

Environmentally relevant activity standard

Commercial cropping and horticulture in the Great Barrier Reef catchment (prescribed ERA 13A) – Version 1

This Environmentally Relevant Activity (ERA) standard has been created in accordance with section 318 of the *Environmental Protection Act 1994*. This ERA standard provides the eligibility criteria and standard conditions for an environmental authority which authorises the carrying out the commercial cropping and horticulture in the **Great Barrier Reef catchment** (prescribed ERA 13A).

When carrying out the **activity**, a person must also comply with any agricultural ERA standard if applicable to the **activity** being carried out. For example, if the person is carrying out:

- sugarcane cultivation, the person must also comply with the agricultural ERA standard for sugarcane cultivation;
- banana cultivation, the person must also comply with the agricultural ERA standard for banana cultivation.

General information

What are 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.

What are standard conditions?

Standard conditions, including the relevant terms and definitions, are the minimum operating requirements an **environmental authority** holder must comply with.

When is a standard application required?

If an applicant can meet the eligibility criteria and comply with the standard conditions, then they can make a standard application. To make a standard application, applicants are required to submit a completed standard application form for prescribed ERA 13A. The form can be obtained from www.qld.gov.au (search for ESR/2020/5273), or by emailing palm@des.qld.gov.au or phoning 1300 130 372 (and selecting option 4).

When is a variation application required?

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. To make a variation application, applicants are required to submit a completed variation application form for prescribed ERA 13A. The form can be obtained from www.qld.gov.au (search for ESR/2020/5272), or by emailing palm@des.qld.gov.au or phoning 1300 130 372 (and selecting option 4).

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When is a site-specific application required?

Applicants who cannot meet the eligibility criteria must make a site-specific application. To make a site-specific application, applicants are required to submit a completed site-specific application form for **prescribed ERA 13A**. The form can be obtained from www.qld.gov.au (search for ESR/2020/5274), or by emailing palm@des.qld.gov.au or phoning 1300 130 372 (and selecting option 4).

When is an amendment application required?

If the holder of an environmental authority needs to amend a standard condition in the issued environmental authority, then the holder must submit a completed amendment application form for prescribed ERA 13A (ESR/2021/5615). The form can be obtained from www.qld.gov.au (search for ESR/2021/5615), or by emailing palm@des.qld.gov.au or phoning 1300 130 372 (and selecting option 4).

Definitions

Common terms used in this document are **bolded** when they appear and are defined in the terms and definition table.

Eligibility criteria

- a) The commercial cropping and horticulture will be undertaken on no more than 100 hectares of land in a particular river basin; or
- b) The commercial cropping and horticulture is banana cultivation that is being relocated due to the presence of Panama disease tropical race 4 on other land for which a Notice has been given under the *Biosecurity Act 2014* (Qld).

Standard conditions

General
SC1: All reasonable steps must be taken to ensure the activity complies with the eligibility criteria.
SC2: The activity must not be undertaken within five (5) metres of the defining bank of a natural waterway .
Nutrient and sediment control
SC3: Measures and structures must be designed and implemented to minimise nutrient and sediment from the activity being released from the location to receiving waters .
SC4: Where an agricultural ERA standard is not in effect for the cropping or horticulture, measures and structures must be maintained to minimise nutrients and sediment from the activity being released from the location to receiving waters .
Irrigation
SC5: Measures and structures that minimise the loss of irrigation water to natural waterways must be implemented and maintained.
Record keeping
SC6: Plan(s) must be kept showing: <ul style="list-style-type: none"> a) The location; and b) The activity area(s) within the location; and c) Irrigation features; and d) Natural waterways; and e) Receiving waters; and f) Measures and structures implemented under SC3 and SC5.
SC7: The plan(s) required by condition SC6 must be updated and kept current as at 1 November each calendar year.
SC8: The plan(s) required by condition SC6 must be provided to the administering authority on request within the timeframe stipulated by the administering authority .

Commercial cropping and horticulture (ERA 13A)

