



PLANNING AND REGULATORY COMMITTEE MEETING

AGENDA

11 FEBRUARY 2020

Your attendance is required at a meeting of the Planning and Regulatory Committee to be held in the Council Chambers, 232 Bolsover Street, Rockhampton on 11 February 2020 commencing at 9:00am for transaction of the enclosed business.

A handwritten signature in black ink, appearing to be "C. P.", written in a cursive style.

CHIEF EXECUTIVE OFFICER
4 February 2020

Please note:

In accordance with the *Local Government Regulation 2012*, please be advised that all discussion held during the meeting is recorded for the purpose of verifying the minutes. This will include any discussion involving a Councillor, staff member or a member of the public.

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	OPENING.....	1
2	PRESENT	1
3	APOLOGIES AND LEAVE OF ABSENCE	1
4	CONFIRMATION OF MINUTES.....	1
5	DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA	1
6	BUSINESS OUTSTANDING	2
	NIL	2
7	PUBLIC FORUMS/DEPUTATIONS	3
	NIL	3
8	OFFICERS' REPORTS	4
8.1	D/78-2019 - DEVELOPMENT APPLICATION FOR A MATERIAL CHANGE OF USE FOR A HIGH IMPACT INDUSTRY (POULTRY ABATTOIR)	4
8.2	CHANGES TO PUBLIC HEALTH REGULATION 2018.....	32
9	NOTICES OF MOTION	88
	NIL	88
10	URGENT BUSINESS/QUESTIONS	89
11	CLOSURE OF MEETING.....	90

1 OPENING

2 PRESENT

Members Present:

Councillor C E Smith (Chairperson)
The Mayor, Councillor M F Strelow
Councillor N K Fisher
Councillor C R Rutherford
Councillor M D Wickerson

In Attendance:

Ms A Cutler – Acting General Manager Community Services (Executive Officer)
Mr E Pardon – Chief Executive Officer

3 APOLOGIES AND LEAVE OF ABSENCE

4 CONFIRMATION OF MINUTES

Minutes of the Planning and Regulatory Committee held 28 January 2020

5 DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA

6 BUSINESS OUTSTANDING

Nil

7 PUBLIC FORUMS/DEPUTATIONS

Nil

8 OFFICERS' REPORTS

8.1 D/78-2019 - DEVELOPMENT APPLICATION FOR A MATERIAL CHANGE OF USE FOR A HIGH IMPACT INDUSTRY (POULTRY ABATTOIR)

File No: D/78-2019

Attachments:

1. [Locality Plan](#)
2. [Site Plan](#)
3. [Floor and Elevations Plan](#)

Authorising Officer: Tarnya Fitzgibbon - Coordinator Development Assessment
Doug Scott - Manager Planning & Regulatory Services
Alicia Cutler - Acting General Manager Community Services

Author: Bevan Koelmeyer - Planning Officer

SUMMARY

Development Application Number: D/78-2019

Applicant: G Emmert

Real Property Address: Lot 19 on P4052, Parish of Faraday

Common Property Address: 56 Emmert Lane, Ridgeland

Area of Site: 20.23 hectares

Planning Scheme: Rockhampton Region Planning Scheme 2015

Planning Scheme Zone: Rural Zone (Cropping and Intensive Horticulture Precinct)

Planning Scheme Overlays: Nil

Existing Development: Dwelling house and ancillary domestic outbuildings

Existing Approvals: Nil Applicable

Approval Sought: Development Permit for a Material Change of Use for a High Impact Industry (poultry abattoir)

Level of Assessment: Impact Assessable

Submissions: Three (3)

Referral Agency(s): Nil

Infrastructure Charges Area: Charge Area 3

Application Progress:

<i>Application lodged:</i>	26 August 2019
<i>Confirmation Notice issued:</i>	10 September 2019
<i>Informal request for further information sent:</i>	25 September 2019
<i>Informal request for further information responded to:</i>	22 October 2019
<i>Submission period commenced:</i>	7 November 2019
<i>Submission period end:</i>	27 November 2019
<i>Council request for additional time:</i>	20 January 2020 (Applicant agreed to extend)

<i>Last receipt of information from applicant:</i>	<i>12 December 2019 (Response to submissions)</i>
<i>Statutory due determination date:</i>	<i>21 February 2020</i>

OFFICER'S RECOMMENDATION**RECOMMENDATION A**

THAT in relation to the application for a Development Permit for a Material Change of Use for a High Impact Industry (poultry abattoir), made by G Emmert, described as Lot 19 on P4052, Parish of Faraday, located at 56 Emmert Lane, Ridgeland – Council resolves to Approve the application subject to the following conditions:

1.0 ADMINISTRATION

- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any Operational Works required by this development approval:
 - 1.3.1 to Council's satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the commencement of the use unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
 - 1.5.1 Operational Works:
 - (i) Site Works
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
 - (i) Building Works.
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 1.9 The approved use of the premises is for a High Impact Industry (poultry abattoir) to process (excluding cooking), a maximum of one-thousand (1,000) birds per calendar week. The type of birds approved for the poultry abattoir are limited to quails and pigeons.

- 1.10 The development must be designed, constructed and operated in accordance with *AS4465 'Australian standard for construction of premises and hygienic production of poultry meat for human consumption'*.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by any condition of this development approval:

Drawing/report title	Prepared by	Date	Reference number	Issue
Site Plan	Capricorn Survey Group	21 October 2019	7466-01-MCU (Sheet 1 of 2)	B
Layout & Elevations	Capricorn Survey Group	21 October 2019	7466-01-MCU (Sheet 2 of 2)	B

- 2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Development Permit for Building Works.

3.0 ACCESS WORKS

- 3.1 All surface treatments must be constructed, operated and maintained in a manner so that there is no significant impact on the amenity of adjoining premises or the surrounding area being caused due to the emission of dust or resulting in sediment laden water.

4.0 PLUMBING AND DRAINAGE WORKS

- 4.1 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act 2008*, *Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 4.2 Adequate domestic and fire-fighting protection must be provided to the development, and must be certified by a hydraulic engineer or other suitably qualified person.
- 4.3 On-site sewerage treatment and disposal must be provided in accordance with the *Queensland Plumbing and Wastewater Code* and Council's Plumbing and Drainage Policies.
- 4.4 On-site sewerage treatment and disposal must be designed and constructed to achieve the performance objectives in *AS/NZS 1547 'On-site domestic wastewater management'*. The design must be undertaken by a Registered Professional Consultant with on-site sewerage qualifications in accordance with *AS/NZS 1547* and the *Queensland Plumbing and Wastewater Code*.
- 4.5 Arrestor traps must be installed on any non-domestic discharges to protect the on-site sewerage facilities.
- 4.6 All contaminated water must be directly piped to the on-site sewerage treatment and disposal system. Contaminants / wash-down is not permitted to discharge into drainage lines or onto adjoining properties.

5.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 5.1 All roof and allotment runoff from the development must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.

6.0 SITE WORKS

- 6.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 6.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 6.2.1 the location of cut and/or fill;
 - 6.2.2 the type of fill to be used and the manner in which it is to be compacted; and
 - 6.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels.
- 6.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 6.4 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.

7.0 BUILDING WORKS

- 7.1 All buildings and structures must not be located within the on-site sewerage treatment and disposal area or conflict with the separation distance as detailed within the *Queensland Plumbing and Wastewater Code*.
- 7.2 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.
- 7.3 The compost shed building must not exceed the height above ground level of the meat processing shed being 3.582 metres to the pitch of the structure, in accordance with the approved plans (refer to condition 2.1).

8.0 LANDSCAPING WORKS

- 8.1 Landscaping must be established on top of and for the entire extent of the vegetated mounds, as shown on the approved plans (refer to condition 2.1). The landscaping must be established prior to the commencement of the use; and
- 8.1.1 Must be of a height and density to provide a visual buffer between the development and surrounding properties;
 - 8.1.2 Must only use plant species that have a low water dependency; and
 - 8.1.3 Must be the subject of a watering and maintenance plan from establishment and an ongoing maintenance and replanting programme.

9.0 ELECTRICITY

- 9.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

10.0 ASSET MANAGEMENT

- 10.1 Any alteration necessary to electricity, telephone and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.

11.0 ENVIRONMENTAL

- 11.1 An Erosion Control and Stormwater Control Management Plan in accordance with the *Capricorn Municipal Design Guidelines*, must be implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.

12.0 ENVIRONMENTAL HEALTH

- 12.1 Noise emitted from the activity must not cause an environmental nuisance.
- 12.2 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise, odour or dust.
- 12.3 Odour and visible contaminants, including but not limited to dust, fume, smoke, aerosols, overspray or particulates, must not be released to the environment in a manner that will or may cause environmental nuisance or harm unless such release is authorised by Council.
- 12.4 When requested by Council, nuisance monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise, light, odour or dust. An analysis of the monitoring data and a report, including nuisance mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation.
- 12.5 Where any genuine complaint of nuisance is received by Council in relation to odour or the ingress or harbourage of feral pests or vermin:
- 12.5.1 The compost activity must be ceased immediately when requested by Council;
 - 12.5.2 All organic solid waste must be immediately stored in air-tight containers within the compost shed and be removed from the premises as soon as practical by a licensed regulated waste transporter; and
 - 12.5.3 The compost activity may recommence only once nuisance monitoring is undertaken, recorded, and an analysis of the monitoring data with a report including mitigation measures is provided to Council, and Council advises that it is satisfied with the mitigation measures. The aforementioned must be undertaken by a suitably qualified professional consultant with expertise in abattoir waste management methods.
- 12.6 There shall be an effective and continuous program for the control of feral pests and vermin at all times to ensure the use is not an attractant and effectively prevents the ingress or harbourage of feral pests and vermin.
- 12.7 All plant and equipment including compressors, air conditioners and the like must be housed and maintained in proper working order at all times, in accordance with manufacturer's directions.
- 12.8 No contaminants are permitted to be released to land or water, including soil, silt, oils, detergents, etcetera. All contaminated water, including from any wash-down areas used for the maintenance or cleaning of equipment (including vehicles), must be directed to the on-site sewerage treatment and disposal system.
- 12.9 Regulated waste and any other waste must not be released to the environment, stored, transferred or disposed of in such a manner that it will or may cause environmental harm or nuisance. This includes any waste being burnt or incinerated at the premises.
- 12.10 Where regulated waste is removed from the premises, records must be maintained for a period of five (5) years, and include the following:
- 12.10.1 the date, quantity and type of waste removed;
-

12.10.2 a copy of any licensed waste transport vehicle dockets;

12.10.3 the name of the licensed regulated waste removalist and/or disposal operator; and

12.10.4 the intended treatment and/or disposal destination of the waste.

These records must be available for inspection by Council when requested.

13.0 OPERATING PROCEDURES

13.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Emmert Lane.

13.2 The hours of operations for the High Impact Industry (poultry abattoir) must be limited to:

(i) 0700 hours to 1700 hours on Monday to Saturday,
with no operations on Sundays or Public Holidays.

13.3 There are to be no sales of the processed poultry from the premises.

13.4 Access to the development and the loading and/or unloading of delivery vehicles (such as but not limited to water supply trucks and delivery/transport vehicles) is limited between the hours of 0700 and 1700 from Monday to Saturday. No vehicles are to enter the development site outside of these times to wait for unloading/loading.

13.5 From the time of delivery, live poultry must not be kept on site for a period exceeding forty-eight (48) hours. Records of delivery times and processing times must be kept at all times and made available for Council to view when requested.

13.6 The development must obtain and at all times maintain its accreditation with *Safe Food Queensland*.

13.7 Organic solid waste comprising of poultry feathers, viscera, ingesta, faeces etc. for compost must be:

13.7.1 Transported from the meat processing shed to the compost shed on the same day of processing, using air-tight containers;

13.7.2 Processed exclusively within a fully-enclosed, purpose built, compost shed, as shown on the approved plan (refer to condition 2.1); and

13.7.3 In accordance with the recommendations of Food Safe Australia's Newsletter 02/5 Meat Technology Update October 2002 '*Composting of slaughterhouse waste material and dead stock*'.

13.8 All waste storage areas must be kept in a clean and tidy condition and maintained in accordance with *Environmental Protection Regulation 2019*.

13.9 A maximum of one (1) employee, external to the subject site, may be employed by the operator to work on-site in the High Impact Industry (poultry abattoir).

13.10 A maximum of four (4) light vehicle trips per calendar week are permitted for the High Impact Industry (poultry abattoir). This excludes vehicle trips generated by the landowner(s) or an external employee working on-site in the High Impact Industry (poultry abattoir).

Note: One (1) trip equals arriving to and departing the development site or vice versa.

13.11 A maximum of one (1) heavy vehicle trip per calendar week is permitted to occur for the High Impact Industry (poultry abattoir). This trip must not be undertaken by any heavy vehicle which exceeds a maximum vehicle length of 19 metres, or equivalent to a semitrailer. Records of heavy vehicle movements must be kept at all times and made available for Council to view when requested.

13.12 The compost shed must be kept closed at all times:

13.12.1 Where not being used for processing or maintenance activities; and

13.12.2 Outside of the approved hours of operation (refer to condition 13.2).

13.13 The meat processing shed must be kept closed at all times:

13.13.1 Where not being used for transport, processing or maintenance activities; and

13.13.2 Outside of the approved hours of operation (refer to condition 13.2).

ADVISORY NOTES

NOTE 1. **Aboriginal Cultural Heritage**

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the “cultural heritage duty of care”). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website: www.datsip.qld.gov.au

NOTE 2. **General Environmental Duty**

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

NOTE 3. **Infrastructure Charges Notice**

Council has resolved not to issue an Infrastructure Charges Notice for this development because the new infrastructure charges arising from the development are equal to or less than the credits applicable for the new development.

NOTE 4. **Rating Category**

Please note, a Material Change of Use approval may result in an adjustment to a property’s rating category, particularly in residential and rural zones. Please contact Council’s Rates Department should you require further information.

RECOMMENDATION B

That in relation to the application for a Development Permit for a Material Change of Use for a High Impact Industry (poultry abattoir), made by G Emmert, described as Lot 19 on P4052, Parish of Faraday, located at 56 Emmert Lane, Ridgeland - Council resolves not to issue an Infrastructure Charges Notice.

BACKGROUND

PROPOSAL IN DETAIL

The proposal is for a High Impact Industry (poultry abattoir) located at 56 Emmert Lane, Ridgeland. The applicant proposes to process a total of 1,000 birds per calendar week indicated to be limited to quails and pigeons and to only involve poultry younger than six (6) weeks of age. The development will be operated by the owner of the land with no external employees proposed to occur at this time. A maximum of one (1) external employee working on-site is allowed should the needs of the development require this in the future.

The site layout includes a meat processing shed to be approximately 89 square metres in size with a height above ground level of approximately 3.58 metres and a separate compost shed to be nine (9) square metres in size.

The meat processing shed will include the live poultry drop off and holding area, processing areas, a chiller, dry store and a final product dispatch area. The operator is proposed to sell the final product as a complete bird with only blood, feathers, viscera and ingesta to be removed prior to distribution. The feathers, viscera and ingesta will be processed by the operator using a dry composting method to roll the organic material into wood shavings over a period of approximately three (3) months. Composting is proposed to occur exclusively within the dedicated compost shed with organic material to be transported from the meat processing shed using air-tight containers. Northeast and northwest of the two sheds there are proposed to be vegetated mounds constructed at a height of two (2) metres above ground level with trees to be planted on top to provide a visual buffer of the development from surrounding properties.

The development will gain access via the sites' existing access to Emmert Lane. The existing internal driveway will be upgraded to a paved or sealed standard for the section from the road until the meat processing shed which will also include vehicle loading/unloading areas. The development being located in a Rural Zone does not have access to Council's reticulated infrastructure networks and will require potable water for meat processing and maintenance activities which will be sourced by water delivery trucks. Waste water generated by the processing activity and washdown of vehicles will be directly piped and held in an effluent tank prior to disposal or recycling.

