

Guideline

Environmentally relevant activities

Authorisation letter to nominate an Authorised Holder Representative

This document provides guidance to proponents for completing an authorisation letter to nominate an Authorised Holder Representative to act on their behalf when dealing with the Queensland Government to manage matters, in relation to an environmental authority application, or if granted, an environmental authority.

Introduction

The holder(s) of, or applicant(s) for, an environmental authority (EA), or applicant to become a Registered Suitable Operator (RSO), can nominate an individual or company to act on their behalf (as agent of the holder(s)/applicant(s) (the “proponents”)) when dealing with the Queensland Government in order to manage their application or an EA. The nomination of an individual or agent to act on behalf of the proponent(s) can be made when an applicant applies to become an RSO, applies for an EA, or at any stage throughout the duration of the EA. This nominated agent is known as an Authorised Holder Representative (AHR).

To authorise an AHR to act on behalf of the proponent(s) for matters related to an EA or RSO application, or an EA if granted, an authorisation letter for an AHR must be completed and submitted to the administering authority¹.

Authorisation letter

An authorisation letter provides permission for a third party or agent to carry out certain transactions under the *Environmental Protection Act 1994* (EP Act) and the *Environmental Protection Regulation 2019* (EP Regulation). In preparing the authorisation letter, the proponent and proposed AHR should consider and specify what transactions the AHR has the proponent’s permission to conduct on behalf of the proponent(s).

The authorised transactions may include (but are not limited to):

- Completing and lodging an application to become an RSO.
- Completing and lodging EA related applications, for processes such as:
 - Amendments
 - Surrender/partial surrenders
 - Changes of anniversary day
 - Annual returns (if signing on behalf of the EA holder)
 - Reduced annual fee claim forms (attachment one to the annual notice)
 - Amalgamations
 - De-amalgamations
 - Voluntary suspensions

¹ The Department of Environment, Science and Innovation is the administering authority under the *Environmental Protection Act 1994*.

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- Responding to requests for information from any Queensland Government department relating to an EA application, or if granted, an EA.
- Being the point of contact for application and EA notices, letters or other interactions and transactions.
- Completing and submitting notices, reports, returns, letters and other information or communication that the proponent(s) are required to complete by any Queensland Government department.
- Paying of annual fees.

All proponents and AHRs that are companies must sign the authorisation letter in accordance with section 127 of the *Corporations Act 2001* (Corporations Act) by having two directors or one director and the company secretary sign the letter. If a proponent or AHR is a proprietary company with a sole director who is also the sole company secretary, the sole director should sign.

When an authorisation letter is required

There are several scenarios when an authorisation letter may be required to be submitted to the administering authority, including when:

- a new RSO application is applied for and the applicant(s) wishes to nominate an AHR for that application
- the proponent(s) nominate an AHR for existing EAs and/or EA applications.
- a new EA application is applied for and the applicants wish to nominate an AHR for that application.
- all or part of an existing EA is transferred to a new holder.
- the AHR function is transferred to another AHR for an existing EA or EA application.
- if a nominated AHR is a holder company employee and that function is transferred to another employee.

Required information

An authorisation letter must contain clear guidance on how the Queensland Government and the AHR interact. The following information is required in an authorisation letter:

- The authorisation letter must state the AHR can undertake the specified activities and transactions with the Queensland Government under the *Environmental Protection Act 1994*, the *Environmental Protection Regulation 2019* and associated Queensland legislation on behalf of the holder, pursuant to the terms of the authorisation letter.
- The authorisation letter must state what application(s)/EA(s) will be managed by the AHR. The letter needs to specify whether the authority being given applies to only specific application(s)/EA(s) or to all application(s)/EA(s) in the name of the applicant/holder.
- The authorisation letter must state who the AHR is. The authorisation letter must state the name of the AHR by individual name and company if the authority is being delegated to a specific person. If a proponent is authorising a specific company to manage application(s)/EA(s) of their behalf as an agent, the letter would need to state this.
- The authorisation letter must state the transactions that the AHR may undertake on behalf of the proponent. For example, the letter may authorise the AHR to undertake all transactions in relation to the application(s)/EA(s), or only authorise the AHR to undertake specific tasks that are administrative in nature (such as lodging applications, changing names or holder details).
- The authorisation letter must specify which proponents are appointing the AHR. If a proponent is a company, the letter needs to be signed in accordance with the Corporations Act. The letter may be on the letterhead of the proponent(s).

