

Eligibility criteria and standard conditions for extracting material (ERA 16) – Version 2

This document provides eligibility criteria and standard conditions for Environmentally Relevant Activity (ERA) 16 - Extractive and screening activities at threshold 2a - extracting 5000 tonnes to 100,000 tonnes of material in a year.

Eligibility criteria

Eligibility criteria are constraints set to ensure environmental risks associated with the operation of the ERA are able to be managed by the standard conditions. Eligibility criteria set out the circumstances in which a standard or variation application for an environmental authority can be made.

Standard conditions

Standard conditions are the minimum operating requirements an environmental authority holder must comply with.

Standard applications

If an applicant can meet all of the eligibility criteria and standard conditions, then they can make a standard application. Applicants are required to complete a 'Standard application form'. The form can be downloaded from the Queensland Government's Business and Industry Portal at www.business.qld.gov.au/ea

Variation applications

If an applicant can meet all of the eligibility criteria but needs to vary one or more of the standard conditions to suit their operational needs, then they can make a variation application. Applicants are required to complete a 'Variation application form'. The form can be downloaded from the Queensland Government's Business and Industry Portal at www.business.qld.gov.au/ea

Site specific applications

Applicants who cannot meet the eligibility criteria must make a site specific application. Applicants are required to complete a 'Site specific application form'. The form can be downloaded from the Queensland Government's Business and Industry Portal at www.business.qld.gov.au/ea

Amendment applications

If the holder of an environmental authority needs to amend a standard condition in the issued environmental authority, then the holder must submit an 'Amendment application form'. The form can be downloaded from the Queensland Government's Business and Industry Portal at www.business.qld.gov.au/ea

Definitions

Some terms used in this document are defined in Appendix 1.

Version history

| Version | Date | Description of changes |
|---------|-------------------|---|
| 1 | 6 December 2013 | Eligibility criteria and standard conditions take effect |
| 2 | 30 September 2015 | Updated for repeal of wild river provisions (as allowed in section 715C of the <i>Environmental Protection Act 1994</i>) and version history added |
| 2 | 15 August 2016 | Added publication number ESR/2015/1711 |

Eligibility criteria and standard conditions
Extracting material (ERA 16)

Eligibility criteria

| Eligibility criteria category | Eligibility criteria |
|-------------------------------|---|
| Activity description | The quantity of material extracted does not exceed 100,000 tonnes per year. |
| Activity location | <p>The facility is not within 1000 metres of:</p> <ul style="list-style-type: none"> • a dwelling, residential allotment, mobile home or caravan park, residential marina, motel, hotel or hostel or other residential premises • a kindergarten, school, university, library, childcare centre or other educational institution • a medical centre or hospital • a protected area under the <i>Nature Conservation Act 1992</i> • a public park or gardens <p>unless the facility is only for the extraction of material for the construction or maintenance of rail transport infrastructure and roads and those residing at any of the above places, or the landowner where there are no residents, have agreed in writing to the facility.</p> |
| | The facility is not in any category A or B environmentally sensitive area. |
| | The facility is not in a designated precinct in a strategic environmental area as defined in the Regional Planning Interests Regulation 2014 or regional plan. |
| | The facility is not within 100 metres of any watercourse, wetland or spring. |
| | The maximum area of extraction workings is 5.0 hectares. |
| Activity operations | The combustion of fuel, other than natural gases, does not exceed 500 kilograms per hour. |
| Water | There is no release of aqueous waste from the activity to waters. |
| Groundwater | The activity will not impact on the level of groundwater or on groundwater quality at or adjacent to the location where it is conducted. |

