Guideline

Environmental Protection Act 1994

Transitional environmental programs (TEPs)

This guideline has been prepared by the administering authority to provide guidance when preparing to submit an application for the issue of a TEP or an application to amend an approved TEP under the Environmental Protection Act 1994 *(the Act). The administering authority is the Department of Environment and Science (the department).*

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What is this guideline for?

This guideline was developed to provide guidance to an applicant when preparing to submit an application for the issue of a TEP (a TEP application) or an application to amend an approved TEP (a TEP amendment application). This guideline also provides information on when the department may require you to submit a TEP application, how the department will decide whether or not to approve a TEP application or TEP amendment application, your obligations regarding an approved TEP and TEP related offences and their associated penalties.

What is a TEP?

A transitional environmental program (TEP) is a specific program that sets out actions, requirements and conditions in relation to a particular activity, that would otherwise contravene the Act. When complied with, an approved TEP achieves compliance with the Act, by doing one or more of the following:

- reducing environmental harm caused by the activity;
- detailing the transition of the activity to an environmental standard;
- detailing the transition of the activity to comply with:
  - a condition of an environmental authority (EA), whether it is standard or site specific; or
  - a development condition; or
  - a prescribed condition for carrying out a small scale mining activity; or
  - an agricultural ERA standard that applies to an agricultural ERA.

TEPs are a useful tool to use when it is known what actions need to be undertaken to achieve a solution to an environmental problem, and the solution is likely to take a long period of time. Therefore a TEP is not considered appropriate where an emergency situation exists. If the degree of the issue, and solution to achieve compliance is uncertain, the commissioning of an environmental consultant to determine what action/s need to be undertaken to achieve a solution before a TEP is applied for is highly recommended[1].

A TEP must not be used to achieve compliance with a progressive rehabilitation and closure plan (PRCP) schedule or an enforceable undertaking (EU). For more information in relation to EUs, refer to the Enforceable Undertakings Statutory Guideline (ESR/2016/2272)[2].

The legislation regarding TEPs can be found in Chapter 7, Parts 3 and 4 (sections 330–357) of the Act.

What is environmental harm?

Environmental harm is a serious impact, or potentially serious impact on an environmental value defined under the EP Act. This includes environmental nuisance (eg. odour, some types of noise etc). The serious impact can be either temporary or permanent, may occur on a small to significant scale and may differ significantly in the duration or frequency of impact.

Environmental harm may be caused by an activity directly or indirectly as a result of the activity, or from the combined effects of the activity and other activities or factors.

An *environmental value* is defined in section 9 of the Act as:

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[1] The administering authority may, by written notice, ask the person or public authority that applied for the issue of the transitional environmental program to give further information needed to decide whether to approve the application.

[2] This is the publication number. The publication number can be used as a search term to find the latest version of a publication on the department's website at www.des.qld.gov.au.

- a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or
- another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

How is a TEP initiated?

A TEP can be initiated in the following ways:

- A person (you) or public authority can voluntarily submit a TEP application; or
- The department can issue a notice to a person (you) or a public authority requiring them to submit a TEP application; or
- A person (you) can give the department a program notice under section 350 of the Act notifying of an action or a failure to act on your part (the ***relevant event***) that has caused or threatened environmental harm while carrying out an activity and declaring the person's intention to submit a TEP application for the activity.

The term 'person' includes an individual or corporation.[3] A public authority includes the following;

- an entity established under an Act;
- a government owned corporation; and
- Queensland Rail Limited ACN 132 181 090.

When can the department require a TEP?

The department may require you or a public authority to submit a TEP application in the following circumstances:

- as a condition of an EA; or
- if the department is satisfied that:
  - an activity carried out, or proposed to be carried out, is causing, or may cause, unlawful environmental harm;
  - it is not practicable for you or a public authority to comply with an environmental protection policy (EPP) or regulation on its commencement;
  - a condition of an EA or DA has been contravened;
  - a prescribed condition for carrying out a small scale mining activity is, or has been, contravened; or
  - an environmental protection order has been amended or withdrawn.[4]

When can a TEP be used?

TEPs may be used to progressively achieve compliance.

For example: a TEP could be used where an operator of an activity (you) is unable to meet effluent discharge limits because of a number of mitigating circumstances. You may consider submitting a TEP application because it will take some time to implement measures that will bring the effluent discharge into

[3] Section 32D of the *Acts Interpretation Act 1954*.

