

Guideline

Environmental Protection Act 1994

Criteria for environmental impact statements for resource projects under the *Environmental Protection Act 1994*

This guideline outlines criteria to be considered by the chief executive when deciding whether a resource project would be assessed by the environmental impact statement (EIS) process under chapter 3 of the Environmental Protection Act 1994 (EP Act).

1 Introduction

The Department of Environment and Science (the department) is responsible for the administration and regulation of resource activities under the EP Act. Resource activities include mining, petroleum (including coal seam gas), geothermal and greenhouse gas storage activities.

Resource activities may only be carried out by a person holding, or operating under, an environmental authority (EA) issued under the EP Act and a resource tenement granted under relevant resource legislation, e.g. the *Mineral Resources Act 1989* or the *Petroleum and Gas (Production and Safety) Act 2004*.

The tenements provide the right to access the land and to undertake exploration, resource assessment, feasibility studies, prospecting or production. No resource tenement may be granted without prior EA approval for the relevant resource activity.

Resource activities that are proposed to be carried out under one or more resource tenures, in any combination, as a single integrated operation are known as resource projects.

A high-impact resource project may be required to be assessed through an EIS process under chapter 3, part 1 of the EP Act.

This guideline sets out the [EIS criteria](#) for resource project applications under the EP Act.

2 When resource projects require assessment by EIS

An EIS is a written document for a project that is undergoing assessment by EIS pursuant to the EP Act. The purpose of an EIS and the EIS process is to:

- assess the potential adverse and beneficial environmental, economic and social impacts of the project
- assess management, monitoring, planning and other measures proposed to minimise any adverse environmental impacts of the project
- consider feasible alternative ways to carry out the project
- provide information to the public about the project
- help the administering authority decide an environmental authority (EA) application for which the EIS is required
- give information to other Commonwealth and state authorities to help them make informed decisions
- allow the Queensland Government to meet its obligations for a single environmental assessment process under a bilateral agreement with the Australian Government.

Criteria for environmental impact statements for resource projects under the *Environmental Protection Act 1994*

A high-impact resource project may be required to be assessed through an EIS process under the EP Act. There are several ways that an EIS process under the EP Act may be applied to the assessment of a proposed resource activity:

- Applications for EA:
 - **A site-specific application** for an EA for a resource activity under the EP Act is made and the department decides that assessment will be by the EIS process. This includes site-specific EA amendment applications for existing resource activities. Only site-specific EA applications can trigger the EIS process; standard or variation applications do not.
 - **An amendment application** for an existing EA for a resource activity under the EP Act is made and the department decides that the proposed amendment is a major amendment.
- Prior to applying for an EA application:
 - **EIS decision on whether an EIS would be required for an EA:** The proponent applies for a decision on whether an EIS would be required under the EP Act for an EA application for a resource project (prior to applying for an EA application). If the chief executive decides an EIS would **not be** required for an EA application, a proponent may also apply to prepare an EIS for the process.
 - **Voluntary EIS application:** The proponent submits an application to voluntarily prepare an EIS and the department decides that an EIS is appropriate for the proposed project.

These matters are explained further below.

2.1 Applications for EAs

Only site-specific applications for new resource activities ('greenfield' sites) or major amendments of existing EAs ('brownfield' sites) require a decision to be made whether an EIS is required under the EP Act. A site-specific EA application can trigger EIS provisions under section 143 of the EP Act.

Large-scale impacts associated with resource project commonly require site-specific applications that may trigger assessment by EIS. The scale and risk (i.e. relative magnitude) of an impact as determined by its intensity, duration, irreversibility and the risk of environmental harm, as well as the scope and extent of social and economic impacts are considered.

An EIS cannot be required under the EP Act if the application relates to a coordinated project under the *State Development and Public Works Organisation Act 1971* or if an EIS under the EP Act has already been submitted.

Sections 143 and 228 of the EP Act describe the circumstances under which a resource activity must or may be assessed by EIS. The department must also consider the standard criteria ([Appendix A](#)) when deciding whether an EIS is required for an application.

2.2 EIS decision on whether an EIS would be required for an EA (prior to submitting EA application)

Chapter 3, Part 3 of the EP Act allow proponents to apply for a decision on whether an EIS would be required under the EP Act for an EA application for a resource activities before submitting an EA application. This mechanism informs proponents whether an EIS would be required for their resource project, without submitting upfront the substantial information required in an EA application and proposed PRC Plan. For projects undergoing assessment by EIS, these matters are addressed in detail in the EIS document.