Standard conditions

| Conditions |
|--|
| General |
| G1: All reasonable steps must be taken to ensure the activity complies with the eligibility criteria. |
| G2: The activity must be undertaken in accordance with written procedures that: <ul style="list-style-type: none"> • identify potential risks to the environment from the activity during routine operations and emergencies • establish control measures that minimise the potential for environmental harm • ensure plant and equipment is maintained and operated in proper and effective condition • ensure that staff are trained and aware of their obligations under the <i>Environmental Protection Act 1994</i> • ensure that reviews of environmental performance are undertaken at least annually. |
| G3: The activity must not cause environmental nuisance at a nuisance sensitive place. |
| G4: The activity must not cause the release of dust or particulates that cause environmental nuisance beyond the boundary of the site. |
| G5: Storage of chemicals and fuels in bulk or in containers of greater than 15 litres must be within a secondary containment system and releases from the containment system controlled in a manner that prevents environmental harm. |
| Land |
| L1: Contaminants from the activity must not be released to land. |
| L2: As soon as practicable after completion of operational work land disturbed by the activity must be rehabilitated to achieve the following: <ol style="list-style-type: none"> 1. the land is safe for humans and fauna 2. the land has no subsidence or erosion gullies following completion of the rehabilitation 3. there is no ongoing contamination to waters 4. the maintenance requirements for the land are no greater than for the land before it was disturbed. |
| L3: Acid sulphate soils, acid-producing rock and marine sediments must not be processed. |
| Noise and Vibration |
| N1: The activity must not cause audible noise <p>(a) on a business day or Saturday, before 7am or after 7pm</p> <p>(b) on any other day, before 8am or after 7pm</p> <p>at any of the following places:</p> <ul style="list-style-type: none"> • a dwelling, mobile home or caravan park, residential marina, motel, hotel or hostel or other residential premises • a kindergarten, school, university, library, childcare centre or other educational institution • a medical centre or hospital. |
| N2: Blasting operations must comply with the following: <ol style="list-style-type: none"> 1. a blast management plan must be developed for each blasting activity in accordance with Australian Standard 2187 2. the airblast overpressure is less than 115dB Z Peak for 4 out of any 5 consecutive blasts |

Eligibility criteria and standard conditions
Extracting material (ERA 16)

3. the airblast overpressure is less than 120dB Z Peak for all blasts

4. the ground vibration is not:

(i) for vibrations of more than 35Hz—more than 25 millimetres (mm) a second ground vibration, peak particle velocity

(ii) for vibrations of no more than 35Hz—more than 10mm a second ground vibration, peak particle velocity.

Water

W1: Stormwater contaminated by the activity must be managed to minimise or prevent any adverse impacts on the values of the receiving environment.

W2: Ponds used for the storage or treatment of aqueous waste must be constructed, installed and maintained to:

- prevent any release of aqueous waste from the ponds
- ensure the stability of the pond structure.

W3: Erosion and sediment control measures must be implemented and maintained to minimise erosion and the release of sediment.

W4: The stormwater runoff from the facility generated by a 24 hour storm event with an average recurrence interval of one in five years must be retained on site and treated to remove contaminants before release.

Waste

R1: All waste generated in carrying out the activity must be reused, recycled or lawfully disposed of offsite.

Appendix 1: Terms and definitions

| Term | Definition |
|--|---|
| Activity | the environmentally relevant activity to which this environmental authority relates. An activity may be undertaken on the whole or a part of a site. |
| Aqueous waste | any aqueous waste including process water, water that has otherwise been used in the carrying out of the activity or sewage, whether or not the waste has been treated, but excluding stormwater and water used for dust suppression that has been treated to remove contaminants. |
| Audible noise | means noise that can be clearly heard by an individual who is an occupier at a place listed in condition N1. |
| Australian Standard 2187 | Australian Standard AS 2187.2- 2006 Explosives – Storage, transport and use – use of explosives. |
| Category A or B environmentally sensitive area | as defined in Schedule 12, Part 1 of the Environmental Protection Regulation 2008. |
| Chemical | as defined in Schedule 12, Part 2 of the Environmental Protection Regulation 2008. |
| Combustion of fuel | does not include fuel used in explosives or by vehicles. |
| Contaminant(s) | as defined in Section 11 of the <i>Environmental Protection Act 1994</i> . |
| Environmental harm | as defined in Section 14 of the <i>Environmental Protection Act 1994</i> . |
| Environmental nuisance | as defined in Section 15 of the <i>Environmental Protection Act 1994</i> . |
| Extraction workings | extraction workings means an area from which quarry material or overburden has been extracted, or on which product or waste rock is stored and that has not been rehabilitated in accordance with condition L2 |
| Facility | the area used for carrying out the ERA including any buildings, disturbed areas or any associated infrastructure. |
| Land | land excluding waters and the atmosphere. Land includes land on the authorised place. |
| Maintenance | as defined in Schedule 6 of the <i>Transport Infrastructure Act 1994</i> . |
| Minimise | <p>minimise by taking all reasonable and practical measures to minimise the adverse effect having regard to the following matters:</p> <ul style="list-style-type: none"> (a) the nature of the harm or potential harm (b) the sensitivity of the receiving environment (c) the current state of technical knowledge for the activity (d) the likelihood of successful application of different measures that might be taken to minimise the adverse effects (e) the financial implications of the different measures as they would relate to the type of activity (f) if the adverse effect is caused by the location of the activity being carried out, whether it is feasible to carry out the activity at another location. |
| Nuisance sensitive place | <p>nuisance sensitive place includes:</p> <ul style="list-style-type: none"> • within or outside of a dwelling, residential allotment, mobile home or caravan park, |