Terms and definitions

Term	Definition
Activity	Means the environmentally relevant activity which this environmental authority is issued for, which is commercial cropping and horticulture as defined in Schedule 2, Part 2A, Section 13A of the Environmental Protection Regulation 2019.
Activity area	Means the area(s) of land where the activity is being carried out.
Administering authority	Means the Department of Environment and Science or its successor.
Defining bank	<p>Means the bank that confines seasonal flows, but which may be inundated by flooding from time to time, and can be either:</p> <ul style="list-style-type: none"> • the bank that confines the water before the point of flooding, or • where there is no bank, the seasonal high water line which represents the point of flooding, or • where a crop is grown on a terrace between the defining bank and the centre of the natural waterway, the defining bank will also be the point on the terrace that confines the water before the point of flooding of that terrace. <p>This definition refers to one side of the natural waterway and may apply differently on different sections of the natural waterway.</p> <p>Seasonal high water line means a zone that represents the usual peak seasonal flow level, identifiable by deposition, debris or characteristic vegetation zonation.</p>
Great Barrier Reef catchment	As defined in Chapter 4A of the <i>Environmental Protection Act 1994</i> : 'The Great Barrier Reef catchment is the area shown on a map prescribed by regulation as the Great Barrier Reef catchment .' The area is shown on the Great Barrier Reef catchment and river basins map, accessible from www.qld.gov.au/ReefRegulations .
Location	Means the cadastral lot(s) boundaries to which the environmental authority relates.
Measures	Means an action or procedure planned and implemented to minimise the risk to the environment of releases of sediment or nutrients into the environment as a result of the activity .
Natural waterway	For the purposes of this environmental authority, means all or any part of a natural waterway (including bed and bank), including a creek, river, stream, lake, lagoon, swamp, wetland, spring, non-tidal or tidal waters (including the sea) that drain to the Great Barrier Reef catchment .
Receiving waters	<p>Means any <i>waters</i> into which the activity area drains. <i>Waters</i> has the meaning as in the <i>Environmental Protection Act 1994</i> and includes all or any part of a creek, river, stream, lake, lagoon, swamp, wetland, spring, unconfined surface water, unconfined water in natural or artificial waterways, bed and bank of any waters, non-tidal or tidal waters (including the sea), and underground water.</p> <p>For the purposes of this environmental authority, receiving waters also includes structures or features which may reasonably be expected to drain to <i>waters</i> including a stormwater channel, stormwater drain, or roadside gutter.</p>

Version history

Version	Date	Description of changes
1.00	1 June 2021	Eligibility criteria and standard conditions take effect

Appendix 1: Obligations under Queensland law

This appendix is not intended to provide a comprehensive list of all obligations under Queensland law. It provides some general information, predominately about requirements under the *Environmental Protection Act 1994*, and person(s) carrying out an ERA, including a prescribed ERA, are encouraged to familiarise themselves with all requirements related to their specific activity.

An **environmental authority** issued to meet this ERA standard, including standard conditions, applies to all persons carrying out an activity that is subject to this ERA standard. It applies to persons carrying out the activity on land that they own or on land the person has arranged to use for the activity. It also applies to persons that are employed or otherwise engaged to carry out the activity.

Record keeping

The person carrying out this ERA must make and keep records about the matters prescribed in the standard conditions. An authorised person has the power under section 466 of the *Environmental Protection Act 1994* to request the production of these records for inspection. It is an offence under section 477 of the *Environmental Protection Act 1994* for a person to not comply with a request to produce documents.

Compliance and enforcement of environmental authorities

Failure to comply with any of the conditions of the **environmental authority** is an offence under the *Environmental Protection Act 1994* and penalties apply. Provisions under the *State Penalties Enforcement Regulation 2014* allow for a penalty infringement notice to be given for this offence.

General environmental duty

Section 319 of the *Environmental Protection Act 1994* states that any person who carries out an activity that causes or is likely to cause environmental harm must comply with the 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:

- (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 the different **measures** to prevent or minimise environmental harm that might be taken; and
- (e) 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:

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

More information is available on the Queensland Government website <https://www.business.qld.gov.au>.

Duty to notify

Section 320A 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 that 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 two or more aquifers;
- the owner or occupier of contaminated land or an auditor performing an auditor's function (as defined in section 568(b) of the *Environmental Protection Act 1994*) becomes aware of:
 - the happening of an event involving a hazardous contaminant on the contaminated land; or
 - a change in the condition of the contaminated land; or
 - a notifiable activity having been carried out, or being carried out, on the contaminated land;that is causing, or is reasonably likely to cause, serious or material environmental harm.

For more information on the duty to notify requirements refer to the guideline 'Duty to notify of environmental harm' (ESR/2016/2271) – available at www.qld.gov.au.

Some relevant offences under the *Environmental Protection Act 1994***Causing serious or material environmental harm (sections 437 and 438)**

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.

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 water contaminants include a wide variety of contaminants listed in schedule 10 of the Environmental Protection Regulation 2019.

It is your responsibility to ensure that prescribed water 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.

Responsibilities under other legislation

An ERA 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:

- *Aboriginal Cultural Heritage Act 2003*
- *Chemical Usage (Agricultural and Veterinary) Control Act 1988*
- *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*
- *Planning Act 2016*
- *Soil Conservation Act 1986*
- Waste Reduction and Recycling Regulation 2011
- *Water Supply (Safety and Reliability) Act 2008*
- *Water Act 2000*
- *Work Health and Safety Act 2011*, Work Health and Safety Regulation 2011 and Work Health and Safety (Codes of Practice) Notice 2011
- *Vegetation Management Act 1999*

Additional obligations may be applicable including, but not limited to:

- Safe Work Australia Code of Practice on How to Safely Remove Asbestos 2011 or the Safe Work Australia Code of Practice on How to Manage and Control Asbestos in the Workplace 2011 or any subsequent versions
- Australian Dangerous Goods Code
- Australian and New Zealand Environment and Conservation Council (ANZECC) Polychlorinated Biphenyls Management Plan Revised Edition – April 2003.

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