

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.

Hopegate Pty Ltd
ACN 056 293 746
30-60 Gilston Road
Nerang QLD 4211
Attention: Mr Tony Harris

Your reference:

Our reference: CR82121, 101/0013352, STAT1294

16 July 2018

Dear Mr Harris,

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Hopegate Pty Ltd (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The EPO is issued in respect to the activities of ERA 25 (1b) *Meat Processing > 5, 000 tonnes but < 50, 000 tonnes per year* at 30 – 60 Gilston Road, Nerang QLD on land described as Lot 1 on RP102492, and Lot 2 on RP210515 situated 30 – 60 Gilston Road, Nerang QLD (the premises).

A. Grounds

This EPO is issued on the following grounds:

- Section 358 (d)(iii) of the Act states that the administering authority may issue an EPO to secure compliance with a condition of an environmental authority.

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

- You are the holder of Environmental Authority EPPR00238913 (the EA). The EA consists of the former Certificate of Registration ENRE00769008 and the conditions of Development Approval IPDE00949508.
- The EA took effect on 7 July 2008.

- Condition B2 of the EA states:
"Notwithstanding any other conditions 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."
- Schedule 7 of the EP Act defines 'release' as
"....(e) to fail to prevent the contaminant from escaping"
- Contaminant is defined under s.11 of the EP Act and can be
*"(a) a gas, liquid or solid or
(b) an odour; or
(c) an organism (whether alive or dead), including a virus; or
(d) energy, including noise, heat, radioactivity and electromagnetic radiation; or
(e) a combination of contaminants"*
- Noxious is defined as *"Causes almost immediate attempts to avoid. Or causes noticeable physiological effects following exposure"* within the departments odour guidelines.
- Offensive is defined as *"Causes recognisable displeasure to senses of smell, may be bearable for short exposure, but reluctance to submit oneself to longer exposure is likely"* within the departments odour guidelines.
- The approved place is defined as Lot 1 on RP102492 and Lot 2 on RP210515.
- On 9 June 2017, the department issued you a penalty infringement notice (PIN) PIN40321613 relating to the contravention of Condition B2 of your environmental authority under section 430 of the Act.
- On 22 January 2018, authorised officers confirmed the presence of an offensive odour at a residential dwelling beyond the boundary of the approved place (the premises).
- Observations of wind direction made by authorised officers at the residential place during the odour assessment conducted on 22 January 2018 placed the residence downwind of the premises at the time referred to in the notification.
- Authorised Officers confirmed that there are no other potential odour sources located between the premises and the affected residence.
- Authorised officers determined there were no alternative sources of the odour upwind of the premises.
- On 30 January 2018, authorised officers conducted a site inspection of the premises and observed odours recognisable as those detected at the residence, reconfirming that the premises was the source of the odour at the affected residence.
- During the site inspection, authorised officers did not observe and were not informed of any odour abatement technology installed on the premises, with the exception of the application of odour neutraliser.
- A report entitled "Nerang Park Poultry Odour Inventory Assessment, Final Report February 2018" prepared by The Odour Unit on your behalf was received by the department on 9 February 2018 and describes a number of point and fugitive sources of odour present on the premises and describes how the air from these sources is released to the atmosphere. Odour abatement technology capturing or treating the air prior to its release is not described as being present.
- It is therefore considered that a release has occurred because you failed to prevent the contaminant escaping.
- Authorised officers concluded that condition B2 was contravened on 22 January 2018.

- Authorised officers identified the waste water storage/treatment tanks as the main contributor to odour emissions detectable during the inspection of the premises on 30 January 2018.
- A report entitled "Nerang Park Poultry Odour Inventory Assessment, Final Report February 2018" prepared by The Odour Unit on your behalf was received by the department on 9 February 2017. The report identifies the live bird storage area at the premises as the main contributor to odour emissions.
- A report entitled "Nerang Park Poultry Odour Mitigation Investigation Draft Report June 2016" prepared by the Odour Unit on your behalf was received by the department on 4 June 2018. The report recommended odour mitigation measures to be implemented at the premises to control odours from both the live bird storage area/offal room and the waste water treatment system.

B. Requirements

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

- 1) **By 2:00 pm on 17 July 2018**, you must ensure that the number of live chickens present at the premises at any time does not exceed the equivalent of 71,500kg live bird weight.
- 2) **From 2:00 pm on 17 July 2018**, you must ensure that all live chickens present on the premises are, at all times, stored within the roofed live bird storage area depicted on Figure 1 (attached below).
- 3) **By 5:00 pm on 13 August 2018**, you must submit to the department a list of works and an implementation schedule for the completion of the works to the waste water treatment system required to achieve compliance with condition B2 of EA EPPR00238913. The list must include at least the following:
 - a) Works to install an odour collection system for the sludge spirotainer, waste water plant treatment room and each waste water treatment tank to deliver the odour from each source to a single odour control unit.
 - b) Works to install a biofilter to treat the odour collected from the sources identified in a).
 - c) Required maintenance works to the waste water treatment system as required in accordance with the manufacturer's instructions to ensure the effective operation of the system.
- 4) **By 5:00pm on 24 September 2018**, the works specified in response to 3) a) and 3) b) must be completed and the system operational.
- 5) **By 5:00 pm on 13 August 2018**, you must submit to the department a list of works and an implementation schedule for the completion of the works for the live bird storage area required to achieve compliance with condition B2 of EA EPPR00238913. The list must include at least the following:
 - a) Works to minimise the escape of fugitive emissions from the live bird storage area and offal room. This should include sealing openings where possible and the use of alternative measures to reduce the openings where it is not possible to seal them.
 - b) Works to isolate the offal room and the live bird storage area from each other.
 - c) Works to ensure that air flow within the live bird storage area and offal room are discharged vertically to the atmosphere at an appropriate velocity to ensure that air emissions do not cause a noxious or offensive odour beyond the boundaries of the approved place.

These must include:

- i. Works to restrict the movement of air from within the live bird storage area out of the building via the opening on the western side of the live bird storage area and to redirect the air to proposed release points; and
- ii. Works to direct the airflow within the live bird storage area and offal room to proposed release points.

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 \$815,937.50 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$4,079,687.50.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling \$587,475.00
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$2,937,375.00

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

- The maximum penalty for an individual is 50 penalty units, totalling \$6,527.50.
- The maximum penalty for a corporation is 250 penalty units, totalling \$32,637.50.

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 \$6,527.50.
- The maximum penalty for a corporation is 250 penalty units, totalling \$32,637.50.

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 department, may be able to apply to have the department 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 form ([ESR/2015/1573](#)).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 Emily Dunmore, on telephone number 07 5626 6865.



Signature



Date

Paul Butcher
Manager (Compliance)
Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

Enquiries:

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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.

Figure 1