SITE AND LOCALITY

The subject site is designated in a Rural Zone and is surrounded by land within the same designation. The site is currently used as a dwelling house with ancillary domestic sheds which is similar to how the surrounding rural properties are being used. The subject site is not affected by any applicable overlay constraints and is generally flat with a slight fall towards the north of the land toward the property's dam. The subject site gains access via Emmert Lane categorised as a Rural Access road within Council's road hierarchy. Only the subject property gains access to this road currently however up to four (4) properties are capable of gaining legal access to Emmert Lane however currently are utilising alternative accesses either to Ridglands Road or Lyttle Lane.

PLANNING ASSESSMENT

MATTERS FOR CONSIDERATION

This application has been assessed by relevant Council planning, engineering, environmental health, and other technical officers as required. The assessment has been in accordance with the assessment process provisions of the Development Assessment Rules, based on consideration of the relevant State Planning Policy; State Government guidelines; the Council's Town Planning Scheme, Planning Policies and other general policies and procedures, as well as other documents as considered relevant.

Development Engineering Comments – (29 October 2019)

Support, subject to conditions / comments.

Public and Environmental Health Comments – (25 October 2019)

Support, subject to conditions / comments.

TOWN PLANNING COMMENTS

Central Queensland Regional Plan 2013

The *Central Queensland Regional Plan 2013* is a statutory document which came into effect on 18 October 2013. The development is not required to be assessed against the Regional Plan if this document is appropriately reflected in the local planning scheme. It is considered that the Regional Plan is appropriately reflected in the current local planning scheme.

State Planning Policy 2017

The current State Planning Policy (SPP) came into effect on 3 July 2017 and replaces the previous SPP (April 2016).

The new policy expresses the state's interests in land-use planning and development and contains a number of changes to better align with the *Planning Act 2016*. This policy requires development applications to be assessed against its requirements where they have not been appropriately reflected in the local planning scheme.

1. Planning for liveable communities and housing

Housing supply and diversity

Not Applicable.

Liveable communities

Not Applicable.

2. Planning for economic growth

Agriculture

Not Applicable.

Development and construction

Not Applicable.

Mining and extractive resources

Not Applicable.

Tourism

Not Applicable.

3. Planning for environment and heritage

Biodiversity

Not Applicable.

Coastal environment

Not Applicable.

Cultural heritage

Not Applicable.

Water quality

Not Applicable.

4. Planning for safety and resilience to hazards

Emissions and hazardous activities

Not Applicable.

Natural hazard, risk and resilience

Not Applicable.

5. Infrastructure

Energy and water supply

Not Applicable.

Infrastructure integration

Not Applicable.

Transport infrastructure

Not Applicable.

Strategic airports and aviation facilities

Not Applicable.

Strategic ports

Not Applicable.

Rockhampton Region Planning Scheme 2015**Strategic framework**

This application is situated within the Rural Area (Cropping and Intensive Horticulture) designation under the scheme's strategic framework map. The strategic framework themes and their strategic outcomes, as identified within Part 3 of the *Rockhampton Region Planning Scheme 2015* are applicable:

(i) Settlement pattern

- (1) The pattern of settlement is reinforced in accordance with the Strategic framework – settlement pattern maps (SFM-1 to SFM-4) and as defined in Table 3.3.2.2 – Strategic map designations and descriptions. Sufficient land has been allocated for residential, commercial, industrial and community uses to meet the needs of the region for at least twenty (20) years.
- (2) Residential development within Rockhampton and Gracemere will occur in urban areas, urban infill and intensification areas and new urban areas (greenfield areas). These areas are shown on the strategic framework maps SFM-2 to SFM-3.
- (3) Urban development in Mount Morgan will only occur within the urban area and local centre as shown on strategic framework map SFM-4.
- (4) Residential development is compact, encourages strong neighbourhoods with attractive places for residents, makes efficient use of land and optimises the delivery and use of infrastructure and services. Expansion beyond these identified areas will not occur to ensure a focus on urban infill and intensification areas and to avoid further encroachment on natural assets and ecologically vulnerable areas.
- (5) Sufficient land for employment growth has been identified in industrial areas, new industrial areas and centres (including proposed centres) at locations that can be most efficiently serviced with infrastructure and facilities.
- (6) Future urban areas and future industrial areas are the preferred location for greenfield development beyond 2026.
- (7) The settlement pattern provides for a diverse range of housing to meet changing demographic needs, and creates opportunities for more affordable living close to services and facilities. These housing options will help stimulate centres and community focal points, and assist in making the most efficient use of infrastructure and other public investment.
- (8) Higher density development is focussed around centres and public transport nodes and corridors. Increased residential densities will be encouraged in the urban infill and intensification areas in a range of dwelling types that are located to make public transport, walking and cycling more convenient, safe and viable.
- (9) The design of the built environment (including buildings, streets and public spaces) is consistent with the existing or desired character of the area and buildings are oriented to the street and public places. Development is undertaken in accordance with urban design principles.
- (10) Centres provide for employment, retail, accommodation, entertainment and community services that meet the needs of residential communities that are well connected by the public transport network.

- (11) Centres are based on a hierarchy that ensures the scale and form of development is appropriate to the location, and that the centres' roles and functions are appropriate within the wider planning scheme area.
- (12) Centres are consolidated within designated areas, and expansion does not occur into adjoining residential areas.
- (13) An integrated and high quality public open space network caters for the needs of residents, particularly in and around centres and higher density areas.
- (14) The continuing viability of areas that provide for economic development such as industrial and specific use areas is protected from incompatible land uses.
- (15) Limited rural residential areas provide for semi-rural living; however, these areas do not expand beyond the areas designated.
- (16) *The productive capacity of all rural land is protected.***
- (17) *Rural lands and natural areas are maintained for their rural and landscape values.***
- (18) The scenic and environmental values of areas identified as nature conservation or natural corridor link are protected.
- (19) The cultural heritage of Rockhampton is conserved for present and future communities.
- (20) *Development responds to natural hazards (flooding, bushfire, steep land, storm tide inundation and coastal erosion) by avoiding, mitigating, adapting and building resilience to natural hazards in areas mapped as being susceptible.***

Complies

The development footprint is small in scale and the intensity of the operation is commensurate with that of a rural land use. The development will have minimal traffic movements and will manage its operations to ensure that off-site amenity impacts are minimal to protect and maintain the agricultural value of the surrounding rural land. The development will source all potable water externally, so the site's existing bore and dam water supply can be used for productive agricultural pursuits.

(ii) Natural environment and hazards

- (1) The natural environment and landscape are highly valued by the community for their contribution to the planning scheme area's biodiversity, economic prosperity, culture, character and sense of place. These areas are to be protected from incompatible development.
- (2) Development does not create unsustainable impacts on:
 - (a) the natural functioning of floodplains;
 - (b) environmentally significant areas, including areas of state and locally significant vegetation, which provide fauna habitat and support biodiversity; and
 - (c) the quality of water entering waterways, wetlands and local catchments.
- (3) Development does not increase the risk to human life and property in areas that are affected, or potentially affected, by storm-surge, erosion, sea-level rise or other coastal processes, flooding, bushfire, or landslide. This occurs through the avoidance of natural hazards in new development areas, particularly greenfield areas and the mitigation of risks in existing built up areas.
- (4) Strategic and iconic scenic and landscape values are protected from potential adverse impacts of development.

Complies

The development is not anticipated to have an adverse impact on the natural environment or hazards.

(iii) **Community identity and diversity**

- (1) The quality of life of residents is enhanced through equitable access to social infrastructure, community services and facilities necessary to support community health and well-being.
- (2) The community is self-sufficient and does not rely on services and facilities located in other regions. Development contributes to the provision of new social infrastructure, including land.
- (3) Cultural heritage including character housing and heritage buildings are conserved and enhanced.
- (4) Public places are safe, functional, characterised by good urban design, and include a range of facilities to encourage healthy and active lifestyles.
- (5) Crime prevention through environmental design is achieved in urban areas including public spaces to improve public safety.

Not applicable.

(iv) **Access and mobility**

- (1) Connectivity is achieved between residential uses, employment centres and services through the provision of active transport infrastructure integrated with efficient public transport services.
- (2) ***The trunk transport network (as shown on the strategic framework maps SFM-9 to SFM-12 and in plans for trunk infrastructure in the local government infrastructure plan) supports the settlement pattern and the local economy by facilitating the efficient and safe movement of people and goods both within the planning scheme area (especially between the main urban centres of Rockhampton and Gracemere), and to and from other locations.***
- (3) The transport network encourages and supports active living in centres by providing for integrated walking, cycling, and public transport infrastructure to support a progressive reduction in car dependency.
- (4) ***The safety and efficiency of transport infrastructure, including the Bruce and Capricorn highways and other state and local roads, rail, airport and seaports, are not compromised by development.***

Complies

The development will be of a scale and intensity anticipated to maintain the safety and efficiency of the road transport network. The development will have a minimal increase to traffic movements and this is anticipated to be generally commensurate with the ordinary demands of rural uses such as water delivery trucks and pick-up/delivery of live poultry/finished product.

(v) **Infrastructure and services**

- (1) Infrastructure and services are planned and delivered in a logical and cost efficient manner in support of the planned settlement pattern. It is fit for purpose and is sensitive to cultural and environmental values. In particular:
 - (a) efficient, affordable, reliable, timely and lasting infrastructure makes best use of public resources;
 - (b) the long-term needs of the community, industry and business are met; and
 - (c) the desired standards of service in Part 4 — Local government infrastructure plan are achieved.

Complies

The development does not involve the provision of new infrastructure or services to be managed by Council. Furthermore, the proposed development is not anticipated to detrimentally impact on the Council road being Emmert Lane where the development will gain access.

(vi) Natural resources and economic development

- (1) The economy of the planning scheme area continues to grow and provides the community with diverse and new employment opportunities. Rockhampton continues to strengthen as the retail, service, cultural and administrative centre for both the planning scheme area and the wider Central Queensland region.
- (2) The strategic importance of Rockhampton for transport and logistics industries is fostered, given its central location at the junction of the Bruce Highway, the Capricorn Highway (through to the Landsborough Highway) and the Burnett Highway (through to the Leichhardt Highway).
- (3) ***The local community continues to value its traditional economic assets and natural resources and protects and conserves them and the contribution they make to maintaining and growing the region's economic prosperity, culture, character and sense of place. The region's traditional economic sectors of tourism and agriculture (including the iconic beef industry) continue to strengthen.***
- (4) Development protects and, where possible, leverages the intrinsic economic value of the region's natural resources, including productive grazing, agricultural and forestry land, extractive and mineral resources, marine and coastal resources, and existing and planned water resources, including watercourses, water bodies and groundwater.
- (5) Natural assets identified by this planning scheme are protected as they underpin current and emerging tourism opportunities and important lifestyle values for residents.

Complies

The development is not anticipated to detrimentally impact on the natural resources of the area and is anticipated to contribute to the economic development within the region. The development seeks to establish a niche business, unique to the local government area and is expected to distribute its products to external markets which can in turn help to advertise and promote the region.

The performance assessment of the proposal demonstrates that the development will not compromise the *Rockhampton Region Planning Scheme 2015* strategic outcomes.

Rural Zone

The subject site is situated within the Rural Zone under the *Rockhampton Region Planning Scheme 2015*. The purpose of the Rural Zone identifies that: -

- (1) *The purposes of the rural zone code is to:*
 - (a) ***ensure that land with productive capacity is maintained for a range of existing and emerging rural uses that are significant to the economy of the planning scheme area;***
 - (b) ***recognise that different types of rural land are suited to specific uses such as animal industries, horticulture, cropping, intensive animal industries, intensive grazing and extractive industries;***
 - (c) ***prevent the establishment of development which may limit the productive capacity of the land;***
 - (d) ***provide for diversification of rural industries where impacts can be managed; and***
-

- Page (17)

- (h) *Rural workers' accommodation is appropriate where:*
 - (i) *directly associated with the primary rural use undertaken at the site;*
 - (ii) *compatible with the rural character of the zone;*
 - (iii) *not compromising the existing or potential future operation of rural uses on adjoining lots; and*
 - (iv) *not located in areas identified on the agricultural land classification (ALC) overlay maps;*
- (i) *urban and rural residential development is contained within the designated growth areas and does not expand into the rural zone;*
- (j) *sensitive land use(s) are adequately separated from animal keeping (being kennels and catteries), intensive animal industry, aquaculture, rural industry, and industrial zoned areas (including the Gracemere industrial area, Stanwell power station, Bajool explosives reserve and Bouldercombe brickworks);*
- (k) *renewable energy facilities are located on sites that are large enough to accommodate appropriate buffering from sensitive land use(s) and minimise adverse impacts on the natural environment;*
- (l) *extractive industries (including Marmor limeworks) on rural land are protected from encroachment by incompatible uses;*
- (m) *extractive industry minimises environmental and traffic impacts. Once the operation has ceased the site is rehabilitated;*
- (n) *aquaculture activities may be integrated with horticulture operations, where benefits of diversification are evident and there are no adverse impacts on amenity, ecological values and existing fish habitats; and*
- (o) *the establishment of two (2) precincts within the zone where particular requirements are identified:*
 - (i) *Alton Downs precinct; and*
 - (ii) ***Cropping and intensive horticulture precinct.***

Alton Downs precinct

- (3) *The following overall outcomes of the Alton Downs precinct are additional to those of the rural zone and takes precedence in the event of a conflict:*
 - (a) *rural land in this precinct includes smaller lots used for primarily residential purposes;*
 - (b) *residential uses are established where the amenity and safety of residents can be maintained;*
 - (c) *residential uses are provided with adequate water supply and sewage treatment and disposal; and*
 - (d) *reconfiguration of a lot only occurs if it results in new rural lots that:*
 - (i) *have developable areas that are not subject to natural hazards and constraints;*
 - (ii) *have a minimum lot size of eight (8) hectares; and*
 - (iii) *must have access to a sealed road where sequential connection or integration with an existing sealed road can be achieved.*

Cropping and intensive horticulture precinct

- (4) ***The following overall outcomes of the cropping and intensive horticulture precinct are additional to those of the rural zone and take precedence in the event of a conflict:***

- (a) *the productive capacity of this land is maximised and development is primarily for or associated with rural uses such as animal husbandry, animal keeping, cropping or intensive horticulture;*
- (b) *permanent plantations do not occur within the precinct; and*
- (c) *reconfiguration of a lot only occurs if it results in new rural lots that:*
 - (i) *reflect the ability to operate viable rural enterprises on smaller rural lots; and*
 - (ii) *have a minimum area of forty (40) hectares.*

The proposed non-rural use is anticipated to have minimal impact to the amenity of the rural area due to its small scale and intensity, however the proposed use is capable of being operated in a suitably zoned industrial site where the development is considered consistent. Furthermore, whilst the proposal is a diversification of rural industries the use is industrially categorised for poultry meat processing where animal keeping is not occurring (i.e. poultry farming) and therefore the application has failed to demonstrate a clear link between the industrial use and the rural land designation. As the site is designated in the cropping and intensive horticulture precinct, land uses anticipated in the area are encouraged to maximise the productive capacity of the land for appropriate land uses within this designation such as animal keeping and cropping or intensive horticulture. Therefore despite the scale and intensity of the proposed use being minimal, the proposed industrial use cannot be considered consistent with the purpose of the Rural Zone.

Rockhampton Regional Planning Scheme Codes

The following codes are applicable to this application: -

- Rural Zone Code;
- Access, Parking and Transport Code;
- Landscape Code;
- Stormwater Management Code;
- Waste Management Code; and
- Water and Sewer Code.