If the chief executive decides under s 73A(1)(a) that an EIS would not be required for an EA application, a proponent may apply to prepare an EIS voluntarily under s 73A(1)(a). However, the proponent must be able to demonstrate that they have access to the project area to enable them to carry out the necessary studies for the EIS. Proponents may decide to use this option for more complex projects or if the project requires approval by EIS under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In this instance an EIS under EP Act would allow both State and Commonwealth matters to be assessed together,

Criteria for environmental impact statements for resource projects under the *Environmental Protection Act 1994*

A decision to require an EIS under s 73A(1)(a) or an approval to prepare an EIS under s73A(1)(b) allow a proponent to commence an EIS assessment process for a project without having to submit an EA application.

The [EIS criteria](#) for resource projects discussed in this guideline, will be considered by the department when deciding application for an EIS under s 73A(1)(a) and if relevant, an approval to prepare an EIS under s73A(1)(b) applications for the voluntary preparation of an EIS.

2.3 Voluntary EIS applications

Chapter 3, Part 2 of the EP Act (sections 69 to 72 of the EP Act) allow a proponent to apply to the department for approval to voluntarily prepare an EIS. The department is required to decide whether to accept or reject an application to prepare a voluntary EIS.

An application for a voluntary EIS allows a proponent to commence an EIS process for a project without having to submit an EA application. However, the proponent must be able to demonstrate that they have access to the project area to enable them to carry out the necessary studies for the EIS.

These [EIS criteria](#) for resource projects described in this guideline, will be used by the department when deciding applications for the voluntary preparation of an EIS.

3 EIS criteria for resource projects

In making the decision if an EIS is required, the department will take into account:

- the standard criteria ([Appendix A](#))
- EIS triggers ([Appendix B](#))
- the relative magnitude (scale and risk) of impacts (e.g. impacts on matters of state environmental significance, water quality and resources, environmentally sensitive areas (Category A, B and/or C), air, noise)
- the public interest
- uncertainty about possible impacts
- any significant issues with another Queensland Government/ Australian Government authority (e.g. matters of national environmental significance under the *Environment Protection and Biodiversity Conservation Act 1999*, agriculture, fisheries, transport)
- social and economic impacts
- [cumulative impacts](#).

In deciding whether a resource project requires assessment by EIS, the department will carry out its functions and responsibilities in accordance with the EP Act. This includes the use of its powers to require an EIS for a resource project if consideration of the abovementioned EIS criteria show an EIS should be required, irrespective of EIS trigger outlined in [Appendix B](#) of this guideline.

Similarly, if no EIS triggers are met, this does not provide an exemption from having to prepare an EIS if the department considers other matters listed above are relevant, e.g. that there may be a significant environmental impact, or there is a high level of uncertainty about the possible impacts, or unacceptable [cumulative impacts](#), or there is a high level of public interest in the proposal.

Any application for a resource project that appears to be seeking to avoid an EIS through a staged development would be closely examined and, consistent with the standard criteria ([Appendix A](#)), an EIS may be required for the entire project, even though none of the individual stages would trigger an EIS by themselves.

3.1 Cumulative impacts

A decision may be made that an EIS is required for an application if the project is likely to contribute substantially to cumulative impacts, even when a project does not meet the EIS triggers ([Appendix B](#)) alone. Unacceptable cumulative impacts may occur when the environmental impacts of a project are added to

Criteria for environmental impact statements for resource projects under the *Environmental Protection Act 1994*

existing environmental impacts contributed by other activities over space and time, e.g. impacts to the local airshed, a regional water catchment, or the environmental values of aquifers.

To determine the spatial and chronological extent of potential cumulative impacts, the department may take into account existing information including but not limited to:

- state and regional planning
- strategic assessments (e.g. *Environment Protection and Biodiversity Conservation Act 1999*)
- bioregional assessments
- regional air/water/noise plans, monitoring and modelling
- social and economic impacts
- matters of national and state environmental significance or other environmental values.

