may have other legal rights or obligations and should seek your own legal advice.

## D. Public Register

Pursuant to section 540 of the EP Act, the Department is required to maintain a register of certain documents and information authorised under the EP Act. A copy of this document will be kept on the public register. The register is available for inspection by members of the public who are able take extracts, or copies of the

documents from the register. Documents that are required to be kept on the register are published in their entirety, unless alteration is required by the EP Act. There is no general discretion allowing the department to withhold documents or information required to be kept on the public register. For more information on the department's public register, search 'public register' at www.qld.gov.au. For queries about privacy matters please email privacy@des.qld.gov.au or telephone 13 74 68.

## D. Penalty

Failure to comply with a notice to conduct or commission an environmental evaluation is an offence.

1. The maximum penalty for contravening a notice to conduct or commission an environmental evaluation is 300 penalty units, totalling $43,125 for an individual and $215,625.00 for a corporation.

Should you have any queries in relation to this notice, please contact Jamie-Lee Young of the department on telephone number 07 5626 6865.

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|---|---|
| | 21 October 2022 |
| Signature | Date |

Tim Brain
Compliance Delegate
Department of Environment and Science
*Environmental Protection Act 1994*

**Enquiries:**
Jamie-Lee Young
PO Box 4244 ROBINA QLD 4230
Phone: 07 5626 6871
Email: jamielee.young@des.qld.gov.au