An assessment has been made against the requirements of the abovementioned codes and the proposed development generally complies with the relevant Performance outcomes and Acceptable outcomes. An assessment of the Performance outcome/s which the application is in conflict with, is outlined below:

Rural Zone Code		
Performance Outcomes		Officer's Response
PO14	<p>Development that does not involve rural uses:</p> <ul style="list-style-type: none"> (a) is located on the least productive parts of a site and not on land identified on the agricultural land classification (ALC) overlay maps; (b) does not restrict the ongoing safe and efficient use of nearby rural uses; and (c) is adequately separated or buffered where it is likely to be sensitive to the operational characteristics associated with rural uses, rural industries or extractive industries. 	<p>The development does not involve a rural use and is identified on land within the agricultural land classification (ALC) overlay maps. Despite this the development footprint is small in scale and the productive capacity of the rural land is anticipated to be protected and maintained for its agricultural values. The site's existing water supply via bore and dam will not be utilised by the development which will require potable water to be delivered by a water delivery truck. Therefore the site's existing water supply can be utilised for other productive agricultural pursuits on the subject site which are consistent with the Rural Zone and precinct designation.</p>

PO15	<p>Uses that require isolation from urban areas are accommodated only where:</p> <p>(a) they cannot be more appropriately located in an industrial or other relevant zone;</p> <p>(b) they can be adequately separated from sensitive uses (whether or not in the rural zone); and</p> <p>(c) potential impacts can be appropriately managed.</p>	<p>The application has not demonstrated why the development cannot be more appropriately located on land designated within a suitable industrial zone. Despite this the development footprint is small in scale and the intensity of the operation is commensurate with land uses operating in a rural area. The development will be separated from sensitive land uses being dwelling houses on surrounding properties by at least 300 metres. Furthermore, vegetated mounds will be constructed at two (2) metres above ground level to provide a visual barrier off-site from the proposed structures and all processing and composting activities will occur within dedicated enclosed sheds. The development will have minimal vehicle movements occurring within its 0700 to 1800 Monday to Saturday operating hours. Therefore it is anticipated that the potential impacts of the use can and will be mitigated.</p>
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Based on a performance assessment of the above mentioned codes, it is determined that the proposal is acceptable and generally complies with the relevant Performance outcomes and where there is deviation from the codes, sufficient justification has been provided.

INFRASTRUCTURE CHARGES

Adopted Infrastructure Charges Resolution (No. 5) 2015 for non-residential development applies to the application and it falls within Charge Area 3. The Infrastructure Charges are as follows:

Column 1 Use Schedule		Column 2 Charge Area	Column 3 Adopted Infrastructure Charge		Column 4 Adopted Infrastructure Charge for stormwater network		Calculated Charge
			(\$)	Unit	(\$)	Unit	
High Impact Industry	All uses as per AICN 4/14 Table 2.2.1	Area 3	17.50	per m ² of GFA	0	per m ² of impervious area	\$1,716.75
						Total	\$1,716.75
						Less credit	\$2,000.00
						TOTAL CHARGE	Nil

This is based on the following calculations:

- (a) A charge of \$1,716.75 for Gross Floor Area being 98.1 square metres (poultry abattoir shed and compost shed); and
- (b) An Infrastructure Credit of \$2,000.00, made up as follows:
 - (i) An Infrastructure Credit of \$7,000.00 applicable for the existing allotment and a charge of \$5,000.00 for the existing dwelling house (two (2) bedrooms).

Therefore, no infrastructure charges are payable and an Infrastructure Charges Notice will not be issued for the development.

CONSULTATION

The proposal was the subject of public notification between 7 November 2019 and 2 December 2019, as per the requirements of the *Planning Act 2016* and the Development Assessment Rules, during which time three (3) properly made submissions were received.

The following is a summary of the submissions lodged, with Council officer comments:

Issue	Officer's Response
Shed Size and Waste	Submitter was unclear on the size of the proposed meat processing shed due to a contradiction in the original application plans. The applicant's response to Council's request for further advice confirmed the meat processing shed to be 89.1 square metres in size. The submitter also had concerns on where waste would be contained as this was not indicated on the original application plans. The applicant confirmed that organic waste generated by the development would be transported to an independent enclosed composting shed being nine (9) square metres in size for processing. The final compost is indicated to be used on the land as a soil additive to assist with landscaping on the proposed vegetated mound(s).
State Planning Policy (Agriculture)	Submitter queried whether the proposal would trigger impact assessment by the State under the State Planning Policy (Agriculture). However, a review of the referenced policy indicates that this trigger only applies to an intensive animal industry where poultry is being kept on a premises for breeding purposes. Therefore this concern was not relevant to the subject development as it is only for processing purposes with no extended storage of live poultry allowed.
Odour	<p>Submitters had concerns with respect to the odour caused by waste water and composting material being generated by the development as well as being an attractant for pests and wild animals. Waste water generated by the development is not anticipated to cause odour issues as this will be directly piped to an effluent tank. The applicant will either need to have this waste removed by a licensed regulated waste transporter or treated on-site designed by a professional consultant, either scenario will be assessed as part of a further plumbing and drainage works permit. Organic waste material including feathers, ingesta and viscera will be transported to the enclosed compost shed using air-tight containers. Submitter stated that feathers do not decompose however this is not the case and is actually a source of nitrogen rich fertilizer.</p> <p>The dry composting process will need to be undertaken in accordance with Food Science Australia's newsletter for composting of slaughterhouse waste material as per condition 13.7.3. The development has been designed to minimise any potential offsite impacts as a result of odour and should a genuine complaint be received by Council, the owner will need to undertake nuisance monitoring and mitigation measures to rectify the complaint.</p>
Ambiguities within the Development Application	Submitter disputed some statements made in the application with respect to the development such as 'the scale of the proposal is small enough to be much the same as a hobby farm, slaughtering their own animals for personal consumption'. The applicant indicated in their submitter's response that this comparison was made purely due to the weight of the poultry meat in comparison to a cow for example and on this basis the comparison is considered fair given the total weight of birds processed in a week indicated by the applicant to be approximately 120 kilograms.

Issue	Officer's Response
	<p>The submitter also wanted clarification as to what 'no extended storage of live poultry' meant. The applicant indicated that live poultry would be delivered to the site the day before processing which would be completed over two (2) days. A condition has been imposed to ensure that live poultry are not kept any longer than 48 hours from delivery to ensure birds will only be there for the purpose of processing, thus minimising any potential amenity impacts that may be caused from extended storage of live poultry.</p>
Noise	<p>Submitter had concerns with respect to noise generated by the operation citing continual machine and vehicle noise. The only noise source that will be constant from the meat processing shed is a compressor for refrigerated storage of the final product which will be mounted to the roof.</p> <p>Suitable conditions have been imposed to ensure all plant and equipment will not be an environmental nuisance. Should a genuine complaint be received by Council, the owner will be required to investigate and implement nuisance mitigation measures that have been prepared by a suitably qualified professional consultant.</p> <p>Noise generated from vehicles will be minimal. The development is restricted to one (1) heavy vehicle trip per week and four (4) light vehicle trips. The only exclusion for light vehicle trips are those generated by the landowner's and one (1) on-site employee external to the site, should the needs of the development require this in the future. Furthermore, the closest dwelling house is approximately 320 metres away from the proposed shed.</p> <p>The vehicle movements generated by the development are of a low intensity and not anticipated to be vastly different from that of an ordinary rural use. Therefore the noise generated by the development is not anticipated to unduly impact on the amenity of surrounding properties.</p>
Land Values	<p>Submitter questioned where the proponent would be sourcing the live poultry and how the development would affect land values in the area. Both concerns however are not relevant matters for planning assessment.</p>
Australian Standards and Safe Food Queensland	<p>Submitter queried whether the development would comply with <i>AS4465:2005 'Australian standard for construction of premises and hygienic production of poultry meat for human consumption'</i>. The applicant's response to submissions states that the development will comply with Council and Safe Food Queensland's requirements. Compliance with the Australian Standard for the design, construction and operation has been conditioned under condition 1.10. In addition, Condition 13.6 requires the operator to obtain and maintain their accreditation at all times with Safe Food Queensland.</p>

STATEMENT OF REASONS

Description of the development	The proposed development is for a Material Change of Use for a High Impact Industry (poultry abattoir)
Reasons for Decision	<p>a) The proposed use is small in scale and intensity, and includes adequate separation distances from nearby dwelling houses to protect the agricultural character of the area;</p> <p>b) The proposed use does not compromise the strategic framework in the <i>Rockhampton Region Planning Scheme 2015</i>;</p> <p>c) Assessment of the development against the relevant zone purpose,</p>

	<p>planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity;</p> <p>d) The proposed development does not compromise the relevant <i>State Planning Policy</i>; and</p> <p>e) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>	
Assessment Benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Rural Zone Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code. 	
Compliance with assessment benchmarks	<p>The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception listed below.</p>	
	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	Rural Zone	<p>The development footprint is small in scale and intensity. The development will not use the site's existing water supply via dam and bore which can be utilised for other productive agricultural pursuits which are consistent with the site's zone and precinct designation. The development will have a physical separation distance of over 300 metres from dwelling houses located on surrounding properties. The development includes vegetated mounds to obscure the processing and compost sheds and will have a low number of vehicle movements between the development's operating hours. Therefore it is anticipated that the potential impacts of the use can be mitigated.</p>
Matters raised in submissions	Issue	How matter was dealt with
	Shed Size and Waste	<p>The shed size was clarified by the applicant in their response to Council's request for further advice. Additionally all organic waste generated by the use would be moved to the composting shed to be processed.</p>
	State Planning Policy (Agriculture)	<p>A review of the referenced policy indicates that this trigger only applies to an intensive animal industry where poultry is being kept on a premises for breeding purposes. This query was not relevant as the development is only for the abattoir and not for the</p>

		extended storage of live poultry.
	Odour	Potential odour from waste water and compost material will be managed by the development. Waste water from the processing area will be piped from the inside of the shed into an effluent tank. Furthermore, compost material will be transported using air-tight containers to be stored in the enclosed compost shed where it will be processed until it can be re-used on site to aid landscaping. Suitable conditions have been imposed to ensure that waste water is managed in accordance with the relevant standards and compost activities are undertaken in accordance with best practice guidelines. Furthermore any genuine complaint received by Council will require the applicant to undertake odour monitoring and apply mitigation measures to rectify as provided by a suitably qualified professional consultant.
	Ambiguities within the Development Application	Suitable conditions have been imposed to ensure no extended storage of live poultry will occur and must be processed within 48 hours of delivery, thus minimising the potential for amenity impacts as a result of extended storage.
	Noise	The only noise source that will be constant from the meat processing shed is a compressor for refrigerated storage of the final product which will be mounted to the roof. Suitable conditions have been imposed to ensure all plant and equipment be housed and maintained in proper working order at all times. Noise generated from vehicle movements for the development will be minimal and will only occur within the approved hours of operation. Additionally there is a significant separation distance between the development and surrounding properties. It is not anticipated that the noise generated by the development will unduly impact on the amenity of surrounding properties. Furthermore any genuine complaint received by Council will require the applicant to undertake noise monitoring and apply mitigation measures to rectify.
	Land Values	Where the proponent would be sourcing live poultry and how the development would affect land values are not relevant matters for planning consideration.
	Australian Standards and Safe Food Queensland	Suitable conditions have been imposed to ensure the development adheres to the relevant Australian Standard for the construction of premises and hygienic production of poultry meat for human consumption are adhered to. Furthermore the development is required to ensure accreditation is obtained and maintained at all times with Safe Food Queensland.
Matters prescribed by regulation	(i) The <i>State Planning Policy – Part E</i> ; (ii) The <i>Central Queensland Regional Plan</i> ; (iii) The <i>Rockhampton Region Planning Scheme 2015</i> ; and (iv) The common material, being the material submitted with the application.	

CONCLUSION

The proposed High Impact Industry (poultry abattoir) is not in keeping with the purpose of the Rural Zone. However the development application has demonstrated the proposed use does not compromise the strategic framework in the *Rockhampton Region Planning Scheme 2015*. Furthermore, the proposal generally complies with the provisions included in the applicable codes. The proposal is, therefore, recommended for approval in accordance with the approved plans and subject to the conditions outlined in the recommendation.