[4] Section 332 of the Act.

compliance with your EA. The TEP will state the length of time that the upgrades will take, and how these measures will achieve compliance in staged timeframes.

A TEP should not require an extensive investigation to work out what needs to be done. Where the full scale of the impact from the activity is not known, further investigation work should be carried out by an appropriately qualified person to identify exactly what actions and timeframes are required to transition into compliance under the Act.

When is a TEP not appropriate?

TEPs are not appropriate and will typically not be considered by the department in circumstances where you are not in compliance because of a choice or decision that you have made about managing your environmental risk.

For example: if you choose to under-invest in a control measure and that control measure fails, the department will not approve a TEP to allow you to return to compliance. To do so would be to reward a decision which put the environment at risk, and put other operators who have invested in appropriate control measures at a disadvantage.

A TEP may also not be appropriate where you have been in non-compliance with the Act for an extended period, or where a TEP will seriously undermine the environmental outcomes you are required to achieve.

For example: if you have never complied with your EA conditions and have been given previous opportunities to remedy the non-compliance (through warnings or other compliance actions), a TEP will not generally be approved, as this would enable you to continue the non-compliance whilst other operators have been complying with their obligations.

What is the effect of a TEP?

Once approved, a TEP gives you the ability to do, or not do, the thing under the TEP despite, and without being in contravention of:

- a regulation;
- an environmental protection policy (EPP);
- their EA or DA;
- a prescribed condition (small scale mining activity); or
- an agricultural ERA standard.

How will I know if I am required to submit a TEP application?

You will receive a written notice from the department if you are required to submit a TEP application. The written notice will state:

- the grounds on which the requirement is made;
- the matters to be addressed by the TEP;
- the period over which the TEP is to be carried out;
- the day (at least a reasonable period after the notice is given) by which the person or public authority must submit a TEP application; and
- the review or appeal details.

Who can I contact?

The notice requiring you to submit a TEP application will include the name and telephone number of a departmental officer than you can contact for assistance in relation to the notice or the matters surrounding the issuing of the notice.

What happens if I do not submit a TEP application after receiving a notice?

Failure to comply with a notice to submit a TEP application is an offence under the Act, unless you have a reasonable excuse. Please refer to the Penalties section for more information.

The department will respond and may take further action in relation to non-compliance with a notice to submit a TEP application. Natural justice is provided to all likely parties to an offence prior to any enforcement decision making. Natural justice informs the alleged offender of the specific alleged offence(s) including any relevant information and allows for the response to any allegations made by the department to show why enforcement action should not be taken against them. The following issues will be considered:

- **Providing extra time**—if extra time to comply has been granted, the details of the extra time allowed and the reasons for giving the extension of time will be provided in writing to you.
- **Other tools**—consideration will be given as to whether another statutory tool would be more likely to achieve compliance. For example, issuing an environmental protection order (EPO) in relation to the issue may be a more appropriate way to achieve compliance.
- **Prosecution**—if no other action is likely to be effective, prosecution may be considered for both the alleged failure to comply with the notice, and for any alleged environmental harm being caused.

The natural justice should be provided by the most efficient means possible, and this may be through verbal communication or in writing via an email or letter.

What is a program notice?

If you are carrying out an activity that is lawful apart from this Act, you may give notice (a program notice) to the department about an action or a failure to act on your part, that has caused or threatened environmental harm (the relevant event). A program notice informs the department of the relevant event and your intention to submit a TEP application.

The legislative provisions regarding program notices may be found in chapter 7, part 4 (sections 350–357) of the Act.

What must a program notice contain?

A program notice must be in the approved form (ESR/2023/6516)[5] and must:

- give full details of the act or omission (an action or failure to act on your part);
- declare your intention to submit a TEP application for the activity; and
- state the other information prescribed by regulation.

You may submit with the notice any report, or the results of any analysis, monitoring program, test or examination, carried out by or for you for the relevant event.

[5] This is the publication number. The publication number can be used as a search term to find the latest version of a publication on the department's website at www.des.qld.gov.au.

Program notice privileged

If the relevant event stated in the program notice amounts to an offence against the Act (the original offence), the following are not admissible as evidence against you in a prosecution for the original offence:

- the giving of the program notice;
- the program notice itself; and
- any documents submitted with the program notice.

However, this does not prevent the department obtaining other evidence as a result of the information contained in the program notice and documents submitted with the notice, and using that other evidence in any legal proceeding against the person.