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If the proponent is a subsidiary of a parent company, and the letterhead of the parent company is used, this must be stated in the authorisation letter. However, the proponent's name must be listed in the signature block so that signatories (as required under section 127 of the Corporations Act) are signing off on behalf of the proponent, and not a parent company).

- In the authorisation letter, the applicant/holder must acknowledge that:
 - if there are changes to the authority, or there are changes in the ownership of the Relevant Authorities, a new letter of authority will be completed and submitted to the Queensland Government, C/- Executive Director, Permits and Licensing. Unless and until such notification is received, the Queensland Government will be entitled to continue to rely on the authority.
 - if the authority is no longer required, written advice will be given to the Queensland Government, C/- Executive Director, Permits and Licensing. Unless and until such notification is received, the Queensland Government will be entitled to continue to rely on the authority.
 - it is their responsibility to be informed of any actions undertaken by the Authorised Holder Representative and to inform the Authorised Holder Representative of any actions the applicant/holder takes.
 - in regard to any activities and transactions under the Act, the Regulation or any associated Queensland legislation, any legislative requirement to notify either the applicant, or the holder of an environmental authority, may be met by notifying the Authorised Holder Representative, except where legislatively provided to the contrary, whether expressly or impliedly.
 - it is an offence under the EP Act for a person to give false, misleading or incomplete documents or statements.
- In the authorisation letter, the Authorised Holder Representative must:
 - acknowledge that they understand and accept the responsibilities of the Authorised Holder Representative as defined in the letter
 - nominate any individuals that will be authorised agents/representatives of the Authorised Holder Representative who are authorised to act upon the Authorised Holder Representative's behalf to the full extent of the authorisation.
 - acknowledge that unless and until the Authorised Holder Representative notifies the department otherwise, the Queensland Government will be entitled to rely upon the authority as evidence that these individuals are the authorised agents of the Authorised Holder Representative.
 - agree if there are changes to the authority, or there are changes in the ownership of the Relevant Authorities, they will complete a new letter of authority and submit it to the Queensland Government, C/- Executive Director, Permits and Licensing. Unless and until such notification is received, the Queensland Government will be entitled to continue to rely on this authority.
 - acknowledge that it is their responsibility to be informed of any actions undertaken by the applicant/holder and to inform the applicant/holder of any actions the Authorised Holder Representative takes.
 - acknowledge that in regard to any activities and transactions under the EP Act, the Regulation or any associated Queensland legislation, any legislative requirement to notify either the applicant, or the holder of an environmental authority, may be met by notifying the Authorised Holder Representative, except where legislatively provided to the contrary, whether expressly or impliedly.
 - acknowledge that it is an offence under the EP Act for a person to give false, misleading or incomplete documents or statements.
 - acknowledge the following privacy information:

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Privacy

All information provided will be used for the purpose of managing the applications or EAs to which the authorisation relates. In accordance with section 540 of the EP Act, details of the application or EA will be made publicly available on a register, and this will include publication of details of both the applicant/holder and the AHR.

When an AHR is nominated or authorised to deal with an application or EA, all information provided as part of that process will be available on the EA record. This means that should the EA, or AHR be transferred to another person, all information related to the EA, including historical information, will comprise the EA record and will be accessible to the current EA holder or AHR.

In the event that the Relevant Authorities are transferred, or the Authorised Holder Representative is replaced, all existing personal information provided will be retained as part of the Relevant Authorities and will be available to the new holder where requested and historical information about holders and representatives will remain searchable on the public register in accordance with section 542 of the Act.

All personal information will be managed in accordance with the *Information Privacy Act 2009* and will not be used for other purposes or disclosed to other entities without consent unless authorised or required by law. For more privacy information go to <https://www.des.qld.gov.au/help/legal/privacy>.

The administering authority has developed a template *Authorisation letter to nominate an Authorised Holder Representative to the administering authority* (ESR/2019/5167)². The proponent and AHR should carefully consider the contents of the template and make any changes they consider necessary to properly reflect the terms of the AHR's appointment.

Disclaimer

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment, Science and Innovation should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved:

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Version history

Version	Date	Description of changes
1.00	2 December 2019	First published version of the document.
2.00	13 September 2021	Updated to provide that an authorisation letter must state specific activities that may be undertaken and acknowledge that changes in the authorisation must be notified.
2.01	18 October 2021	Included provision to allow an AHR letter to authorise agency for an application to become a Registered Suitable
2.02	01 June 2023	Facsimile number removed from enquiries section.
2.03	21 February 2024	Updated to align with the MOG

² This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.qld.gov.au.