**D/78-2019 - DEVELOPMENT
APPLICATION FOR A MATERIAL
CHANGE OF USE FOR A HIGH IMPACT
INDUSTRY (POULTRY ABATTOIR)**

Locality Plan

Meeting Date: 11 February 2020

Attachment No: 1

D/78-2019 - Locality Plan



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Spatial Reference

Geocentric Datum of Australia 1994
Map Grid of Australia - Zone 56

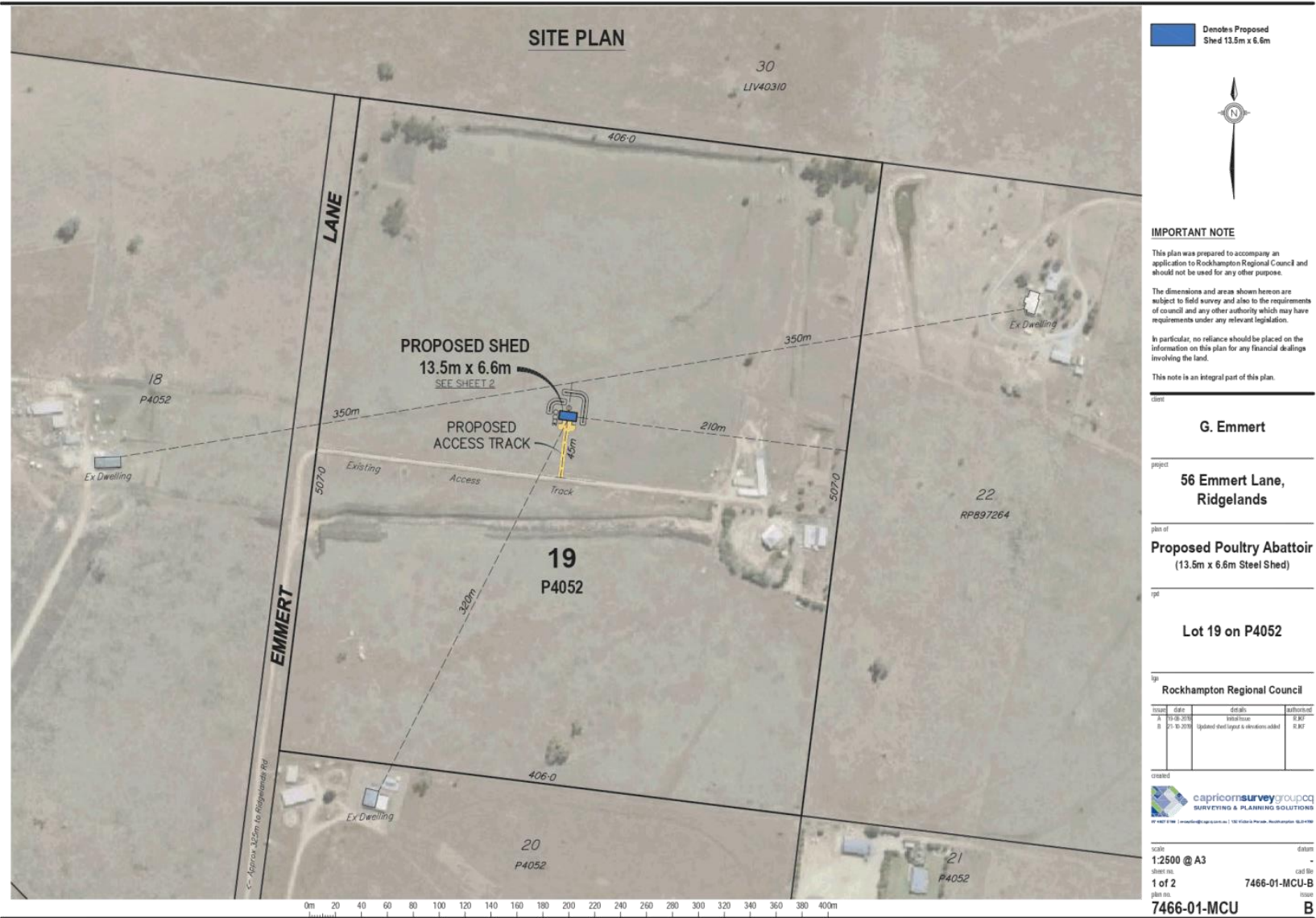


**D/78-2019 - DEVELOPMENT
APPLICATION FOR A MATERIAL
CHANGE OF USE FOR A HIGH IMPACT
INDUSTRY (POULTRY ABATTOIR)**

Site Plan

Meeting Date: 11 February 2020

Attachment No: 2



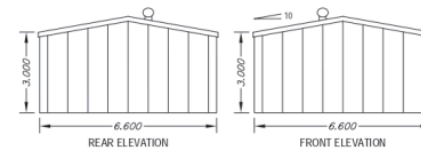
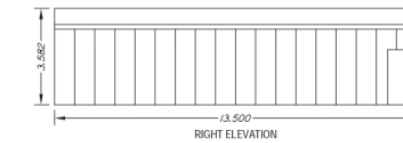
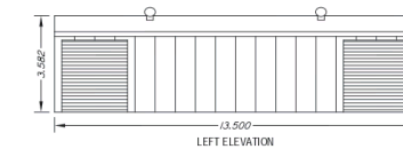
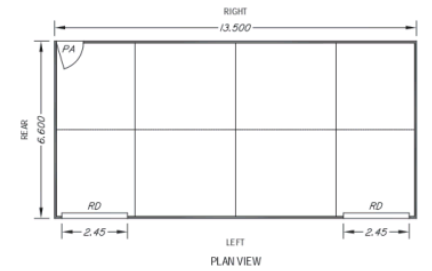
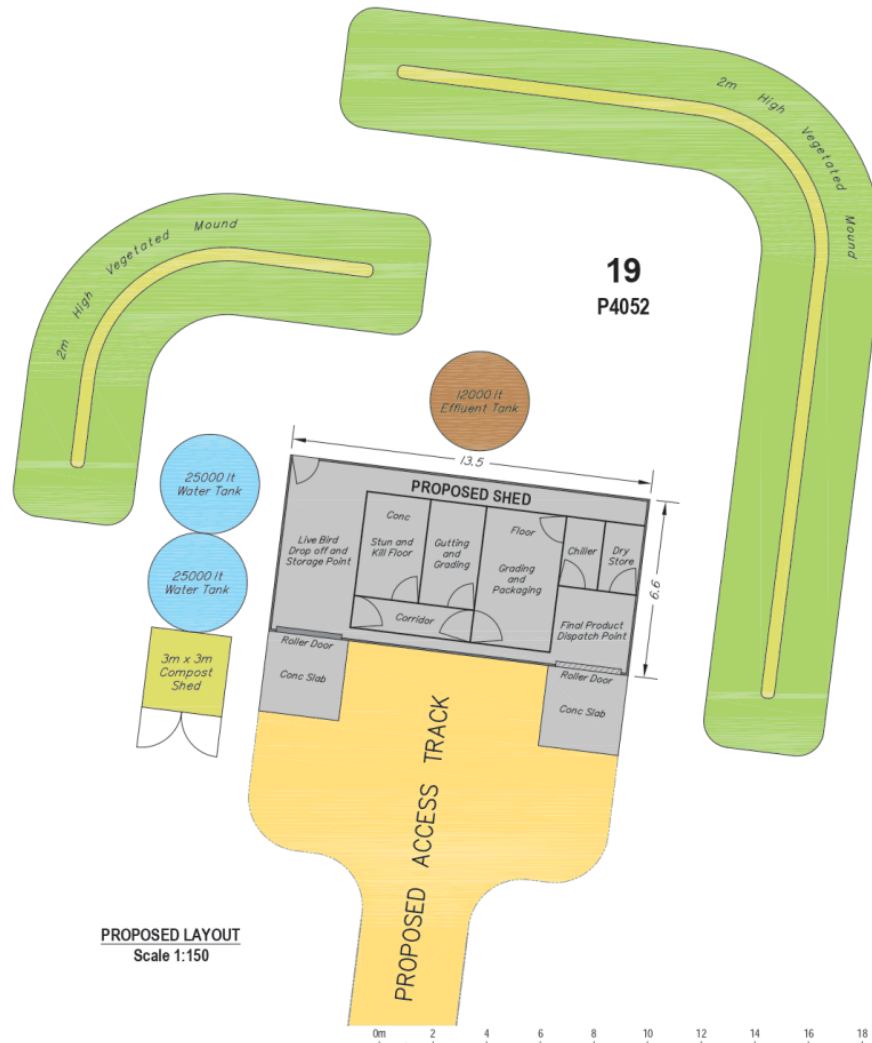
**D/78-2019 - DEVELOPMENT
APPLICATION FOR A MATERIAL
CHANGE OF USE FOR A HIGH IMPACT
INDUSTRY (POULTRY ABATTOIR)**

Floor and Elevations Plan

Meeting Date: 11 February 2020

Attachment No: 3

LAYOUT & ELEVATIONS



PLAN & ELEVATIONS
Scale 1:150



IMPORTANT NOTE

This plan was prepared to accompany an application to Rockhampton Regional Council and should not be used for any other purpose.

The dimensions and areas shown hereon are subject to field survey and also to the requirements of council and any other authority which may have requirements under any relevant legislation.

In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land.

This note is an integral part of this plan.

client

G. Emmert

project

56 Emmert Lane,
Ridgeland

plan of

Proposed Poultry Abattoir
(13.6m x 6.6m Steel Shed)

ref

Lot 19 on P4052

by

Rockhampton Regional Council

issue	date	details	authorised
1	15-08-2018	Issue for Council	G. Emmert
2	15-08-2018	Updated shed layout & elevations added	G. Emmert

created



scale
1:150 @ A3

sheet no.

2 of 2

plan no.

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8.2 CHANGES TO PUBLIC HEALTH REGULATION 2018

File No:	4894
Attachments:	1. Clandestine Drug Laboratories: A management guide for public health regulators ↓
Authorising Officer:	Doug Scott - Manager Planning & Regulatory Services Alicia Cutler - Acting General Manager Community Services
Author:	Karen Moody - Coordinator Health and Environment

SUMMARY

This report presents to Council an update on changes to the Public Health Regulation 2018 and the implementation of the Clandestine Drug Laboratories: A management guide for public health regulators. The implementation of these documents has significantly changed the manner in which Rockhampton Regional Council will deal with notifications from Queensland Police Service that a property is suspected of having a clandestine laboratory within it.

OFFICER'S RECOMMENDATION

THAT Rockhampton Regional Council follows the Management Guideline provided by Queensland Health to respond to Clandestine Laboratory notifications from Queensland Police Service.

COMMENTARY

The *Public Health Act 2015* (the Act) and the *Public Health Regulation 2018* (the Regulation) regulate public health risks in non-workplace situations. The object of the Act is achieved by preventing, controlling and reducing the risks to public health. Aspects of the Act and Regulation have been devolved to local government to enforce, these are known as local government public health risks.

In 2018 the Regulation was amended to include the following as a local government public health risk.

- (1) For section 11(1)(b)(xi) of the Act, a place is prescribed if –
 - (a) a dangerous drug has or may have been unlawfully produced at the place or part of the place; or
 - (b) a police officer has seized, under the *Police Powers and Responsibilities Act 2000*, from the place, or a part of the place, a chemical or equipment that has or may have been used to unlawfully produce a dangerous drug.

Example: a house from which a chemical or equipment commonly used to produce methylamphetamine is seized by a police officer.

In mid-2019 Queensland Health (in consultation with a local government working group), produced the Clandestine Drug Laboratories: A management guide for public health regulators to assist local government in responding to the notification of Clandestine Laboratories within their community.

A range of legislative and non-legislative tools is available to Council officers to enforce the provisions of the Act however, the guidelines indicate that a Public Health Order should be issued in the first instance to the homeowner and occupier (if relevant).

Local government will not be responsible for enforcing the provisions of the act on the state, therefore Queensland Housing Commission properties have been excluded from the Council process, and these properties are dealt with at the state level.

BACKGROUND

The Act has always regulated public health risks that local government are delegated to enforce, known as local government public health risks. Common areas whereby Council staff enforce a local government public health risk is through the asbestos provisions and the vermin and vector control provisions.

Until the change in the regulation in 2018 there was uncertainty surrounding whether a notification from Queensland Police Service constituted a public health risk. In early 2019 the Regulation was amended to make it clear that this type of notification is regarded as a public health risk.

Previously Rockhampton Regional Council has been taking no action when notification from QPS has been received. The exception being short term cabins in accommodation parks, whereby the owner was contacted and advised to clean effectively before using again.

Recent research has demonstrated that there are health risks associated with persons living in properties that were previously used to produce illicit substances. This contamination is not apparent without laboratory testing. Exposure may produce symptoms such as throat irritation, breathing difficulties, headaches, skin conditions and mental health problems. These adverse health effects are mainly related to long term rather than short term exposures.

This change to legislation and the guideline results in more authoritative action being taken by Council. The proposed method of assessment and action includes:

1. Receipt of a notification from QPS of a clandestine laboratory in the Council area.
2. Environmental Health Officers issue a Public Health Order to the owner (and occupant if required) to engage an assessor who will undertake monitoring and sampling program and provide Council with a Remediation Action Plan.
3. The property is remediated in accordance with the Remediation Action Plan.
4. The Assessor undertakes post remediation sampling to confirm that the property has been successfully remediated.
5. Clearance report provided to Council.
6. Property released from Public Health Order.

If Council does not fulfil its obligations under the Act, Queensland Health may undertake them and the cost will be borne by Council.

BUDGET IMPLICATIONS

The cost of enforcement can be met through the current operational budget of the unit. The cost of clean-up is the responsibility of the landowner. If the person does not comply with the Public Health Order, Council may enter and undertake the work on the persons behalf. This will result in a charge against the rates being applied to cover costs.

LEGISLATIVE CONTEXT

The *Public Health Act 2005*, through the amendments to the Public Health Regulation in 2018/2019 has resulted in clandestine laboratories being regarded as a local government public health risk under the Act. This has resulted in local government being responsible for undertaking actions in relation to notifications from Queensland Police Service.

STAFFING IMPLICATIONS

Enforcing the provisions of the Act on these properties, can be dealt with within the current staffing of the Environmental Health Unit. The number of notifications peaked in 2013-2014 and have slowly declined since, with 2 reported in each year during 2018 and 2019.

CORPORATE/OPERATIONAL PLAN

Incorporating actions required under the *Public Health Act 2005* goes towards meeting objective 4.2.1.1 of Council's Operational Plan. The relevant operational action is to provide effective development management programs in line with legislative requirements for environment, health, food, safety, noise, odour and dust protection.

CONCLUSION

Councils Environmental Health Officers investigate Local Government Public Health Risks as legislated under the *Public Health Act 2005*. As a result of recent changes to the subordinate legislation, this will now include Clandestine laboratory notifications from QPS.

CHANGES TO PUBLIC HEALTH REGULATION 2018

Clandestine Drug Laboratories: A management guide for public health regulators

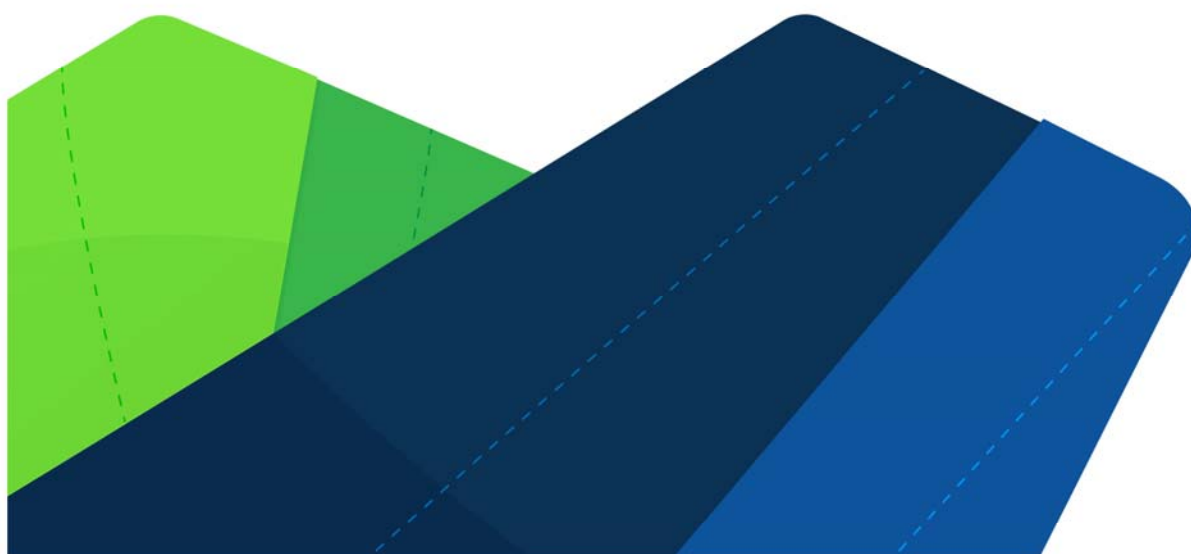
Meeting Date: 11 February 2020

Attachment No: 1

Clandestine Drug Laboratories

A management guideline for public health regulators

June 2019



Clandestine Drug Laboratories – A management guideline for public health regulators

Published by the State of Queensland (Queensland Health), [June 2019]



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Queensland Police Service

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Department of Housing and Public Works

Residential Tenancy Authority

Brisbane City Council

Gold Coast City Council

Logan City Council

Lockyer Valley Regional Council

Mackay Regional Council

Redland Shire Council

Rockhampton Regional Council

Townsville City Council

Tablelands Regional Council

Western Downs Regional Council

Contents

Executive summary	vi
1. Introduction	1
1.1 Background.....	1
1.2 Purpose	1
1.3 Public Health Act 2005	1
2. Clandestine Drug Laboratories	3
2.1 Overview.....	3
2.2 Hazards	3
2.3 National remediation guidelines.....	4
2.4 Identification and notification of clan labs	5
3. Remediation	5
3.1 General	5
3.2 Response of the regulator	7
3.3 Considerations for the regulator	9
3.3.1 Vacating a property	9
3.3.2 Property owner's access to the property	9
3.3.3 Engaging a qualified assessor.....	10
3.3.4 Dealing with personal property	10
3.3.5 Swabs – pre- and post-remediation.....	11
3.3.6 Cleaners	12
3.3.7 Remediation and cleaning options for a property	13
3.3.8 Liability of the regulator	13
3.3.9 Property owner's obligations	14
3.3.10 Child health issues	15
3.3.11 Flagging properties on local government databases.....	16
3.3.12 A local government becomes aware of a possible clan lab through other means.....	16
3.4 Further regulatory action.....	17
3.5 Queensland Health support.....	18
Appendix 1 Clan lab response process	19

Appendix 2 Jurisdiction Summary	20
Appendix 3 QPS Notification Form	22
Appendix 4 Roles and responsibilities	24
Appendix 5 Remediation Action Plan (RAP) checklist.....	26
Appendix 6 Clearance report template	28
Appendix 7 Draft Public Health Orders.....	30
Appendix 8 Disposal checklist	38
Appendix 9 Fact sheet – Health risks of clan labs and advice for residents.....	40
Appendix 10 Guidelines for suitable qualifications for assessors	42
Appendix 11 Resources.....	44

Executive summary

Premises used for illegal drug production can pose significant risk to health and safety to occupants within the premises. The risk may continue even after the drug production equipment and hazardous chemicals have been removed from the premises.