What happens once the department receives my program notice?

Within 10 business days after receiving a program notice, the department will give you a written notice:

- acknowledging receipt of the notice; and
- advising the day by which you must submit a TEP application dealing with the activity to the department for approval, being a day not more than three months after the date the department received the program notice.

The effect of a program notice

Once the department receives a program notice, you cannot be prosecuted for a continuation of the original offence that occurs after the department receives the notice. This remains the case until any one of the following things happens:

- you receive the approved TEP from the department;
- you receive a notice from the department of refusal to approve a TEP application; or
- if you do not submit a TEP application for the activity to the department by the day stated in the receipt of program notice —the end of that stated day.

A program notice provides you with protection from prosecution while you are preparing to submit a TEP application and if submitted, until an approval or a refusal is received from the department. Please note that if you do not submit a TEP application by the day stated in the receipt of program notice, you will no longer be protected from prosecution.

It is important to note that the department may take other compliance action against you, such as issuing an EPO, even if a program notice is submitted. The information in the program notice can be used to support the use of an EPO or other statutory tool.

If the approved TEP is not complied with, the program notice submitted in relation to the original offence ceases to apply, and therefore the holder of the TEP is not provided immunity from prosecution for the original offence (the subject of the program notice).

Setting aside the effect of a program notice

The department is also able to apply to the Planning and Environment Court (the Court) for an order setting aside the effect of a program notice (immunity from prosecution), in accordance with section 355 of the Act. The making of an application to the Court does not in itself automatically stop the program notice's effect.

The Court may set aside the effect of a program notice if satisfied that:

- the relevant event was wilfully done (or not done), with the intention of relying on the program notice as an excuse; or
- because of the nature and extent of the environmental harm caused, or threatened by a continuation of the offence, it is not appropriate for the immunity from prosection to apply.

The department must make an application to the Court within 20 business days of receiving the program notice unless the Court allows a longer period if there are special circumstances.

The Court may make any orders it considers appropriate pending a decision on the application, including anything to prevent a continuation of the original offence.

Failure to comply with an order of the Court is an offence.

- The maximum penalty if the offence was committed wilfully is 6,250 penalty units or 5 years imprisonment.
- Otherwise, the maximum penalty for the offence is 4,500 penalty units.

What must a TEP application include?

Section 331 of the Act outlines the requirements for a TEP application including:

- that the TEP application must be in the approved form (ESR/2023/6518)[6]; and
- be accompanied by the fee prescribed by regulation (for more information, see Fees and Charges); and
- for the activity to which the TEP application relates:
    - state the objectives to be achieved and maintained under the TEP for the activity;
    - state the particular actions required to achieve the objectives, and the day by which each action must be carried out, taking into account:
        - the best practice environmental management for the activity; and
        - the risks of environmental harm being caused by the activity;
    - state how any environmental harm that may be caused by the activity will be prevented or minimised, including any interim measures that are to be implemented;
    - if the activity is to transition to an environmental standard, state:
        - details of the standard; and
        - how the activity is to transition to the standard before the TEP ends;
    - if the activity is to transition to comply with a condition of an EA, a development condition or a prescribed condition for carrying out a small scale mining activity, state:
        - details of the condition and how the activity does not comply with it; and
        - how compliance with the condition will be achieved before the TEP ends;
    - state the period over which the TEP is to be carried out;
    - state appropriate performance indicators at intervals of not more than 6 months; and

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- provide for monitoring and reporting on compliance with the TEP.

Best practice environmental management is defined in section 21 of the Act as the management of the activity to achieve an ongoing minimisation of the activity's environmental harm through cost-effective measures assessed against the measures currently used nationally and internationally for the activity.

If the TEP application relates to Great Barrier Reef catchment waters, please refer to Reef discharges for industrial activities guideline (ESR/2021/5627) [7] for information on how applicants can adequately address the TEP application requirements.

If a TEP application is received by the department and it does not comply (or substantially comply) with the application requirements listed in section 331 of the Act, the department will not accept the application and will instead issue you with a notice stating that application requirements have not been met, providing you the option to re-apply.

Public notice requirement

The requirements regarding public notification of TEP applications are detailed in section 335 of the Act. Public notice is required where you submit a TEP application that states the TEP is to be carried out over a period of longer than three years. The public notice must be given in the approved form (ESR/2023/6521)[6].

