



Guideline

End of Waste

Waste Reduction and Recycling Act 2011



Version history

Version	Date	Description of changes
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1.01	01 June 2018	Document rebranded to align with machinery of government changes.
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1 Background

The *Waste Reduction and Recycling Act 2011* (the WRR Act) promotes the implementation of the waste and resource management hierarchy in accordance with section 9 of the WRR Act. The hierarchy is a nationally and internationally accepted guide for prioritising waste and resource management practices and is as follows:

- a) AVOID unnecessary resource consumption
- b) REDUCE waste generation and disposal
- c) RE-USE waste resources without further manufacturing
- d) RECYCLE waste resources to make the same or different products
- e) RECOVER waste resources, including the recovery of energy
- f) TREAT waste before disposal, including reducing the hazardous nature of waste; and
- g) DISPOSE of waste only if there is no viable alternative.

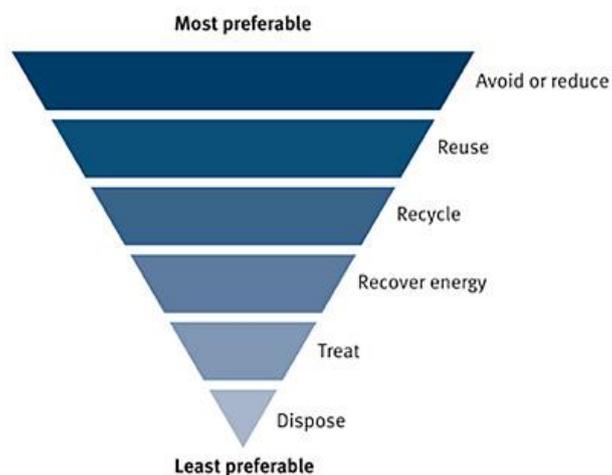


Figure 1 - Waste and resource management hierarchy

Waste is defined in section 13 of the *Environmental Protection Act 1994* (the EP Act) as any thing, other than an end of waste resource, that is: (a) left over, or an unwanted by-product, from an industrial, commercial, domestic or other activity; or (b) surplus to the industrial, commercial, domestic or other activity generating the waste. Furthermore, waste can be a gas, liquid, solid or energy, or a combination of any of them. A thing can be a waste whether or not it is of value.

A waste can be approved as a resource if the Department of Environment and Science (the department) considers that it meets specified quality criteria for specified use prior to it going to the end user. If a waste is approved as an end of waste resource under the WRR Act, it is no longer considered a waste for the purposes of the EP Act as described in section 13 unless the resource ceases to be used in accordance with the requirements of the end of waste (EOW) approval or a code.

2 End of Waste framework

The EOW framework recognises the value of waste by providing a process for the development of new markets for recovered waste materials in Queensland. It provides certainty about when, and under what circumstances, a waste ceases to be waste and is considered a resource under Chapter 8 of the WRR Act.

The EOW framework replaced the beneficial use approval framework on **8 November 2016** as a result of changes approved under the *Environmental Protection and Other Legislation Amendment Act 2014*. The amendments assist in increasing business opportunities for waste generators, waste processors and businesses receiving recovered material. The EOW framework under the WRR Act was further amended in September 2017 to provide for regulation of the resources end use under the framework.

2.1 Beneficial Use Approvals – Transitional provisions

Under the transitional provisions in the legislation, the former specific beneficial use approvals (BUA) are now considered EOW approvals. The wastes already approved as a resource under a former specific BUA can continue to be used as a resource for the uses specified under those approvals, until the expiry of the BUA.

All general BUAs under the previous legislation expired by April 2019. This means the transitional provision, which applied for up to one year after the expiry of the general BUA, does not apply anymore. Operators who notified they were operating under a previous general BUA are now considered a registered resource producer under the relevant EOW code.

2.2 EOW codes and approvals

Under the EOW framework, a waste can be deemed a resource under an EOW code or an EOW approval. An EOW code applies to each person who is registered for the code (registered resource producer). An EOW code may also require persons using the resource under the code to notify the department.

An EOW approval is issued to a single person (the approval holder), for a limited period only, in order to conduct a trial that demonstrates whether or not the waste can be used as a resource and is suitable for an EOW code.

A waste must meet the requirements specified in an EOW code or approval to be considered a resource. If it does not meet these requirements it remains a waste. A resource will become a waste again if:

- is disposed of at a waste disposal site; or
- is deposited at a place or in a way that contravenes general littering or illegal waste dumping provisions (see section 13 of the EP Act); or
- stops complying with the requirements of the EOW code or approval (see section 155 of the WRR Act).