Most often illegal drug production involves poor and sloppy practices in the storage and handling of the hazardous chemicals resulting in the premises being heavily contaminated. Although Queensland Police Service (QPS) take measures to deal with the imminent risks associated with drug manufacture, the sites may pose an ongoing risk to public health. Hazardous chemical contamination arising from the illegal drug manufacture may persist due to absorption by flooring materials, walls, drains and ducting, furnishings and fittings and may be slowly released over an extended period. Such emission can present a risk to the health of existing and future occupants, especially children. Protection of public health within domestic premises is the primary focus of the guideline *Clandestine Drug Laboratories - A management guideline for public health regulators*.

The Guideline provides a framework for regulatory response that should be considered by local governments once they become aware of a former clandestine drug laboratory (clan lab) site. These sites will usually be reported to local governments by QPS. The framework incorporates assessment and remediation processes which includes testing, management, remediation and evaluation of former clandestine drug laboratory sites. This process is similar to the approach used under the Commonwealth's '*Clandestine Drug Laboratory Remediation Guidelines – 2011*'. The guideline does not cover production of illegal drugs in non-domestic premises.

The Guideline's remediation section (Section 3) is also relevant to other stakeholders, such as property owners, occupiers, as well as service providers. There may be occasions when local government regulators require support in dealing with a clan lab on a property. Queensland Health is able to support and work collaboratively with local governments where unforeseen difficulties arise.

1. Introduction

1.1 Background

The proliferation in the production of illicit drugs has been an issue in the Queensland community over many years. The Queensland Police Service (QPS) is the frontline responder in the detection and management of illegal drug production. Police responsibilities include the removal of gross hazards such as chemicals, equipment, weapons and any other evidentiary materials present. Although police measures deal with the imminent risks associated with drug manufacture, a range of hazards remain at the sites that pose ongoing risks. Long term exposure to residual chemical contamination, resulting from the production of illegal drugs, can be a risk to human health (Australian Government 2011).

1.2 Purpose

The purpose of this document is to provide guidance to regulators on issues associated with the management of former clandestine drug laboratory sites (clan labs) in domestic or non-workplace settings to ensure their effective remediation. The scope of the document is limited to domestic or non-workplace settings as workplace settings are covered under the *Work Health and Safety Act 2011* and are therefore managed through a different process.

To ensure the Guideline remains relevant to contemporary clan lab issues the Guideline will be reviewed periodically as determined by a Working Group. Initially this will be within the first year of the Guideline's adoption, to review its application and related processes. The review process will involve state and local government agencies who have assisted in the preparation of this guideline.

1.3 Public Health Act 2005

In Queensland, the *Public Health Act 2005* (the Act) regulates public health risks in non-workplace situations. The object of the Act is achieved by preventing, controlling and reducing risks to public health.

Contamination of a place associated with the production or likely production of illegal drugs is prescribed as a public health risk under section 11(b) (xi) as "any other activity, animal, substance or other thing prescribed under a regulation". Note – the term "illegal drugs" is not

defined by law and therefore the term “dangerous drugs”, which has a definition in law, has been used in the Regulation.

The Public Health Regulation 2018 prescribes the following as a public health risk;

27A Particular place used in unlawfully producing dangerous drug—Act, ss 11 and 18

(1) For section 11(1)(b)(xi) of the Act, a place is prescribed if—

(a) a dangerous drug has or may have been unlawfully produced at the place or a part of the place; or

(b) a police officer has seized, under the Police Powers and Responsibilities Act 2000, from the place, or a part of the place, a chemical or equipment that has or may have been used to unlawfully produce a dangerous drug.

Example—

a house from which a chemical or equipment commonly used to produce methylamphetamine is seized by a police officer.

The *Public Health Act 2005* provides for a range of regulatory interventions which may be implemented for managing all public health risks. A public health order (PHO) may be issued if an authorised person reasonably believes that a person is responsible for a public health risk at a place. The PHO may require a person to take appropriate measures to remove or reduce the risk to public health. It is an offence for the recipient of a PHO not to comply unless they have a reasonable excuse.

Further information on the use of PHOs and other regulatory action under the Act is available on the Queensland Health local government environmental health resources website <https://www.health.qld.gov.au/eholocalgov/>.

Although the State is bound by the Act, no PHOs or warrants can be given to the State for public health risks and the power of entry to check if a public health risk exists does not apply where the State is the owner (Section 3). Where a clan lab is detected in public housing, the State will manage the remediation through the Department of Housing and Public Works.

2. Clandestine Drug Laboratories

2.1 Overview

Clan labs are typically associated with the manufacture of amphetamine-type stimulants, particularly methylamphetamine, which is a dangerous drug under the *Drugs Misuse Act 1986* and the subject of many offences under that Act (including production of the substance).

Detection of clan labs in Queensland and across Australia has been on the increase for over ten years. In the last couple of years, detections have shown some decline however there are still several hundred every year.

In Queensland approximately 90% of detections are categorised as smaller addict-based labs. These labs have lower production levels and are dominated by the hypo phosphorous (iodine) method of manufacture. QPS statistics indicate that, where clan labs occur in residential settings, they are most often in rental properties.

2.2 Hazards

Illegal drug manufacturing most often involves the improper storage and use of toxic and corrosive chemicals. During drug manufacture, toxic gases and aerosols are produced. Chemicals used as precursors and produced as by-products and drug products can be present in the air and are deposited onto surfaces within the home. Contamination persists due to absorption of chemicals by flooring, walls, drains and ducting, furnishings and fittings. Chemicals absorbed by these materials can be emitted as gases over an extended period of time.

Exposure to this residual chemical contamination presents a risk to human health. Exposure may produce symptoms such as throat irritation, breathing difficulties, headaches, skin conditions and mental health problems. These adverse health effects are mainly related to long term rather than short term exposures.

These risks are well documented in the Australian Government Department of Health “*enHealth Position Statement: Clandestine Drug Laboratories and Public Health Risks*”.

2.3 National remediation guidelines

The Australian Government produced a guidance document “*Clandestine Drug Laboratory Remediation Guidelines*” (the National Guidelines) in 2011. The National Guidelines provide guidance to authorities and professionals in the assessment and remediation of contaminated sites where illegal drugs have been manufactured. The National Guidelines provide a regulatory response framework for the key issues that need to be considered in responses by regulators and recognise four phases of site assessment and remediation:

- Phase 1: Trigger for assessment
- Phase 2: Preliminary assessment and action
- Phase 3: Site assessment and remediation
- Phase 4: Validation

Under the Queensland model, these phases will align as follows:

- Phase 1 - Police notification to the regulatory authority (the local government)
- Phase 2 - The giving of the public health order (PHO)
- Phase 3 - Assessment of the site and development and implementation of a remediation action plan (RAP) as required
- Phase 4 - Validation and certification of a successful clean-up.

A process flow diagram with further detail on the four phases is at Appendix 1.

The National Guidelines set out levels for a range of chemicals of concern and indicate the level of contamination above which further investigation and evaluation will be required. These are known as investigation levels (ILs) and are used as triggers for remediation action and the basis for determining successful remediation of affected properties.

The National Guidelines were approved for use by all Australian Governments at the Council of Australian Government (COAG), and therefore the ILs have been widely adopted as the remediation standards Australia-wide. The key substance that is an indicator of contamination is methylamphetamine. A site will be deemed to be validated once all samples are below the methylamphetamine IL. This IL is 0.5 micrograms (µg) per 100cm² and its presence on surfaces in a domestic setting at levels greater than this requires further assessment and may be an unacceptable health risk.

This standard is the applicable standard for investigation and remediation in Queensland. The National Guidelines provide further information on developing a sampling plan and a remediation action plan and are a valuable reference for regulators and assessors.

2.4 Identification and notification of clan labs

The QPS is the lead agency in the investigation of serious drug offences including the production of illegal drugs. Once a clan lab has been detected, police officers undertake procedures necessary to gather evidence against alleged offenders and safely dismantle the lab, including removing all chemicals and equipment associated with drug manufacture under the *Drugs Misuse Act 1986*. The QPS also undertake actions necessary to deal with children safety issues if children are residing in the house. Further information is provided in section 3.3.10.

Depending on the perceived urgency of the situation, the relevant local government may be notified immediately or as soon as practical after the police action is completed. This may be done by means of a phone call to the local government but will be followed up with written notification setting out further details on the circumstances of the detection of the clan lab.

If the property owner is the State, police should liaise directly with Department of Housing and Public Works or other relevant Department rather than refer the matter to local government. Refer to Appendix 2 for further information regarding jurisdictional responsibilities.

3. Remediation

3.1 General

Upon notification of the detection of a clan lab by the QPS, the local government has a responsibility under the Act to manage the risk and protect the health of the public. To fulfil this responsibility, some regulatory action is likely to be required. In a case where no action is taken, the decision and supporting rationale should be documented.

As a part of the QPS notification (example form Appendix 3), the local government will be provided with a police categorisation of the clan lab. This categorisation is for QPS purposes and will not give a true indication of the level of health risk at the property. QPS categories are:

Category A – where illegal drug manufacturing was found in progress

Category B – where equipment for manufacture was found set up but not in operation

Category C – where illegal drug manufacturing equipment was found but it was packed or boxed.

For all categories, it is not possible to determine possible levels of contamination as this is dependent on many factors such as:

- the size of the manufacturing process
- how long and how often it was operating
- how chemicals have been stored and disposed of
- skill of the manufacturer
- spillages that may have occurred or another ingredient mishandling
- the location of the manufacturing process within the premises.

Whilst it may be possible to state that there is a high likelihood of contamination at a property classed as Category A, it is not conversely valid to presume that a Category C clan lab will be unlikely to have contamination, as there is no information about the historical use of the site for illegal drug manufacture.

For the purpose of determining the presence of a public health risk, a PHO can be given where there is reasonable belief that a person is responsible for a public health risk. Where evidence of a clan lab is found (identified by QPS notification), this fact alone will constitute reasonable belief that a public health risk exists and allow for the enforcement action against the person regarded as responsible for remediating the public health risk. This is directly supported by the *Public Health Regulation 2018* definition of public health risk (refer Guideline section 1.3) and by the National Guidelines, which state that “any dwelling, within which a clandestine laboratory has been detected, should be considered potentially unfit for human habitation until appropriate investigation can determine the presence or absence of contamination”. Therefore, a PHO should be issued for any notification from QPS as a matter of course to ensure that an assessment is carried out by a suitably qualified person to determine if a public health risk is present.

Contamination levels and associated risks from former clan labs sites will vary dependant on the extent, duration of manufacture and types of surfaces / site construction. Risk profiles are therefore difficult to determine and generally will be unknown however can range from low to high risk. Due to the small production size of most Queensland clan labs, most will fall into the lower range of risk, however individual rooms or locations within a premise, will vary in levels of contamination. The assessor will determine remediation requirements through their risk assessment process. Where there is a high level of contamination, particularly where, for example, an explosion has occurred, or where the contaminated property is of low

relative value (a garden shed), there may be no cost benefit to remediating the property. In such circumstances demolition of part or all of the property may be a viable alternative.

3.2 Response of the regulator

The process flow chart at Appendix 1 provides an overview of the framework for managing the public health risk response in relation to a clan lab.

The use of a PHO under the Act is recommended as the first response when a clan lab is detected by QPS and notification is provided to the local government. For other types of public health risk, it may be suitable to work with the responsible person to gain voluntary compliance before moving to statutory action. However, where a clan lab is known to have existed, the complexity of the issue and the need for a qualified or experienced person to direct the remediation process dictates that these requirements be set out in a PHO. This approach limits potential confusion as the PHO should articulate the steps to be taken and corresponding timeframes.

The Act sets out what a PHO can require and should be given to the responsible person. This would generally be the property owner, as a tenant does not have the power to undertake many of the actions the PHO may require, such as disposing of fixtures and fittings. The property owner may be able to make an insurance claim for the cost of the clean-up and/or undertake a civil claim against the tenant or other responsible person. Where the property owner is overseas or interstate, a PHO can be prepared in the name of the owner but delivered care of a property manager who has been given authority and control of the property, in which the public health risk exists. Appendix 4 provides a summary of the general roles and responsibilities outlined within this guideline.

In dealing with a clan lab notification, it should be unnecessary for local government officers to enter the property. As the verification of the existence of an illegal drug lab by the QPS gives reasonable belief of a public health risk, a PHO can be immediately prepared and issued. The local government may liaise with police for possible further information on the property and specific risks.

The PHO should require the property owner to undertake the necessary actions that will ensure any possible public health risk at the property is removed or reduced to a level where there is no longer a risk to human health. This includes:

- Advising anybody who resides on the property that continued habitation of the property is likely to present a health risk and that it is desirable for the premises to be vacated until remediation is completed.

- Engaging a suitably qualified assessor. The assessor is to undertake a risk assessment of the property to determine the hazards. This may include a sampling regime. The assessor is responsible for determining what, if any, remediation is necessary and provide this in a report to the property owner who will then provide it to the local government.
- If remediation is considered necessary, the assessor must prepare a Remediation Action Plan (RAP) based on their findings. The RAP should be comprehensive in setting out the justification for the methodologies determined and setting out a clear and precise cleaning and remediation plan. This would include what areas are to be cleaned, how they will be cleaned, what items must be disposed of and which may be cleaned and how (see checklist for RAP at Appendix 5).
- The RAP is to be provided by the property owner to the local government and the requirements of the RAP are to be fulfilled by the property owner or their agent. This may include cleaning all, or specified sections, of the property and disposing of contaminated personal property and cleaning any other items where this is possible.
- Nothing is to be removed from the property until the assessor has provided a detailed report. This is to prevent contamination being transferred to other sites.
- Once remediation has been finalised, the assessor must undertake post-remediation sampling to validate the effectiveness of the clean-up. The laboratory analysis reports for the samples together with a completed clearance certificate (Appendix 6) must be provided to the regulator to allow the property to be cleared and the PHO satisfied.

Examples PHOs are contained in Appendix 7. See further information about clearance requirements for clan labs in section 3.3.5.

The local government may need to give a second PHO to the tenant to ensure contaminated personal property belonging to them is dealt with. No personal property and effects or other items should be removed from the property until the assessor has determined what can be cleaned and what must be disposed of. A disposal checklist (Appendix 8) provides a broad overview of how items might be managed.

Note: QPS is appreciative of feedback from local government at the completion of remediation in premises that they have notified as a clan lab.

3.3 Considerations for the regulator

3.3.1 Vacating a property

Despite the broad powers outlined in the Act, a PHO can only require the property owner or their agent or tenant to undertake actions that are legally permissible, taking into account responsibilities under other legislation.

Where a property is tenanted, it may not be possible for a PHO to require the vacation of the property due to it being regarded as unliveable, as the tenancy agreement between the parties is subject to certain conditions for termination. Whilst a property owner or agent can give a notice to a tenant under the *Residential Tenancies and Rooming Accommodation Act 2008* requiring them to vacate the property, any non-compliance by the tenant requires the matter to be referred to the Queensland Civil and Administrative Tribunal for a determination. Where this occurs, there is a mandatory notification period to ensure the rights of all parties are protected. Adherence to requirements could lead to a delay of several weeks or more during which time the property may continue to be tenanted. If a PHO required the immediate vacation of the property, this would leave the property owner inadvertently in breach of the PHO. Property owners, agents and tenants should be encouraged to contact the Residential Tenancies Authority for advice regarding relevant rights and responsibilities regarding tenancy issues.