Within 12 business days after the TEP application is received by the department, you must give public notice of the application by an advertisement published in a newspaper circulating generally in the area in which the activity subject to the TEP application relates is, or is proposed to be, carried out. If the program relates to a premises, a notice must also be placed on the premises and served on the occupiers of all adjoining premises.

If further information is requested by the department to decide whether to approve the draft program, the public notice must be given within two business days of the response to the request for further information.

If the TEP application requires public notification, the public notice must invite submissions on the TEP application, and nominate a day by which submissions may be made to the department.

What happens once the department receives a TEP application?

If you submit a TEP application to the department, the department must consider the application and make a decision.

Request for further information

In some cases a TEP application cannot be approved because some matters have not been adequately addressed. In this situation, the department may ask you to provide further information. If further information is required, you will receive an information request from the department. A request for further information will be made within 10 business days after the TEP application is received. You must provide the further information requested within 10 business days after the request was made. The notice will state exactly what day this information must be submitted to the department. A failure to do so within the timeframe stated in the notice will result in the application lapsing under section 334A of the Act.

Please note that section 334(4) of the Act allows an applicant to request an extension of the timeframe by no more than 10 business days, by providing written notice to the department.

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Circumstances when the department may call a conference

The department may invite you (the applicant), and another person who has made a submission under section 335 of the Act about the TEP application, to a conference to help the department decide whether or not to approve the TEP application.

When must the department make a decision on a TEP application?

Section 337(1) of the Act states that the department must make its decision:

- if a public notice was required under section 335, 20 business days after the day stated in the public notice as the final day that public submissions may be made to the department;
- if public notice is not required and further information has not been requested, 20 business days after the day the TEP application was received by the department; or
- if public notice is not required and further information was requested, 20 business days after the day a response to the request for further information is received.

The department may extend the decision-making period if, before the extension starts, it gives an information notice about the decision to extend to:

- the person (you) or public authority that submitted the TEP application; and
- any submitters.

The department may decide the length of the extension, and if necessary, whether any further extensions are required.

Note: If a public notice is required under section 335, the department must be satisfied public notice has been properly given before making a decision.

Under section 343 of the Act, if the department fails to decide whether to approve or refuse a TEP application within the required timeframe, the failure to decide is taken to be a decision by the department to refuse to approve the application.

What does the department consider in deciding whether to approve a TEP application?

When deciding whether or not to approve a TEP application or the conditions (if any) to be imposed on the TEP, the department:

- must consider whether the TEP
    - may allow serious environmental harm to happen or cause serious environmental harm; and
    - will achieve full compliance with the Act; and
- must comply with any relevant regulatory requirement; and
- subject to the above, must also consider (but is not limited to considering):
    - the standard criteria (see definition in Schedule 4 of the Act);
    - additional information given in relation to the TEP application;
    - the views expressed at a conference held in relation to the TEP application.

The department **must refuse to approve** the TEP application, as per s41AA of the Environmental Protection Regulation 2019 (the Regulation), if it is considered that the relevant activity will, or may have a residual impact in Great Barrier Reef catchment waters; and having regard to the matters mentioned in the Point Source Water

Quality Offsets Policy 2019, the residual impact will not be adequately counterbalanced by offset measures for the relevant activity.

A residual impact of a relevant activity is the presence of fine sediment, measured as total suspended soilds, or dissolved inorganic nitrogen in Great Barrier Reef catchment waters, or waters mention in s41AA(1)(b) of the Regulation that:

a) was released to the water because of the relevant activity; and

b) remains, or will or is likely to remain, (whether temporarily or permanently) in the water despite mitigation measures for the relevant activity.

For example: You are undertaking an activity that has resulted in the release of fine sediment to the Great Barrier Reef catchment that remains in the water despite mitigation measures. The department must refuse to approve the TEP application as this activity has had a residual impact on the Great Barrier Reef catchment waters.

The department may refuse to approve the TEP application if it considers the TEP may allow serious environmental harm to happen, or cause environmental harm to happen.

The department **must refuse to approve** a TEP application if it considers the TEP will not achieve full compliance under the Act.

For example: You submit a TEP application proposing 4 actions to achieve the objective(s) of the TEP. The department assesses the application and considers that only 2 of the 4 actions will achieve full compliance with the Act. The department must refuse to approve the TEP application as the program proposed will not achieve full compliance with the Act.

The decision

Section 339 of the Act states that the department must decide that the TEP application is:

- approved with or without conditions imposed; or
- refused.