Figure 2 – Status of materials under the end of waste (EOW) framework

2.3 Interaction with other legislation

Environmental Protection Act 1994 and subordinate legislation

An EOW code or approval specifies the requirements for a waste to become a resource. If a waste does not meet the requirements of an EOW code or approval, it will remain a waste and will continue to be regulated as a waste (e.g. the waste may require regulated waste transport and waste tracking).

If the waste meets the requirements of an EOW code or approval, it is deemed a resource for the purpose approved in the EOW code or approval. However, any recycling or reprocessing of the waste prior to it being

deemed a resource will require approvals relevant to the recycling or reprocessing activity. This includes, but is not limited to, environmental authorities for conducting environmentally relevant activities under the EP Act.

In addition to the above, any person supplying a resource under an EOW code or approval is required to take all reasonable and practicable measures to prevent or minimise environmental harm being caused under the EP Act (see section 319, the 'general environmental duty'). Environmental harm is any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

Other legislation

Use of a resource under an EOW approval or code does not warrant or imply the lawfulness of the activity under all legislation. It is the responsibility of a person to identify and obtain all other approvals necessary for their proposed activity.

3 EOW codes

An EOW code can be made for a particular waste that can be used safely as a resource for one or more specific purpose. An EOW code can apply to registered resource producers and users of the resource.

A person may supply, or use, a waste as a resource under an EOW code provided they have registered with and/or notified the department (i.e. become a registered resource producer and/or resource user) and comply with the requirements of the EOW code. The registered resource producer must ensure that the resource supplied under an EOW code adheres to the quality standard and other requirements stated in the code.

Where necessary, an EOW code may also stipulate certain conditions to be met by users of the resource. A resource user must ensure that the resource is used only for a purpose allowed under the code and in accordance with any user conditions stated in the code. If no user conditions are stated in a code, the resource user is still obliged to observe their general environmental duty to take all reasonable and practicable measures to prevent and/or to minimise the likelihood of causing environmental harm (see section 319 of the EP Act).

3.1 Development of EOW codes

The department may identify particular EOW codes to be developed in several ways:

- by inviting the public at least once each year to suggest or nominate wastes for which an EOW code should be prepared. The invitation will be in the form of a notice published on the [department's website](#) and will include details on how to make a submission. The department will consider all submissions received prior to deciding whether or not to develop a particular EOW code;
- at the end of an EOW approval period, which has successfully demonstrated that a waste can be safely used as a resource with negligible environmental risks; or
- on the department's own initiative, for example, to replace a specific BUA that is expiring.

After deciding which codes will be developed, the department must publish on its website, a schedule of draft EOW codes that will be developed. The schedule will include details around the waste and proposed use of the waste as a resource, tentative timeframes for developing the draft EOW code, and whether a technical advisory panel will be established to prepare the draft EOW code. The published schedule will also allow persons to register their interest in being consulted when the draft EOW code is prepared.

The department may prepare a draft EOW code itself or establish a technical advisory panel to prepare the draft code. Several matters may be considered by the department or the technical panel when preparing a code, such as:

- the objects of the WRR Act;
- the proposed use of a resource under the code;
- whether the proposed use is likely to result in serious or material environmental harm, or environmental nuisance;
- the waste and resource management hierarchy; and
- any other matter that may be relevant and appropriate.

Once a draft EOW code has been prepared, it will be published on the [department's website](#) for at least 28 days, and the public will have the opportunity to provide comment on the proposed EOW code. The department must consider all submissions before deciding whether or not to finalise the EOW code. In order to finalise or make the EOW code, it must be published in the Queensland Government Gazette.

Once an EOW code is made, it will be published on the [department's website](#). The department may amend, cancel or suspend an EOW code at any time. Any registered resource producers for an EOW code and resource users who have notified to operate under an EOW code that is proposed to be amended, cancelled or suspended will be made aware of any proposed action and will be given the opportunity to make written submissions on the proposed action. Details of the proposed action will also be published on the [department's website](#).

3.2 Registered resource producers and resource users

Any person who generates or possesses a waste, can become a registered resource producer if they wish to use, sell or give away the waste as a resource under an EOW code. A person who uses a resource in compliance with an EOW code is a resource user. A registered resource producer who also uses a resource in accordance with an EOW code user conditions must submit a completed user notification form separately where required. The department maintains a register of resource producers for each EOW code. Where an EOW code requires resources users to notify the department of the use of the resource, the department will also maintain a register of resource users under the EOW code.

How do I become a registered resource producer?