In recognition of these difficulties, the PHO should note that continued habitation of the property may pose a risk to the health of anyone residing in or visiting the property. The PHO should require the property owner to advise the tenant of the risks and advise that, where possible, the property should be vacated until it is cleared of contamination. A health risk advice fact sheet for this purpose is available at Appendix 9.

3.3.2 Property owner's access to the property

Under tenancy laws, even when tenants are still in place, property owners or their agents should have access to the property for the purposes of determining areas and levels of contamination. Although a PHO may not have been given to the agent, their role in managing the property and obligations under the *Residential Tenancies and Rooming Accommodation Act 2008* needs to be considered. While the property owner has overall responsibility, the agent may be authorised to act on their behalf, particularly if the property owner is overseas. Entry could be affected under a reasonable belief that the entry is necessary by a property owner or agent to prevent imminent or further damage to the property.

At the earliest opportunity the property owner or their agent should engage a qualified assessor to undertake the necessary action to inform a preliminary report and a RAP. The property owner, agent or tenant should ensure an assessor has access to the property and is accompanied by the property owner or agent for the assessment if necessary.

3.3.3 Engaging a qualified assessor

The PHO will require the property owner to engage the services of a suitably qualified assessor. As there is no single appropriate qualification, Queensland Health has prepared a fact sheet setting out the qualifications and experience that would best equip a professional to undertake this work. Information about engaging a suitably qualified assessor is at Appendix 10.

The assessor will be responsible for undertaking a risk assessment of the property, preparation of an appropriate RAP and provision of a clearance certificate.

3.3.4 Dealing with personal property

Ownership of items of personal property or effects and furnishings within the premises may be split between the property owner and the tenant. Where the premises become vacant, the property owner or agent can dispose of tenant owned contents abandoned at the property that may be contaminated, as per statutory requirements in tenancy law.

If the tenant does not vacate the property, their continued use of the property precludes the property owner or agent from disposing of contaminated effects (e.g. carpets, stove) that are needed for the ongoing habitation of the property. Such personal property can only be disposed of as it is able to be replaced when the property has been remediated.

It is likely that PHOs on both the owner and the tenant will be necessary to ensure all contaminated property and effects are correctly disposed of or remediated.

Until such time as it has been determined how personal property should be managed, no effects should be removed from the property unless they are decontaminated.

The PHO should require proof of proper disposal of personal property or evidence of decontamination of goods where this is deemed appropriate. Some care or oversight should be exercised to ensure that furniture and other items are not sold or given away. The *Residential Tenancies and Rooming Accommodation Act 2008* has mandatory requirements to be considered in relation to abandoned goods left on the property.

A clearance certificate will not be provided where contaminated property remains at the premises.

If the property owner, the agent or the tenant fails to dispose of personal property as required by the PHO, the local government may choose to undertake the work themselves if processes under the Act are followed. Where this occurs, any expense incurred by the local government is a debt recoverable from the person to whom the PHO has been given. Where the tenant has abandoned personal property, this is best managed by the property owner under tenancy laws.

Where there are personal property items of particular sentimental or high monetary value, the local government regulator should ensure the assessor has noted these and has stated how they can be managed. Refer to the disposal checklist at Appendix 8.

It is beyond the scope of local government responsibility for instances where a tenant absconds and takes their property with them. It is acknowledged that the public health risk associated with the contaminated personal property remains unmitigated.

Note that contaminated property items are captured as regulated waste under the *Environmental Protection Act 1994* and subordinate legislation and must be disposed of accordingly. Where there is a quantity of 250 kg or more, the waste must be transported by a commercial contractor with a relevant environmental authority. This waste does not fit with general waste acceptance criteria for limited regulated waste and any facility receiving the waste must hold a relevant environmental authority.

3.3.5 Swabs – pre- and post-remediation

The local government is not responsible for determining the testing regime that may be required for the property. This is the responsibility of the assessor. The local government may liaise with the assessor on the pre- and post-remediation matters but final responsibility rests with the assessor.

Pre-remediation swabs should be taken based on the determination of the assessor. The assessor's judgement will take into account the likely contamination of the property and the likely cost/benefit to the overall remediation of the property. The benefit of pre-remediation swabs lies with the fact that they will assist in establishing the evidence of an actual public health risk, beyond a "reasonable belief" of a public health risk and determine the extent of the remediation.

The pre-remediation assessment will add to the turnaround time for the development of the RAP. A preliminary report to the property owner may be required setting out the rationale for these actions.

Pre-remediation swabs should be taken by the assessor to inform the RAP as standard practice. However, there may be some circumstances where the assessor does not test

pre-remediation and only focus on clearance testing after remediation. This may need to be discussed with the assessor on a case by case basis regarding justification for not following standard practice.

As far as possible, attention to testing should be given to areas where children may be accommodated (children's bedrooms or play areas) to ensure effective remediation and disposal of relevant items on the property.

Post remediation swabs must be taken at the property and submitted to a National Association of Testing Authorities, Australia (NATA) accredited laboratory for analysis. NATA provides an accreditation system to give confidence in the standard of calibration, testing and inspection activities at laboratories and testing facilities. A NATA accredited laboratory (accredited for forensic testing or chemical testing for methylamphetamine) will issue a certificate of analysis by testing for the presence of methylamphetamine. Information about finding an appropriately accredited laboratory can be found under the NATA listing in the list of resources is at Appendix 11.

The analysis result will be the main factor determining whether the requirements of the PHO for remediation of the property have been satisfied. Testing will concentrate on the presence of methylamphetamine as the indicator chemical. The samples must show values below the accepted IL for methylamphetamine - the residential indoor criteria for surfaces is 0.5µg/100cm².

A typical testing regime would be expected to provide greater emphasis to rooms with access to water supply and children's bedrooms. Nevertheless, the development of an adequate sampling regime should be left to the expertise of the assessor.

3.3.6 Cleaners

There is no requirement for an owner to engage specially qualified cleaners although it is recommended that the cleaner be independent to the assessor. This arrangement may not always be possible due to availability of assessors, however is best practice aimed at avoiding conflict of interest, particularly in regard to final clearance of the property subject to a PHO.

Due to the particular expertise of the assessor, the cleaning requirements will be clearly set out in the RAP and the expertise of the cleaners should not be an issue. Nevertheless, due to the particular workplace safety requirements, not all cleaners may be willing or able to undertake the work. The property owner or agent may need to engage cleaners that have some knowledge or expertise in cleaning former clan labs sites or be trauma site cleaners. It is the responsibility of the property owner or agent to engage the cleaner. Alternatively, an

owner may wish to undertake the cleaning themselves. They may wish to engage the expertise of the assessor to assist in ensuring cleaning is undertaken in accordance with the RAP.

3.3.7 Remediation and cleaning options for a property

The National Guidelines recommend a range of cleaning options for a contaminated property which include washing, vacuuming, encapsulation and removal or demolition.

Most non-porous or semi-porous surfaces (walls, tiles, windows, doors, ceilings) can be decontaminated by washing with soap and water. Recent studies indicate that a triple wash regime is most effective¹:

- the first wash with detergent
- the second wash with 10% bleach solution
- the third wash with detergent.

Each step should be followed by a water rinse.

If vacuuming is undertaken to clean the contaminated property, a commercial grade vacuum cleaner equipped with HEPA dust collection systems must be used.

Public health risks may be further reduced by sealing painted surfaces with oil-based primer/sealer after the washing process.

The types of remediation and cleaning options will be determined by the assessor.

3.3.8 Liability of the regulator

The *Public Health Act 2005* protects prescribed persons from civil liability for an act done or omission made honestly and without negligence under the Act. Any liability in such instances attaches to the relevant local government entity.

In common law, a liability in negligence may exist where one party owes a duty of care to another and they breach that duty of care, causing the other person to suffer harm or loss as a consequence. A person does not usually owe a duty to take steps to protect another person from a risk that is caused by someone else. In management of a clan lab, the principal duty of care would be the landlord's responsibilities to the tenant under the *Residential Tenancies and Rooming Accommodation Act 2008*. Nevertheless, due to responsibilities imposed by the *Public Health Act 2005*, the local government regulator may

¹ Nakayama, Matthew Tadao, M.S. Chemical Interaction of Bleach and Methamphetamine: A Study of Degradation and Transformation Effects, University of California, Davis, 2011

have a responsibility to manage a public health risk they become aware of relating to a site. The local government manages this statutory responsibility by responding appropriately to the public health risk.

There may be instances where a local government gives a PHO and subsequently assessment undertaken determines that no significant chemical contamination exists. If the PHO was considered appropriate at the time it was given; that is, there was reasonable belief that the site would be contaminated due to manufacture of illicit drugs: the local government would not carry liability for this action.

There may be further concerns about a local government's liability for clearance of the property. The local government does have a duty to take reasonable care to ensure that the public health risk is appropriately remediated before endorsing a clearance certificate. However, all actions related to remediation and clearance has been undertaken by third parties (the model focusses on analysis of swabs taken by an independent trained professional and analysed by a NATA accredited laboratory. The analysis result supports the clearance of the property).

Where a suitably qualified third party has undertaken assessment and remediation activities on a property and prepared a clearance certificate indicating that the property is no longer a public health risk, the local government is entitled to rely upon the accuracy of the certification provided, given that the third parties hold themselves out to have the requisite skills and knowledge. Any breach would be against the third party for their negligent conduct and they would be the defendant in any negligence claim.

A further area where local government may be concerned about liability is where a PHO has not been complied with. Where a local government has undertaken defensible responses to the presence of a possible public health risk and, where regulatory action has been taken, following the processes set out under the *Public Health Act 2005*, this would be regarded as honest and without negligence and no liability should attach.

3.3.9 Property owner's obligations

The property owner has a duty of care to the tenants and others under section 185 of the *Residential Tenancies and Rooming Accommodation Act 2008*. The property owner is responsible to ensure the premises is habitable including any risks the property may present to tenants or visitors. They can manage this statutory obligation by informing the tenants of the possible risks to their health and that of visitors due to residual contamination at the property. A tenant or property owner or agent may wish to begin a process of terminating the tenancy of the property.

Although a property owner or agent cannot necessarily ensure that a property under a tenancy agreement is immediately vacated due to the presence of a public health risk, the property owner or agent can give the tenant a notice to vacate. Timeframes for this to be resolved depend on what processes are put in place.

Once the property is vacant the property owner has an obligation not to re-let the property until such time as the public health risk is removed or reduced to an acceptable level and the property is fit for human habitation. Advice may be left on the property by QPS and/or given to the local government, warning of the previous operation of an illegal laboratory and the health risks to occupants.

Once the property owner has been made aware of the likely contamination of the property, they would be in breach of their statutory obligations under the *Residential Tenancies and Rooming Accommodation Act 2008* if they re-let a property prior to ensuring it is fit for habitation.

3.3.10 Child health issues

Children are particularly vulnerable to the chemicals used and produced in clan labs. They may be directly exposed during production but also to residual contamination. In particular, due to their greater contact with floor and level of hand to mouth behaviour, their exposure is likely to be greater than adults. Adverse effects are also expected to be amplified in infants and toddlers due to their still developing physiology.

Generally, when police attend the site of a clan lab, they will deal with the issues at hand including whether any children are living on site and the risk to their health. Police will liaise directly with Child Safety officials regarding the need for any intervention.

However, if a property continues to be occupied and the local government is aware that children are living at the property, they should immediately refer the matter to the relevant authorities. Information and instructions can be found on the Department of Child Safety, Youth and Women website at: <https://www.csyw.qld.gov.au/>

Alternately the local government can report the issue to the QPS who will manage this through their usual protocols.

Where a local government is aware that children have been living at the property they should ensure that the RAP and post remediation sampling takes account of this. Due to their susceptibility to harmful chemical from clan labs, all children's clothing and toys should be disposed of and any children's areas (bedrooms and playrooms) should be swabbed to ensure effective remediation.

3.3.11 *Flagging properties on local government databases*

Where a local government has a database of properties in their local government area, it may be possible for them to put an alert on a property that is subject to regulatory action as a former clan lab. If a local government does not have an existing database, it may be prudent for them to capture information on clan labs detected in their local government area and their regulatory status on a specific database. This will assist them to track the progress of remediation of all affected properties.

Where a local government keeps such records, they should take care in keeping the record accurate as to the nature of the public health risk, any further investigation undertaken, and outcomes of processes used should be documented.

3.3.12 *A local government becomes aware of a possible clan lab through other means*

Where local governments become aware of the possible existence of a clan lab through another means they should respond accordingly;

- If a local government officer is responding to a complaint and they suspect that a clan lab may be operating at the property – refer to QPS immediately
- If a complaint is received from a neighbour or a member of the public regarding the possible operation of a clan lab– refer to QPS immediately
- If a complaint is received from new owners of a property who suspect a clan lab may have operated in the property previously – refer to QPS immediately and provide advice regarding the management of the issue in line with the general assessment and remediation process outlined in this guideline. A recommendation should be made to the property owner to have the property tested for residue using a qualified assessor. The property owner should have primary responsibility for the property's testing. The test results will underpin a decision by the property owner or local government on any further action that may be taken.
- If a complaint is received from a tenant who has a suspicion that a clan lab had operated at a property prior to them moving in – advise them to contact their property manager or the Residential Tenancies Authority as this is a tenancy issue between the property owner and the tenant regarding the property's fitness for human habitation. Anecdotal information should not be sufficient by itself to deem a public health risk at the property and therefore local government intervention using the *Public Health Act 2005* provisions would not be appropriate unless evidence in the form of sampling results from a NATA accredited laboratory is available.

QPS may be contacted to share anecdotal information and to support decisions by local government regarding their involvement in this type of complaint.

3.4 Further regulatory action

There may be cases in which a person fails to respond to a PHO or fails to undertake the actions set out in the order under the Act.

The regulator then has the additional follow up powers of the Act to fall back on. These are outlined in the regulatory information for local governments provided by Queensland Health at www.health.qld.gov.au/eholocalgov.

In such cases, the real risk posed by the property should be taken into account. Where a property is vacant and is secured, there is generally no risk to the public. Further intervention by the local government to undertake remedial action on behalf of the property owner may not be warranted. An enforcement order as a follow up to the PHO may be a reasonable step under the Act.

Where the local government determines that more urgent action is necessary, they may use their powers under the Act to undertake the remediation and seek reimbursement from the property owner. In such instances, documented evidence of the nature and extent of the public health risk is needed. This evidence would be in the form of samples confirming the suspected contamination of the property.

Where the local government requires samples from a property under the Act, they must be taken by an authorised person and submitted to the State Analyst. The Act allows for an authorised person to take another person they reasonably require assisting them to exercise powers under the Act. Samples may be obtained in one of two ways:

- They could be taken by the local government officer (authorised person)
- The local government could engage the services of a suitably qualified assessor to undertake the work, in the same way as the owner would be required to. This person would accompany the local government authorised person to the property. Any samples taken under this scenario must be submitted by the authorised person to the State Analyst.

Alternatively, the local government may proceed based on the analysis of samples taken by the qualified assessor although these will not be regarded as legal samples, nevertheless they will be taken by a trained professional and analysed by an accredited laboratory.

Where the local government determines they will seek an enforcement order, this can be undertaken based on the PHO without the need for further investigation. An enforcement order is applied for when the issuing authority considers a person has contravened a PHO.

3.5 Queensland Health support

There may be occasions when local government regulators require support in dealing with the remediation of a former clan lab on a property.

Partnerships

Support may be provided by the State to assist the local government in dealing with issues relating to management of the public health risk.

In cases where a local government has no authorised person (Environmental Health Officer or equivalent personnel) to deal with such matters, the matter can be managed on a case by case basis depending on the location of the issue. A similar case by case support structure will be provided where issues of remoteness restrict access to suitably qualified persons to manage the assessment and remediation of the property. These are less common occurrences and discussion with Queensland Health to work towards a solution will always be welcomed.