If the department approves the TEP application, it

- must impose any conditions the department is required to impose under a regulatory requirement; and
- may impose a condition requiring an amount of financial assurance (FA) as security for compliance with the TEP and any conditions of the TEP; and
- may impose any other conditions the department considers appropriate.

Section 340 of the Act states that the department must give you a written notice of the decision within 8 business days of making a decision.

If the TEP application is approved, the department will issue with a notice of the decision to approve the TEP application and the approved TEP. If the TEP is approved with conditions, the notice will include an information notice stating;

- the decision;
- the reasons for the decision;
- and any review or appeal details.

If the TEP application is refused, the notice will also include an information notice, stating:

- the decision;
- the reasons for the decision; and
- the review or appeal details.

What is the content of approved TEP?

An approved TEP must include:

- all conditions imposed on the TEP by the department; and
- the date the TEP ends; and
- if the TEP relates to a transition to comply with an EA condition:
    - identify all relevant EA conditions; and
    - state to the extent the holder of the TEP is not required to comply with the relevant EA conditions.

An approved TEP (for a new TEP application) will be issued to you as a TEP Permit.

Fees associated with TEPs

Fees are payable to the department for:

- assessment of a TEP application;
- assessment of a TEP amendment application;
- assessment of an annual return for a TEP; and
- monitoring compliance with a TEP.

An upfront fee for TEP application or a TEP amendment application must be paid at the time of application, otherwise the application will be invalid.

The upfront fee for a TEP application is a flat rate for the first 2 hours, with the remaining fees associated with assessment of the application, any assessment of subsequent annual returns and any fees associated with monitoring compliance with the TEP, to be charged at the relevant hourly rate and directly invoiced. The reasonable cost for analysis will be the actual cost of the analysis to the department, plus GST. The reasonable cost of travel will be the cost of travel, plus GST.

For more information, please see Fees and services.

Annual returns

If you are the holder of a TEP that is longer than 12 months, you must submit an annual return and pay an annual fee within 22 business days after the anniversary of the TEP approval date. It is your responsibility to ensure that you submit an annual return to the department, and pay the corresponding annual fee.

Details on where to submit your annual return, and what payment methods are available, are outlined on the approved annual return form (ESR/2023/6528[8]).

Note: if your TEP exists for less than 12 months, the department will still calculate the reasonable cost of monitoring compliance against the TEP within the period of the TEP and issue a tax invoice.

[8] This is the publication number. The publication number can be used as a search term to find the latest version of a publication on the department's website at www.des.qld.gov.au.

What happens if a TEP is approved and it relates to an EA?

Section 343A of the Act applies for TEPs relating to an EA. If a TEP is approved, the department must:

- include a note in the EA which states:
  - details of the approved TEP; and
  - that it is an offence to contravene a TEP; and
- give the EA holder a copy of the EA including the note.

The note is not an amendment to the EA.

Can an approved TEP be amended?

You may apply to amend an approved TEP under section 344 of the Act. The process for applying to amend an approved TEP (a TEP amendment application) follows the same process for a TEP application, except the public notice requirements only apply in certain circumstances. If the amendment will extend the period over which the TEP applies to longer than five years, the public notice requirements under section 335(2) and (3) apply as if the TEP amendment application were a TEP application.

A TEP amendment application must:

- be made using the approved form (ESR/2023/6400[9]); and
- be accompanied by the fee prescribed by regulation (for more information regarding TEP fees, please see Fees and Charges); and
- comply with the TEP application requirements set out in section 331 of the Act, to the extent those application requirements relate to the parts of the approved TEP you are applying to amend.

The department may approve the TEP amendment application only if it is reasonably satisfied that it will not result in an increase in environmental harm caused by the carrying out of the activity under the amended approval.

When deciding whether to approve an amendment the department must consider:

- the period under the original TEP;
- the period that remains under the original TEP;
- any change to the period under the original TEP; and
- the nature of the risk of environmental harm being caused by the activity.

Review of decisions and appeals

A person who is dissatisfied with an original decision made by the department may be able to apply to have the department review that original decision The provisions regarding reviews of decisions and appeals are found in sections 519–539 of the Act. Specific information regarding your review and appeal rights is contained in the relevant notice you have received from the department. However, for more information about reviews and

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appeals under the Act, please refer to the Guideline: Investigation and Enforcement under the EP Act (ESR/2016/2514[10]).

Can a TEP be cancelled?