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 should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Criteria for environmental impact statements for resource projects under the *Environmental Protection Act 1994*

Appendix A—Standard criteria

Schedule 4, EP Act, current as at 11 April 2019

standard criteria means—

- (a) the following principles of environmental policy as set out in the Intergovernmental Agreement on the Environment—
 - i. the precautionary principle;
 - ii. intergenerational equity;
 - iii. conservation of biological diversity and ecological integrity; and
- (b) any Commonwealth or State government plans, standards, agreements or requirements about environmental protection or ecologically sustainable development; and
- (d) any relevant environmental impact study, assessment or report; and
- (e) the character, resilience and values of the receiving environment; and
- (f) all submissions made by the applicant and submitters; and
- (g) the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows—
 - i. an environmental authority;
 - ii. a transitional environmental program;
 - iii. an environmental protection order;
 - iv. a disposal permit;
 - v. a development approval; and
- (h) the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and
- (i) the public interest; and
- (j) any relevant site management plan; and
- (k) any relevant integrated environmental management system or proposed integrated environmental management system; and
- (l) any other matter prescribed under a regulation.

Criteria for environmental impact statements for resource projects under the *Environmental Protection Act 1994*

Appendix B—EIS triggers

The following triggers are considered as part of the EIS criteria ([Section 3](#)) used by the department to decide if an EIS is required. If one of the triggers are met an EIS will be required. If any of the triggers are not met, **this does not provide an exemption** from having to prepare an EIS if the department decides that an EIS is required after taking into consideration the standard criteria ([Appendix A](#)) and other matters/criteria listed in [Section 3](#). For example an EIS may be required if the department considers that the project may have a significant environmental impact, or there is a high level of uncertainty about the possible impacts, or there is a high level of public interest in the proposal.

EIS triggers
For greenfield (new) mine proposals
1. Would the application involve the removal of two million tonnes per year or more of run-of-mine (ROM) ¹ ore or coal?
2. Would the application involve the removal of one million tonnes per year or more of ROM ore or coal on or under a floodplain ² or in a coastal hazard area ³ ?
3. Would the application involve the introduction of a novel or unproven resource extraction process, technology or activity ⁴ ?
For proposals to amend/alter an existing mine
4. For mines already removing 2–10 million tonnes per year ROM ore or coal, would the application increase the current annual removal rate by more than 100% or 5 million tonnes per year (whichever is the lesser)?
5. For mines already removing over 10 million tonnes per year ROM ore or coal, would the application increase the current annual removal rate by more than 50% or 10 million tonnes per year (whichever is the lesser)?
6. For mines already removing more than 20 million tonnes per year ROM ore or coal, would the application increase the current annual removal rate by more than 25%?
7. Would the application involve an extension into and significant impact on a Category A or B environmentally sensitive area, which is not already authorised by the State?
8. Would the application involve a substantial change in mining operations—such as from underground to open cut, or (for underground mining) a change in operations from one causing little subsidence to one likely to cause substantial subsidence?
9. Would the application introduce a novel or unproven resource removal process, technology or activity?

¹ ROM ore or coal means the material excavated but prior to washing or chemical concentration. It does not include overburden.

² The *Water Act 2000* defines a floodplain as an area of reasonably flat land adjacent to a watercourse that— (a) is covered from time to time by floodwater overflowing from the watercourse; and (b) does not, other than in an upper valley reach, confine floodwater to generally follow the path of the watercourse; and (c) has finer sediment deposits than the sediment deposits of any bench, bar or in-stream island in the watercourse. See also the Queensland Floodplain Assessment Overlay at the *Wetland Info* section of the department's website at <https://wetlandinfo.des.qld.gov.au/wetlands/>.

³ A coastal hazard area is an area vulnerable to coastal hazards, referred to as coastal erosion or storm tide inundation (as per the departmental coastal hazard area mapping). Maps of these areas are accessible at http://www.des.qld.gov.au/coastal/management/coastal_plan_maps.php and <http://dds.information.qld.gov.au/dds/>.

⁴ For example: underground coal gasification; in-seam coal slurrying; a new method of ore concentration; but this will be decided on a case-by-case basis and this trigger is not intended to discourage innovation.

**Criteria for environmental impact statements for resource projects under the
*Environmental Protection Act 1994***

For petroleum and gas activities
10. Would the application involve a total disturbance area of greater than 2000 hectares at any one time during the life of the proposed project? This includes areas occupied by well pads (single or multi-directional), access tracks and roads, water storages, and process plants?
11. Would the application involve the construction of a high pressure pipeline over a distance of 300 kilometre or greater?
12. Would the application involve the construction of a liquefied natural gas plant?