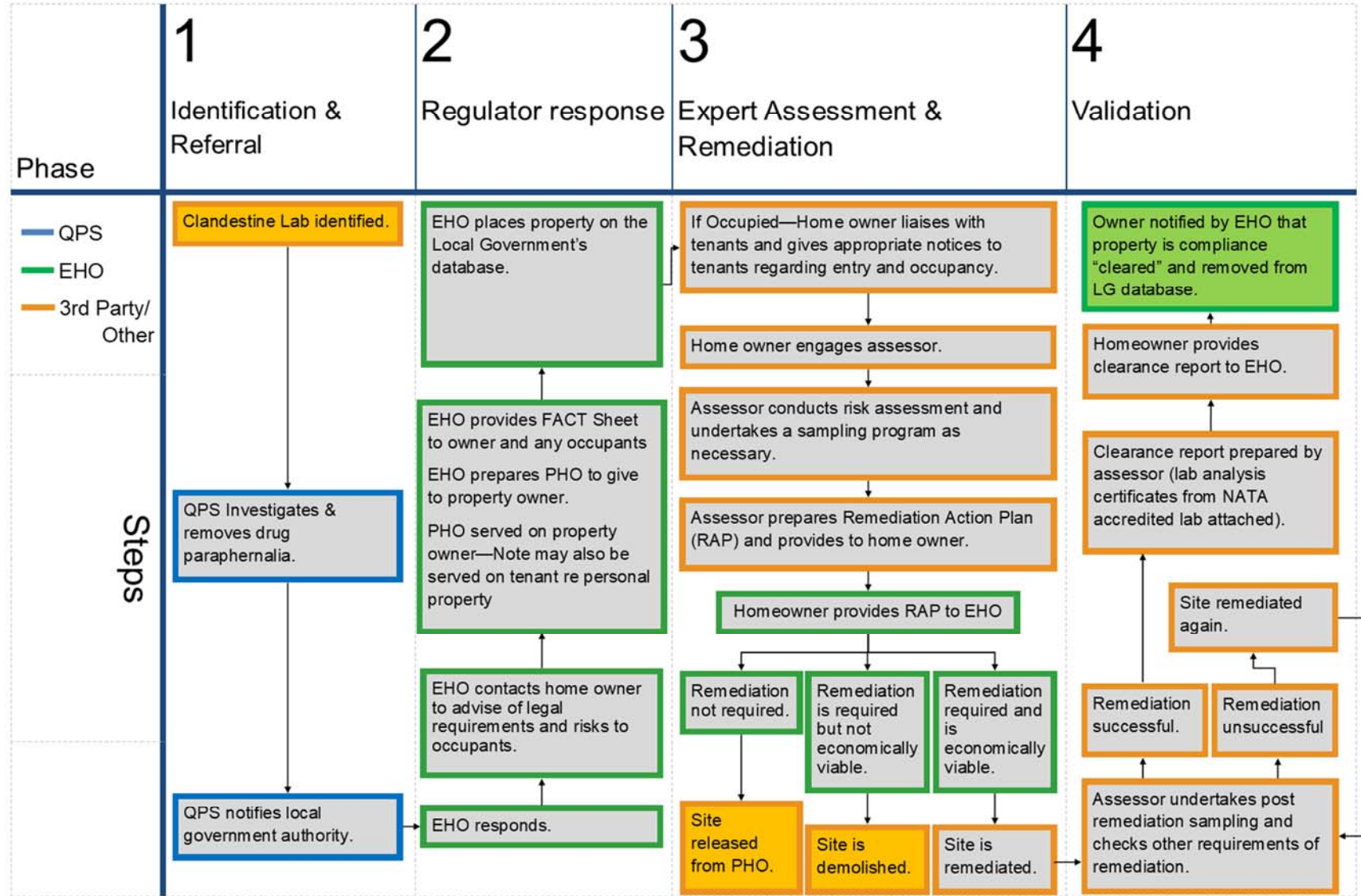
Initial contact should be to the relevant Queensland Hospital and Health Service Public Health Unit. Contact details for these can be found at: <https://www.health.qld.gov.au/system-governance/contact-us/contact/public-health-units/default.asp>.

Complex or large-scale incidents

Where a complex or large-scale incident occurs that cannot be managed by an individual local government, support by State agencies will be available and state-wide incident management systems may be triggered.

Queensland Health will work collaboratively with local governments where unforeseen difficulties arise. Queries can be made to the Department of Health's Environmental Hazards Unit on phone 3328 9342 or email environmentalhazards@health.qld.gov.au

Appendix 1 Clan lab response process



Appendix 2 Jurisdiction Summary

Clan Lab Notifications and Legislative Jurisdiction Responsibilities

Where is the identified Clan Lab situated?	Who is legally responsible for the “place” and any associated usage.	Jurisdiction
<p>Commercial business or industrial premises including:</p> <ul style="list-style-type: none"> • caravan park • hotel / motel • commercial operational warehouse • paid storage facilities. 	<p>Person Conducting a Business Undertaking (PCBU)</p>	<p>WHSQ</p> <p>Note: A local government with local laws regulating the accommodation or other place, may be involved to some extent via local law licensing requirements.</p>
<p>Domestic residential premises, including those rented/leased such as:</p> <ul style="list-style-type: none"> • house • unit /flat • Air BnB/Stayz type accommodation. 	<p>Property owner and/or tenant</p>	<p>Local government</p>
<p>Other situations such as:</p> <ul style="list-style-type: none"> • vehicle • boat • caretakers residence. <p>Rental provided vehicle, van or similar.</p>	<p>Owner</p> <p>WHSQ as PCBU controlled</p>	<p>Jurisdiction is to be discussed and determined via consultation with Department of Health in line with the Guideline recommended process.</p>

Where is the identified Clan Lab situated?	Who is legally responsible for the “place” and any associated usage.	Jurisdiction
State Government property (e.g. public housing).	Department of Housing and Public Works (or the State government department responsible for that property)	Department of Housing and Public Works Local government may be involved initially if property “ownership” is not initially known by QPS and they notify local government.

NOTES:

Jurisdiction in the above tables has been determined through interpreting the *Public Health Act 2005* and *Public Health Regulation 2018* and the *Work Health and Safety Act 1995*.

In cases where the State has no jurisdiction, Q Health Public Health Unit environmental health officers and or Department of Health Environmental Hazards Unit may play a support and advisory role to the jurisdictional agency as requested by that agency (e.g. assessing health risks, providing health risk advice, commenting on proposed management strategies). Please refer to below for point of contact in the first instance.

Telephone numbers for WHSQ and Department of Health (QHealth)

In lieu of GovNet and personal contacts between agency officers, officers should contact the Department of Health Environmental Hazards Unit on phone 3328 9342 or email environmentalhazards@health.qld.gov.au

Appendix 3 QPS Notification Form

Ref: QP

(Insert Date)

(Insert local government Name and Address)

Dear Sir/Madam

**Re: NOTIFICATION OF POSSIBLE HAZARDOUS CHEMICALS CONTAMINATION AT
(INSERT LAB ADDRESS IN FULL – IN CAPS)**

Category	Description of Category
A	Active: Laboratory site where chemical reactions are underway and apparatus is turned on.
B	Store/Used: Laboratory site where reaction vessels contain liquid but no apparatus is turned on.
C	Stored/Unused: There are chemicals and apparatus present (boxed lab or lab in storage)

This notification is to advise your department that on (Date) officers from the QPS Drug and Serious Crime Group attended the (the address in full) and located what is suspected to be a Category [Category] clandestine laboratory.

Examination of the property identified areas believed to have been used in the production of a dangerous drug. In this instance, as yet unidentified chemicals and equipment were removed from:

- Describe location of exhibits
- Further description of location of exhibits if required
- Any further evidence that indicates production of dangerous substances has occurred eg: staining /spill/s

There is no further information available to inform whether contamination to the property has occurred as a result of a clandestine laboratory.

This notification is forwarded in the interest of public health and safety. An assessment of these premises may be required prior to future habitation. Residue of hazardous substances and waste products may still remain on the property.

Should you require further assistance please contact the case officer, (Insert Officer Rank/Name) of (Insert Name of Police Station) on 07 (Insert I/O's Office PH Number) or the Officer in Charge, Synthetic Drug Operations, Illicit Laboratory Investigation Team on 07 3426 1127.

Information concerning clandestine laboratories can be found on following web site <http://www.police.qld.gov.au/programs/druglabs/> and furthermore remediation recommendations are located at:

<https://www.homeaffairs.gov.au/crime/Documents/clandestine-drug-laboratory-remediation-guidelines.pdf>

I trust this information is of assistance.

Yours sincerely

(Insert Current Inspector)

Detective Inspector

State Drug Squad

Appendix 4 Roles and responsibilities

Person or entity	Responsibilities
QPS	<ul style="list-style-type: none"> • Initial response to clan lab. • Removal of chemicals and hardware associated with drug manufacture. • Notification to relevant local government. Initial contact may be by phone. Notice in writing will be provided as soon as possible with details regarding the type/nature and the location of drugs stored or manufactured including any other evidence at the property.
Local Government Authorised Person	<ul style="list-style-type: none"> • Liaise with QPS as necessary to clarify information about the site. • Prepare and give a public health order to the owner of the property. • Liaise with assessor if necessary. • Notify owner if PHO has been complied with and is no longer in force. • If PHO not complied with, institute further actions as determined necessary.
Property Owner or their agent	<ul style="list-style-type: none"> • Responsible for the liveability of the premises and any public health risks the property presents to occupants, tenants or the public. • Recipient of the PHO. • Responsible to ensure the requirements of the PHO are carried out. • Appoint an assessor and engage a cleaner to undertake cleaning according to instructions of assessor. May undertake cleaning themselves as per the assessor's instructions. • Inform continuing occupants or tenants of the property of the health risks of continuing to reside in a contaminated property. • Submit assessor's RAP to local government. • Submit final clearance certificate to local government.
Assessor (suitably qualified person)	<ul style="list-style-type: none"> • Undertake a site risk assessment at the property including potential contamination, hazards and risks. • Prepare a RAP for the property that sets out risks and remediation actions including cleaning, disposal of property, and a post remediation sampling plan to confirm remediation of the property.

	<ul style="list-style-type: none"> • May supervise cleaning of the property if required by the owner. • Undertake post remediation sampling and prepare a clearance report. • Provide reports to property owner within relevant timeframes.
Cleaner	<ul style="list-style-type: none"> • Clean the property following the procedures set out in the RAP.
Qld Health	<ul style="list-style-type: none"> • Provide advice to local governments where circumstances warrant. • Work in partnership with local governments.

Appendix 5 Remediation Action Plan (RAP) checklist

An RAP is to be prepared by the assessor on behalf of the property owner and submitted by the property owner to the local government. The RAP must include:

Site information including:

- physical address
- legal description / title
- property ownership or parties to a tenancy agreement
- number and type of structures present
- plan of the property.

Assessor details including qualifications, experience and membership of professional bodies if applicable. Confirmation of relevant public liability insurance.

Where known, information relevant to the preliminary assessment of the property including information provided by police and observations relating to;

- location of chemical storages (quantities if known)
- location of waste materials (quantities if known)
- location of drug production
- production method
- visible evidence of contamination both inside and outside of the property.

Remediation goal –the property no longer presents a public health risk (methylamphetamine levels below the relevant IL under the Clandestine Drug Laboratory Remediation Guidelines (2011)). This level is 0.5µgms/100cm².

Pre-remediation sampling that may have been undertaken (as determined by the assessor). Some justification for the sampling that was undertaken or justification if sampling determined not necessary. Other risk assessment activities undertaken.

Determination whether fittings, fixtures and contents at the property should be cleaned, encapsulated, stripped, demolished and/or discarded as regulated waste under the Environmental Protection Act 1994.

Extent and type of remediation works required including:

- ventilation requirements

- where and what cleaning activities must be undertaken (vacuuming, washing, steam/high pressure cleaning, flushing)
- what, if any, structures must be demolished and disposed of as regulated waste.
- what must be repainted (encapsulated) and how this is to be achieved
- any remediation activities required outside the home (soil, septic systems, environment).

The proposed validation testing plan to support clearance of the property.

Management plan for the site whilst remediation activities are undertaken – health and safety requirements, management of waste, noise and dust (if necessary).

Appendix 6 Clearance report template

Clearance Certificate –Clandestine Laboratory Site

To:
Address:

Regarding the property at

Address:			
Real Property description:			
Lot No.	Plan	Parish	Local Government

The property was the subject of a public health order requiring the public health risk resulting from chemical contamination to be remediated.

A Remediation Action Plan was prepared that detailed all activities required to remove or reduce the risk to public health.

Activities outlined by the Remediation Action Plan have been undertaken.

Variations from the Remediation Action Plan are outlined below including a justification for the variation:

All property items that were to be disposed of have been dealt with in the following manner:
--

Contamination has been removed or reduced to a level where it no longer poses a public health risk. Certificates of analysis are attached that demonstrate that analysis of swabs taken shows levels of methylamphetamine below the Investigation Level set out by the
--

Australian Government *Clandestine Drug Laboratory Remediation Guidelines*. This level is 0.5µgms / 100 cm².

Assessor's details

Name:

Address:

Contact phone number:

Qualifications:

I certify that the above information is true and correct

Signature of assessor

Appendix 7 Draft Public Health Orders

Public health order

Public Health Act 2005

Section 23

To: The property owner	
Street name:	
Town/suburb:	Postcode:

A public health risk has been found at the following place:

Name:				
Street name:				
Town/suburb:			Postcode:	
Property number:				
Real property description (RPD)	Lot No.	Plan:	Parish:	Local govt.:

The nature of the public health risk is:

The QPS (QPS) have sent a notification to local government to advise that chemicals and equipment commonly used to produce a dangerous drug, have been found at the property in the following locations:

- Insert the location that chemicals/equipment were found, and other relevant information provided in the QPS notification.

Based on the QPS notification there is reasonable belief that all, or parts of the premises, have been contaminated with chemicals associated with the production of dangerous drugs. Exposure to the chemical contamination, particularly long-term exposure, is likely to be hazardous to human health.

This is a public health risk under section 11(1)(b)(xi) of the *Public Health Act 2005*.

To remove or reduce the public health risk, or prevent the public health risk from recurring, you are required to undertake the following actions in the timeframes specified:

Action	Timeframe
1. Advise the occupier/s that all, or parts of the premises, are likely to be contaminated with chemicals associated with the production of dangerous drugs and that exposure to the chemicals is hazardous to human health, making the property unfit for human habitation.	Within two days from receipt of this public health order.
2. Advise the occupier/s that no items are to be removed from the property until the items have been assessed for contamination and appropriately dealt with.	Within two days from receipt of this public health order.
3. Provide the occupier/s with a copy of the fact sheet ' <i>Health risks to residents</i> '.	Within two days from the receipt of this public health order.
4. Request the occupier/s to voluntarily vacate the property until further notice.	Within two days from the receipt of this public health order.
5. If the property is vacated, restrict access to the property and do not re-occupy the property until you are advised by local government that the property is no longer a public health risk.	Within one day of the property being vacated.
6. Engage the services of a suitably qualified assessor to undertake a risk assessment to establish the extent of contamination at the property. The assessment must take into consideration all available information in relation to the location of where the chemicals and equipment were found as well as the resulting contamination that is likely to be generated from an operational clandestine laboratory.	Within five days from the receipt of this public health order.