Eligibility criteria and standard conditions

Extracting material (ERA 16)

| | |
|-------------------------------|--|
| | <p>residential marina or other residential premises</p> <ul style="list-style-type: none"> • within or outside of a motel, hotel or hostel • within or outside of a kindergarten, school, university or other educational institution • within or outside of a medical centre or hospital • within a protected area under the <i>Nature Conservation Act 1992</i>, within a marine park under the <i>Marine Parks Act 1992</i> or a world heritage area • within a public thoroughfare, park or gardens • within or outside of a place used as a workplace, an office or for business or commercial purposes and includes a place within the curtilage of such a place reasonably used by persons at that place. |
| Rail transport infrastructure | as defined in Schedule 6 of the <i>Transport Infrastructure Act 1994</i> . |
| Road | as defined in section 93 of the <i>Land Act 1994</i> |
| Spring | the land to which water rises naturally from below the ground and the land over which the water then flows. |
| Waters | all or any part of a creek, river, stream, lake, lagoon, swamp, wetland, spring, unconfined surface water, unconfined water in natural or artificial watercourses, bed and bank of any waters, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and underground water. |
| Watercourse | as defined in Section 8, Schedule 12 of the Environmental Protection Regulation 2008. |
| Wetland | as defined in Schedule 12 of the Environmental Protection Regulation 2008, means an area shown as a wetland on the map of referable wetlands. |

Appendix 2: General obligations for environmental authority holders

This appendix is not intended to provide a comprehensive assessment of all obligations under Queensland law. It provides some general information and holders are encouraged to familiarise themselves with all requirements related to their specific operation.

Responsibilities under the *Environmental Protection Act 1994*

Separate to the requirements of the standard conditions, the holder of the environmental authority must also meet their obligations under the *Environmental Protection Act 1994*, and the regulations made under that Act. For example, the holder must be aware of the following provisions of the *Environmental Protection Act 1994* which may apply unless the environmental harm is authorised by the conditions of the environmental authority.

General environmental duty

Section 319 of the *Environmental Protection Act 1994* states that we all have a general environmental duty. This means that we are all responsible for the actions we take that affect the environment. We must not carry out any activity that causes or is likely to cause environmental harm unless we take all reasonable and practicable measures to prevent or minimise the harm. To decide what meets your general environmental duty, you need to consider:

- the nature of the harm or potential harm
- the sensitivity of the receiving environment
- the current state of technical knowledge for the activity
- the likelihood of successful application of the different measures to prevent or minimise environmental harm that might be taken
- the financial implications of the different measures as they would relate to the type of activity.

It is not an offence not to comply with the general environmental duty. However, maintaining your general environmental duty is a defence against the following acts:

- (a) an act that causes serious or material environmental harm or an environmental nuisance
- (b) an act that contravenes a noise standard
- (c) a deposit of a contaminant, or release of stormwater run-off, mentioned in section 440ZG.

More information is available on the Department of Environment and Heritage Protection website www.ehp.qld.gov.au.

Duty to notify

Section 320 of the *Environmental Protection Act 1994* explains the duty to notify. The duty to notify applies to all persons and requires a person or company to give notice where serious or material environmental harm is caused or threatened. Notice must be given of the event, its nature and the circumstances in which the event happened. Notification can be verbal, written or by public notice depending on who is notifying and being notified.