Section 344E of the Act gives the department the power to cancel approved TEPs for any of the following reasons:

- you agree in writing to the cancellation;
- you give the department notice under section 347(6) of the Act stating that you have disposed of the place or business to which the program relates;
- you give the department a notice under section 348 of the Act stating that you have ceased the activity to which the program relates;
- the department is otherwise satisfied that you have disposed of the place or business to which the program relates; or
- the department is otherwise satisfied that you have ceased the activity to which the program relates.

If the department decides to cancel an approved TEP, the department will:

- give you a notice that states the details of the cancellation; or
- if the department cannot locate you after making reasonable enquiries – record details of the cancellation in the register of TEPs.

The details of the cancellation that must be included in a notice or record include:

- that the approved TEP is cancelled;
- the reason for the cancellation; and
- the date on which the cancellation takes effect.

Cancellation of an approved TEP takes effect on the date stated in the notice or record. The date for cancellation must be:

- at least 20 business days after the department gives the notice or makes the record; and
- if the approval is being cancelled after receiveing a notice given under section 347(6) - after the place or business is disposed of.

If the department stops being satisfied that you have disposed of the place or business to which the program relates, or ceased the activity to which the program relates, the department must:

- give a notice under section 344F of the Act to withdraw the cancellation notice; or
- remove the record.

If a note about the TEP was included in an EA under section 343A of the Act, and that EA is still in force, the department must give the holder of the EA a copy of the EA that does not include the note.

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Finalisation of a TEP

Once a TEP is complete, you should receive a finalisation letter as a courtesy to advise you that the department considers the TEP is finalised and is satisfied that all requirements have been met.

Penalties

Penalties apply for each of the offences outlined below and the department will determine the appropriate compliance and enforcement response in accordance with its Enforcement Guidelines (ESR/2021/5549[11]).

Penalties for a contravention of a TEP

The holder of a TEP, or a person acting under an a TEP, must not wilfully contravene the program.

- The maximum penalty is 6250 penalty units or five years imprisonment.

The holder of a TEP, or a person acting under a TEP, must not contravene the program.

- The maximum penalty is 4500 penalty units.

The holder of a TEP must ensure that everyone acting under the program complies with the program. If another person acting under the TEP contravenes the TEP, then the holder of the TEP also commits an offence, namely the offence of failing to ensure the other person complies with the program. The same maximum penalties apply to the offence of failing to ensure another person complies the TEP, as the offence of contravention of a TEP (willful or otherwise).

Other penalties

Failure to comply with a notice to submit a TEP application is an offence under the Act, unless you have a reasonable excuse.

- The maximum penalty for this offence is 100 penalty units.

Failure to give the department an annual return within 22 business days after each anniversary of the day of approval of the TEP is an offence.

- The maximum penalty is 100 penalty units.

The following penalties are applicable if the holder a prescribed TEP (a TEP that does not relate to an EA) proposes to dispose of the place or business to which the program relates to someone else (the buyer).

Failure to give written notice of the existence of the TEP to the buyer before agreement is an offence.

- The maximum penalty is 50 penalty units.

Failure to give written notice of the disposal to the department, within 10 business days after agreeing to dispose of the place or business, is an offence.

- The maximum penalty is 50 penalty units.

Failure to give the department written notice of ceasing to carry out the activity to which a TEP relates, within 10 business days of ceasing the activity, is an offence.

- The maximum penalty is 50 penalty units.

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Other obligations for the holder of a TEP

In addition to the obligations of the approved TEP, the holder must also meet their obligations under the Act, and the regulations made under the Act. For example:

- the holder must comply with the following provisions of the Act:
    - general environmental duty (section 319 & 319A); and
    - duty to notify environmental harm (sections 320–320G);
- the holder must also ensure that they do not commit offences of:
    - causing serious or material environmental harm (sections 437–439);
    - causing environmental nuisance (section 440);
    - depositing prescribed water contaminants in waters and related matters (section 440ZG); and
    - placing contaminant where environmental harm or nuisance may be caused (section 443).

Approved by:

Director
Compliance Operations and Support
Environmental Services and Regulation
Department of Environment and Science
Date: 09 October 2023

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Version history

Version	Effective date	Description of changes
1.00	9 October 2023	New applicant guideline to reflect legislative changes as per the *Environmental Protection and Other Legislation Amendment Act 2023* (EPOLA 2023). This document supercedes ESR/2016/2277