<p>7. If the property is deemed contaminated, obtain a remediation action plan (RAP) from the assessor. The RAP must address the items in the attached RAP checklist on page insert page number . A copy of the RAP must be provided to local government.</p> <p>Alternatively, if the assessor determines that there is no contamination at the property or the contamination is at a level where it does not pose a public health risk, obtain a clearance certificate and provide a copy to local government. The clearance certificate must include certificates of analysis obtained from a National Association of Testing Authorities, Australia (NATA) accredited laboratory to demonstrate that analysis of swabs obtained from the property show levels of methylamphetamine below the investigation levels set out by the <i>Australian Government Clandestine Drug Laboratory Remediation Guidelines</i>. This level is 0.5µgms/100cm².</p>	<p>Within 14 days from the receipt of this public health order.</p> <p>In the circumstance that a clearance certificate including the certificates of analysis are provided to local government, the public health order will be satisfied, and no further action will be required.</p>
<p>8. Provide a copy of the relevant sections of the RAP to the occupier/s so that they can comply with the requirements set out in the RAP that relate to their property.</p>	<p>Within two days from receipt of the RAP.</p>
<p>9. Fully implement the remediation activities itemised in the RAP. Evidence of proper disposal of property should be available to be provided on request.</p>	<p>Within 30 days from receipt of the RAP.</p>
<p>10. Obtain a clearance certificate from the assessor to confirm that all remediation activities in the RAP have been fully implemented and that there is no contamination at the property or the contamination is at a level where it does not pose a public health risk. The clearance certificate must include certificates of analysis obtained from a NATA accredited laboratory to demonstrate that analysis of swabs obtained from the property show levels of methylamphetamine below the investigation levels set out by the <i>Australian Government Clandestine Drug Laboratory Remediation Guidelines</i>. This level is 0.5µgms/100cm².</p> <p>Provide a copy of the clearance certificate and certificates of analysis to local government.</p>	<p>Within 60 days from receipt of this public health order.</p>

Please note the following requirements in relation to this order²:

- It is an offence for you as the recipient of this order not to comply with this order unless you have a reasonable excuse – maximum penalty 200 penalty units³. If you do not comply with this order, an application may be made to a magistrate's court for an enforcement order or warrant.
- An authorised person may, at reasonable times, enter the above-named place where the public health risk exists to check if the order has been complied with, or to take the steps required in the public health order. If you have failed to take the required steps to remove or reduce the public health risk or prevent the risk to public health from recurring, these steps may be taken by the issuing authority.
- Entry to the place to check if the steps have been taken, or to take the steps, may be made at reasonable times. The issuing authority must give the occupier and owner of the place reasonable notice that steps required in a public health order will be carried out, before taking these steps, if the recipient has failed to do so. A reasonable attempt must be made to locate the occupier and obtain their consent to enter the place. If the occupier is found and consent is refused, an authorised person may only enter the place under an enforcement order or a warrant. However, if an occupier cannot be found after a reasonable attempt to do so, the authorised person may enter the place. A notice must be left in a conspicuous position in a reasonably secure way stating the date, time and purpose of the entry.

Details of authorised person:

Name of authorised person:
Signature of authorised person:
Name of issuing authority:
Business address:
Town/suburb:
Telephone number:

² Sections 23, 387, 388, 392 and 393 of the *Public Health Act 2005* relate to public health orders. For requirements about enforcement orders, see section 24 and subsequent sections.

³ As of 1 July 2018, the value of a penalty unit for most offences under the state regulation is up to \$130.55. This may increase per annum. Please check the current rate prescribed in the *Penalties and Sentences Regulation 2015*.

Email address:	
Time:	Date:

Public health order

Public Health Act 2005

Section 23

To: The property tenant	
Street name:	
Town/suburb:	Postcode:

A public health risk has been found at the following place:

Name:				
Street name:				
Town/suburb:			Postcode:	
Property number:				
Real property description (RPD)	Lot No.	Plan:	Parish:	Local govt.:

The nature of the public health risk is:

The QPS have sent a notification to local government to advise that chemicals and equipment commonly used to produce a dangerous drug, have been found at the property in the following locations:

- Insert the location that chemicals/equipment were found, and other relevant information provided in the QPS notification.

Based on the QPS notification there is reasonable belief that all, or parts of the premises, have been contaminated with chemicals associated with the production of dangerous drugs. Exposure to the chemical contamination, particularly long-term exposure, is likely to be hazardous to human health.

This is a public health risk under section 11(1)(b)(xi) of the *Public Health Act 2005*.

To remove or reduce the public health risk, or prevent the public health risk from recurring, you are required to undertake the following actions in the timeframes specified:

Action	Timeframe
11. Do not remove any items from the property until a suitably qualified assessor, engaged by the property owner, has assessed the items for contamination and the items have been appropriately dealt with.	Immediately from receipt of this public health order.
12. Comply with the requirements of the remediation action plan (RAP) that relate to you and items of your property that have been contaminated as a result of the public health risk described above. The RAP will include: <ul style="list-style-type: none"> • items of your property that must be disposed of • items of your property that must be cleaned or decontaminated • any other requirements of the RAP that relate to you or your property. 	Within 14 days from receipt of the RAP.
13. Ensure that property that must be disposed of is disposed of in such a way that it is not reused or recycled. Evidence of appropriate disposal of property must be available to be provided on request.	Within 14 days from receipt of the RAP.
14. Ensure that any property that is decontaminated and retained is not re-contaminated.	Within 14 days from receipt of the RAP.

Please note the following requirements in relation to this order⁴:

- It is an offence for you as the recipient of this order not to comply with this order unless you have a reasonable excuse – maximum penalty 200 penalty units⁵. If you do not comply with this order, an application may be made to a magistrate's court for an enforcement order or warrant.
- An authorised person may, at reasonable times, enter the above-named place where the public health risk exists to check if the order has been complied with, or to take the steps required in the public health order. If you have failed to take the required steps to remove or reduce the public health risk or prevent the risk to public health from recurring, these steps may be taken by the issuing authority.
- Entry to the place to check if the steps have been taken, or to take the steps, may be made at reasonable times. The issuing authority must give the occupier and owner of the place

⁴ Sections 23, 387, 388, 392 and 393 of the *Public Health Act 2005* relate to public health orders. For requirements about enforcement orders, see section 24 and subsequent sections.

⁵ As of 1 July 2018, the value of a penalty unit for most offences under the state regulation is up to \$130.55. This may increase per annum. Please check the current rate prescribed in the *Penalties and Sentences Regulation 2015*.

reasonable notice that steps required in a public health order will be carried out, before taking these steps, if the recipient has failed to do so. A reasonable attempt must be made to locate the occupier and obtain their consent to enter the place. If the occupier is found and consent is refused, an authorised person may only enter the place under an enforcement order or a warrant. However, if an occupier cannot be found after a reasonable attempt to do so, the authorised person may enter the place. A notice must be left in a conspicuous position in a reasonably secure way stating the date, time and purpose of the entry.

Details of authorised person:

Name of authorised person:	
Signature of authorised person:	
Name of issuing authority:	
Business address:	
Town/suburb:	
Telephone number:	
Email address:	
Time:	Date:

Appendix 8 Disposal checklist

The table provides guidance on appropriate remediation requirements depending on the item of property. Remediation requirements can include disposal as well as cleaning.

High value – high contact/exposure items	High value – low contact/exposure items
<p>Including:</p> <ul style="list-style-type: none"> • mattress – discard • carpeting – discard • upholstered items – discard • window furnishings (blinds and curtains) – discard • food preparation surfaces – assess/discard • plastic furniture – discard. 	<p>Including:</p> <ul style="list-style-type: none"> • photographs – may be salvaged without cleaning • large appliances – may be cleaned (inside and out) • electronics – may be cleaned where this does not damage the item.
Low value – high contact/exposure items	Low value – low contact/exposure items
<p>Including:</p> <ul style="list-style-type: none"> • clothing – assess/discard • children’s clothing and toys – assess/discard • toothbrushes – discard • kitchen items – discard (apart from metal objects able to be cleaned) • books and household paper items – assess/discard. 	<p>Including:</p> <ul style="list-style-type: none"> • garage tools – may be cleaned • garden tools – may be cleaned.

In addition, items that should be removed and discarded include:

- materials that are visibly stained, emitting odour, damaged or thought to have been used in the manufacture process (e.g. fridge used for chemical storage)
- items that could come into contact with young children or babies.

Items to be discarded should be made un-usable so they cannot be recycled. For items of significant sentimental, monetary or legal value, professional judgement should be used to gauge whether to discard or attempt remediation. This may include:

- fabric items that can be placed in a washing machine
- 'hard surface' items that are non- porous
- metallic items and surfaces e.g. stainless-steel kitchen surfaces
- glass items and surfaces.

Appendix 9 Fact sheet – Health risks of clan labs and advice for residents

Clandestine drug laboratories (clan labs) are places where illegal drugs have been manufactured. These sites can be most commonly found in domestic rental properties, although other sites such as commercial or industrial properties, hotel and motel accommodation are used.

During the manufacture of these drugs toxic gases and aerosols are produced. These chemicals are absorbed by items in the property such as flooring, walls, furnishings, fittings and personal effects (for example clothing and books).

The Queensland Police Service is the first responder and removes all dangerous chemicals, drug manufacturing apparatus and any other associated items. Nevertheless, the chemical contamination remains at the property.

Exposure to this residual chemical contamination, particularly long-term exposure, is likely to be harmful to health. Some symptoms of exposure can include:

- throat irritation
- headaches
- skin conditions
- breathing difficulties
- mental health problems.

This contamination can be persistent and remain in the structure for many years. Anyone who thinks they have been exposed to such chemical contamination should seek medical advice.

Local Government

The contamination in clan labs is described as a 'public health risk' under the *Public Health Act 2005* and is regulated by local governments. Local governments are responsible for ensuring that the risk to health is removed or reduced to an acceptable level to protect the health of the public.

Property Owners

Property owners who are renting a property to tenants are responsible to ensure that the premises are clean and fit for the tenant to live in under their obligations in the *Residential Tenancies and Rooming Accommodation Act 2008*. Where contamination from a clan lab

exists, the property is not regarded as fit for human habitation. The property owner, as the person responsible for the premises, must ensure that the premises are remediated to a state where there is no health risk to residents or visitors.

Tenants

Tenants who continue to live in a property that has been contaminated are placing their health at risk. Children are particularly at risk from this chemical contamination due to their greater contact with the floor and level of hand to mouth behaviour. Adverse effects are also expected to be greater in infants and toddlers due to their rapid development. Tenants may inadvertently rent a contaminated house, and if so, the tenants should seek advice on options to end the tenancy or move to alternative accommodation, if required.

Appendix 10 Guidelines for suitable qualifications for assessors

It is important that a suitably qualified person is engaged to undertake the assessment of a former clan lab and set out the plan for remediation. A qualified assessor will be best able to ensure the level of risk posed by the property is properly assessed, work health and safety measures are in place and the remediation activities set out for the property are suitable for the level of health risk. This is particularly important since the costs of remediation can be high. A qualified professional should be able to ensure that no unnecessary remediation work is undertaken.

The main areas of expertise to look for are qualifications, experience and capability.

Professional qualifications

Investigations of potentially contaminated dwellings or sites should be conducted by a suitably qualified expert with experience in the fields of occupational hygiene or a relevant science (environmental science, environmental engineering or toxicology), who is in possession of tertiary qualifications in one of these disciplines from a recognised educational institution.

Experience

It would be desirable for an assessor to have some previous experience in the assessment of clan labs. Other relevant practical experience may include the assessment of indoor air quality or asbestos contamination.

If no direct experience with clan lab clean-up, then relevant experience with on-site work with hazardous materials would also be appropriate.

Capability

Assessors will need access to the equipment required to undertake the sampling and a good understanding of safe work procedures.

Finding a suitable assessor

To find assessors with suitable qualifications;

Search the website of the Australian Institute of Occupational Hygienists

<https://www.aioh.org.au/>. To find a consultant working in this field, use the search for Clandestine Testing Services under the consulting experience tab in the search area.

Search the Australasian College of Toxicology and Risk Assessment (ACTRA) website for the list of registered professionals <http://actra.org.au/professional-register/> . All those listed on this site will have the necessary expertise. Another option is to e-mail the ACTRA Secretariat (secretariat@actra.org.au), who can then pass on the request to the whole ACTRA membership. ACTRA members then have the opportunity to respond to the request directly.

Search for environmental / other scientist consultants.

Search for chemical contamination consultants.

Some additional information to inform suitability of a consultant can be found in the NEPM, Schedule B (9) “*Guideline on Competencies and Acceptance of Environmental Auditors and Related Professionals*” (2013).

Further considerations

There are no particular qualifications specified for cleaners. This is based on the premise that the assessor has the suitable expertise to direct any remediation activities, either onsite or through an explicit remediation plan.

Appendix 11 Resources

The following resources are available for local government to increase their understanding of the issue and to assist in assessing the possible public health risks associated with former illegal drug laboratories.

Australian Government *Clandestine Drug Laboratory Remediation Guidelines* (2011)

<https://www.homeaffairs.gov.au/criminal-justice/files/ clandestine-drug-laboratoryremediation-guidelines.pdf>

enHealth Position Statement: Clandestine Drug Laboratories and Public Health Risks

[http://www.health.gov.au/internet/main/publishing.nsf/Content/A12B57E41EC9F326CA257BF0001F9E7D/\\$File/Guidance-Clandestine-Drug-Laboratories-Public-Health.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/A12B57E41EC9F326CA257BF0001F9E7D/$File/Guidance-Clandestine-Drug-Laboratories-Public-Health.pdf)

United States Environmental Protection Agency, *Voluntary Guidelines for Methamphetamine Laboratory Cleanup* – March 2013,

https://www.epa.gov/sites/production/files/documents/meth_lab_guidelines.pdf

NATA Certified laboratories – laboratories certified to carry out testing of samples for the presence of methamphetamine can be found on the NATA website at

<http://www.nata.com.au/nata/>

Two types of laboratory will have accreditation (Chemical and Forensic). In order to identify these laboratories, undertake the following searches. Under the advanced search area (Test Type Search), use “drugs” as the keyword and Forensic Science as the field. This will produce the accredited forensic labs in Australia which can test for methamphetamine. A second search using “methamphetamine” as the keyword and Chemical Testing as the field will produce chemical testing laboratories with scope to test for methamphetamine.

Department of Environment and Heritage Protection - information on contaminated land and waste disposal <http://www.ehp.qld.gov.au/>

Guidelines and information from other Australian jurisdictions

Western Australia

http://ww2.health.wa.gov.au/Articles/A_E/Clandestine-drug-labs

Victoria

<https://www2.health.vic.gov.au/public-health/environmental-health/environmental-health-professionals/ clandestine-laboratory-remediation>

New South Wales

<http://www.health.nsw.gov.au/environment/hazard/Pages/contaminated-sites.aspx>

South Australia

<http://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/protecting+public+health/drugs+poisons+chemicals+and+contaminants/clandestine+drug+laboratories>

Abbreviations and terminology

LG	Local government
Clan Lab	Clandestine laboratory
Illegal drug	Colloquial term used in place of legislative definition “dangerous drug”
IL	Investigation levels – are used as triggers for remediation action and the basis for determining successful remediation at affected properties. The IL for methylamphetamine is 0.5 micrograms (µg) per 100cm ² .
Methylamphetamine	Methylamphetamine is an amphetamine-type stimulant. The term is used interchangeably with methamphetamine. The Australian Crime Commission defined methylamphetamine as a synthetic stimulant drug.
PHO	Public health order issued under the <i>Public Health Act 2005</i>
QPS	Queensland Police Service
RAP	Remediation action plan

9 NOTICES OF MOTION

Nil

10 URGENT BUSINESS/QUESTIONS

Urgent Business is a provision in the Agenda for members to raise questions or matters of a genuinely urgent or emergent nature, that are not a change to Council Policy and can not be delayed until the next scheduled Council or Committee Meeting.

11 CLOSURE OF MEETING