The duty to notify arises where:

- a person carries out activities or becomes aware of an act of another person arising from or connected to those activities which causes or threatens serious or material environmental harm
- while carrying out activities a person becomes aware of the happening of one or both of the following events:
 - the activity negatively affects (or is reasonably likely to negatively affect) the water quality of an aquifer
 - the activity has caused the unauthorised connection of 2 or more aquifers.

For more information on the duty to notify requirements refer to the guideline 'Duty to notify of environmental harm' (EM467).

Some relevant offences under the *Environmental Protection Act 1994*

Non-compliance with a condition of an environmental authority (section 430)

Section 430 of the *Environmental Protection Act 1994* requires that a person who is the holder of, or is acting under, an environmental authority must not wilfully contravene, or contravene a condition of the authority.

Environmental authority holder responsible for ensuring conditions complied with (section 431)

Section 431 of the *Environmental Protection Act 1994* requires that the holder of an environmental authority must ensure everyone acting under the authority complies with the conditions of the authority. If another person acting under the authority commits an offence against section 430, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the conditions.

Causing serious or material environmental harm (sections 437–39)

Material environmental harm is when the harm is not trivial or negligible in nature. Serious environmental harm is harm that is irreversible, of a high impact or widespread, or that is caused to an area of high conservation value or special significance. Damages, or costs required to rehabilitate the environment, of over \$5000 also constitute serious environmental harm.

Serious or material environmental harm excludes environmental nuisance.

Causing environmental nuisance (section 440)

Environmental nuisance is unreasonable interference with an environmental value caused by aerosols, fumes, light, noise, odour, particles or smoke. It may also include an unhealthy, offensive or unsightly condition because of contamination.

Depositing a prescribed water contaminant in waters (section 440ZG)

Prescribed contaminants include a wide variety of contaminants listed in Schedule 9 of the *Environmental Protection Act 1994*.

It is your responsibility to ensure that prescribed contaminants are not left in a place where they may or do enter a waterway, the ocean or a stormwater drain. This includes making sure that stormwater falling on or running across your site does not leave the site contaminated. Where stormwater contamination occurs you must ensure that it is treated to remove contaminants. You should also consider where and how you store material used in your processes onsite to reduce the chance of water contamination.

Placing a contaminant where environmental harm or nuisance may be caused (section 443)

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause serious or material environmental harm or environmental nuisance.

Some of the relevant offences under the *Waste Reduction and Recycling Act 2011*

Littering (section 103)

Litter is any domestic or commercial waste and any material a person might reasonably believe is refuse, debris or rubbish. Litter can be almost any material that is disposed of incorrectly. Litter includes cigarette butts and drink bottles dropped on the ground, fast food wrappers thrown out of the car window, poorly secured material from a trailer or grass clippings swept into the gutter. However, litter does not include any gas, dust, smoke or material emitted or produced during, or because of, the normal operations of a building, manufacturing, mining or primary industry.

Illegal dumping of waste (section 104)

Illegal dumping is the dumping of large volumes of litter (200 litres or more) at a place. Illegal dumping can also include abandoned vehicles.

Relevant offence under the Environment Protection (Waste Management) Regulation 2000

Trackable waste to be given only to licensed transporter (section 41)

A generator of trackable waste must not give the waste to another person to transport it commercially, or in a load of more than 250 kilograms, in a vehicle unless the other person holds, or is acting under, the required authority for transporting the waste in the vehicle.

Responsibilities under other legislation

An environmental authority pursuant to the *Environmental Protection Act 1994* does not remove the need to obtain any additional approval for the activity that might be required by other state and/or Commonwealth legislation. Other legislation for which a permit may be required includes but is not limited to the:

- *Aboriginal Cultural Heritage Act 2003*
- contaminated land provisions of the *Environmental Protection Act 1994*
- *Fisheries Act 1994*
- *Forestry Act 1959*
- *Nature Conservation Act 1992*
- *Petroleum and Gas (Production and Safety) Act 2004 / Petroleum Act 1923*
- *Queensland Heritage Act 1992*
- *Sustainable Planning Act 2009*
- *Water Supply (Safety and Reliability) Act 2008*
- *Water Act 2000*.

Applicants are advised to check with all relevant statutory authorities and comply with all relevant legislation.