

Information sheet

Environmental Protection Act 1994

Temporary authority

The purpose of this information sheet is to outline what is a temporary authority and the process for applying for a temporary authority under the Environmental Protection Act 1994. While there are various situations where a temporary authority may be applicable, this document includes examples of the most likely scenarios. It is intended to provide guidance and does not take the place of relevant legislation.

1 What is a temporary authority?

A temporary authority (TA) allows you to carry out an environmentally relevant activity (ERA) of a temporary nature in relation to an emergency situation without an environmental authority (EA). This can include a new ERA, or an increase in the intensity or scale of an existing ERA, otherwise known as an increase in ERA threshold. Unlike other approvals you are not required to be a registered suitable operator to hold a TA and there is no fee associated with applying for a TA. A temporary authority is not intended for activities that are ongoing or are not carried out on a temporary basis in an emergency (e.g. petroleum and gas, coal mining or mineral mining activities generally).

2 Can I apply for a temporary authority?

To apply for a TA there must be a relevant emergency situation. Emergency situation is defined within the legislation as:

- An emergency for which an authorised person may give an emergency direction or take an action under section 467 of the *Environmental Protection Act 1994*; or
- A biosecurity event for which a biosecurity emergency order is made under the *Biosecurity Act 2014*, section 113; or
- A disaster situation declared under the *Disaster Management Act 2003*, part 4; or
- The following under the *Fire and Emergency Services Act 1990*—
 - a situation in relation to which an authorised fire officer may take measures under section 53 of that Act; or
 - a state of fire emergency declared under section 87 of that Act; or
- An emergency situation declared to exist under the *Public Safety Preservation Act 1986*, section 5; or
- A public health emergency for which a public health emergency order is declared under the *Public Health Act 2005*; or
- A radiation source in relation to which an inspector may exercise a power under the *Radiation Safety Act 1999*, section 148; or
- A discharge, or likely discharge, of pollutant into coastal waters for which an authorised officer may exercise a power under the *Transport Operations (Marine Pollution) Act 1995*, section 95.

There is no flexibility in defining other events as an emergency situation, so if one of the above emergency situations is not applicable, you can not apply for a TA.

Once you have confirmed the emergency situation, you must then be able to demonstrate a connection between this and the need for the activity and also that the activity will be temporary. The maximum period of time a TA can be granted for is 4 months. Although, consecutive TAs can be applied for where there is a demonstrated ongoing need in relation to the relevant emergency event.



Examples of situations where a TA may and may not be considered appropriate are provided below.

Example 1 – Appropriate existing ERA

A severe flood event has triggered a disaster declaration under the *Disaster Management Act 2003*. Clean-up efforts have begun which has increased the volume of waste coming into the local landfill. The landfill is a licenced waste facility and holds an EA, although their annual threshold is insufficient to accommodate the increase. The upper limit of 10,000 t/yr is forecast to be reached within a few days. The holder of the EA applies for a TA to increase their intensity and threshold for 3 months, to accommodate up to a further 40,000t of waste. The additional waste to the facility is a direct result of the emergency situation and as such may be appropriate for consideration of a TA.

Example 2 – Appropriate new ERA

A severe flood event has triggered a disaster declaration under the *Disaster Management Act 2003*. Clean-up efforts have begun which has caused the local landfill to become inundated with waste. The landfill is a licenced waste facility located outside of the disaster zone and holds an EA, although their annual threshold is insufficient to accommodate the amount waste produced by the flood. The holder of the EA applies for a TA to conduct ERA 62 - Resource recovery and transfer facility operation. The TA is proposed to be in effect for 2 months, to allow for waste produced from the flood to be received and temporarily stored prior to being removed to a landfill or a longer term storage facility. The waste received at the facility is able to be demonstrated as a direct result of the emergency situation and as such may be appropriate for consideration of a TA.

Example 3 - Inappropriate

A severe flood event has triggered a disaster declaration under the *Disaster Management Act 2003*. This has caused water inventory issues on an authorised mine site, and leaving this unmanaged could cause unauthorised releases of contaminated water into the environment. The holder of the EA applies for a TA with a proposal to build new regulated dams to manage a higher capacity of water. This scenario is not appropriate for a TA due to the ongoing/long term nature of the proposal.

3 Applying for a temporary authority

3.1 Who do I apply to?

If you are applying for the TA to increase in the intensity or scale of your existing ERA, you should contact your existing administering authority in the first instance.

Most applications for TAs will be lodged with the Department of Environment and Science (DES). In any situation where you are unsure of the administering authority for the relevant ERA you should contact DES. It is recommended that, if time permits, you have a pre-lodgement meeting to understand what information you need to provide with your application. You can apply for pre-lodgement services [online](#) or by calling 1300 130 372 (select option 4).

If the TA relates to an agricultural activity (ERAs 2, 3 or 4) you will need to apply for a TA with the Department of Agriculture and Fisheries (DAF). DAF can be contacted regarding pre-lodgement services by calling 13 25 23 or by email at livestockregulator@daf.qld.gov.au. See ERAs delegated to DAF (ESR/2015/1671¹) for more information.

If the TA relates to a prescribed ERA devolved to local government (ERAs 6, 12, 19, 38(1)(a) or 38) you will need to apply for a TA with the relevant local government. You can find contact details for your local government here [Search the local government directory | DSDILGP](#). For more information about devolved ERAs, see ERAs devolved to local government (ESR/2015/1662¹).

¹ This is the publication number, which can be used as a search term to find the latest version of the publication at www.des.qld.gov.au

3.2 How to apply?

To apply for a TA where DES or DAF are your administering authority you should fill out the temporary authority application form (ESR/2023/6428¹) and submit the completed form to the administering authority using the details included at the end of the form. There are no legislated timeframes associated with these application types but given the nature of when these will be required, they will be prioritised for assessment.

If local government is your administering authority, you should contact them to determine how to apply. You can find their contact details here: [Search the local government directory | DSDILGP](#).

3.3 What to prepare?

In addition to identifying the ERA and the emergency situation, demonstrating the connection between these, and identifying the temporary nature of the activity, you will need to prepare some information around the potential environmental risks associated with carrying out the activity. This consideration may not be as comprehensive as the assessment that you would complete in support of an application for an EA. However, consideration of the potential impacts and management measures to mitigate these are relevant including whether impacts will continue past the temporary period of the TA. This information may be used to include conditions on any TA approval issued. For further information on considering environmental impacts refer to the [Technical information requirements for an environmental authority application | Business Queensland](#).

4 Other approvals

The TA process under the EP Act does not negate the requirement to obtain other relevant local, State or Commonwealth approvals, including approvals under the *Planning Act 2016* (Planning Act). Please note, if you are proposing the relevant ERA to be carried out on a tenure, it is the responsibility of the applicant to ensure the relevant tenure permits the relevant ERA.

Some ERAs may require a development approval (DA) for a material change of use. The ERAs that require assessment by the state are identified with a capital 'C' in the final column of the information sheet Summary of fees for ERAs (ESR/2015/1746¹). DAs by other agencies can be required if the proposal is triggered by the relevant local planning scheme, or other parts of Schedule 10 of the Planning Regulation 2017.

The Planning Act provides for operators to apply for a temporary use license, including where the proposal increases the intensity or scale of the existing lawful use or proposes a material change of use.

Contact the Department of State Development, Infrastructure, Local Government and Planning to obtain advice about if you may apply for a temporary use license or if a development approval is required. Information is available at www.statedevelopment.qld.gov.au or alternatively email TUL@dasilgp.qld.gov.au.

Disclaimer

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