A person must register as a resource producer to operate under an EOW code. To register as a resource producer the [Registered resource producer for an end of waste code \(ESR/2018/4082\)](#) notice of registration form is to be completed and provided to the department. This form must be submitted prior to commencing the supply or use of the resource.

When completing the form, the following information must be provided to the department:

- a) Details of the end of waste code relating to the registration;
- b) Details of the activity and site that will generate the resource;
- c) A description of the proposed use of the resource; and
- d) A signed statement stating that the person is aware of, and agrees to comply with the requirements of the code.

Where a person wishes to use, sell or give away a resource under multiple EOW codes, a separate registered resource producer form is to be provided for each EOW code under which they wish to supply, and a separate user notification form is to be provided, for resource use, where required by the EOW code.

What happens if I comply with the EOW code but am not a registered resource producer?

The material is taken to be a waste and must be managed in accordance with all relevant waste management provisions until the person becomes a registered resource producer. If you supply a waste without following the relevant waste management provisions under legislation, you may be committing an offence.

How do I become a resource user?

Some EOW codes include a condition that requires resource users to notify the department of the use of the resource. For such EOW codes, to notify as a resource user the [Resource user for an end of waste code \(ESR/2018/4552\)](#) notification form must be completed and provided to the department. This form must be submitted prior to commencing use of the resource.

When completing the form, the following information must be provided to the department:

- a) Details of the end of waste code relating to the notification;
- b) Details of the site the resource will be used;
- c) A description of the proposed use of the resource; and
- d) A signed statement stating that the person is aware of and agrees to comply with the conditions of the code.

What happens if I use a resource under an EOW code, but I have not notified the department if the EOW code requires notification?

The material is taken to be a waste and must be managed in accordance with all relevant waste management provisions until the person notifies the department as a resource user. If you handle the waste without following the relevant waste management provisions under legislation, you may be committing an offence.

What happens if I am a registered resource producer or have notified the department as a resource user, but fail to comply with the requirements and/or conditions of the EOW code?

You will be committing an offence and a penalty of up to 1665¹ penalty units can apply. A registered resource producer must not use, sell or give away a resource and a resource user (or anyone else) must not use the resource unless they comply with the requirements and/or conditions of the EOW code relating to that resource.

The department may also cancel or suspend a person's registration if it believes the person has failed to comply with a requirement of an EOW code.

What if I no longer want to supply a resource under an EOW code?

A registered resource producer can de-register for a code by informing the department using the [Registered resource producer for an end of waste code \(ESR/2018/4082\)](#) notice of registration form.

Will I be notified of any changes to an EOW code?

Registered resource producers who have registered with the department under an EOW code and resource users who have notified the department of resource use under an EOW code will be notified and provided an opportunity to comment on any proposed amendment, cancellation or suspension of the EOW code under which they are operating.

3.3 Amending an EOW code

The department may at any time, on its own initiative, amend an EOW code. Where it is proposed to amend an EOW code, the department will provide details of the proposed amendment to the registered resource producers who have registered with the department under that particular EOW code and resource users who have notified the department for that particular EOW code and will provide an opportunity for submissions to be made about the proposed amendment. A notice of the proposed action will also be published on the [department's website](#).

¹ The value of a penalty unit is prescribed in the Penalties and Sentences Regulation 2015

There is no legislative provision to apply for an amendment of an EOW code. However, if a registered resource producer or user is seeking a consideration to amend an existing EOW code, they may do so by sending request to the department via email (provided at the end of this guideline). The email request seeking amendment of an EOW code must be accompanied by details of the amendment sought and relevant information as outlined in section 3.1 of this guideline.

3.4 Fees

There are currently no fees to become a registered resource producer to operate under an EOW code or to use the resource under an EOW code.

Key Points – EOW codes

- It is at the department's discretion what EOW codes are to be developed. The department will invite the public to make submissions about whether there is any particular waste for which an EOW code should be prepared.
- A person must register with the department to become a registered resource producer prior to selling or giving away a resource under a code.
- Where required by the code, a person must also notify the department if they intend to be a resource user prior to using the resource under a code.
- It is an offence for a registered resource producer and a resource user not to comply with the requirements and/or conditions of an EOW code.
- Any request to amend an EOW code should be made in consultation with an industry representative organisation where appropriate and be supported by affected parties.

4 EOW approvals

An EOW approval is issued to a single person (the approval holder) to conduct a trial that demonstrates whether the waste can be used as a resource and is suitable for an EOW code.

The approval will be issued for the length of time required to undertake the trial, with only one extension available if required. Based on the findings of the trial, the department will decide on whether or not the resource is appropriate to be approved under an EOW code. Where the trial has been successful, and the development of an EOW code is deemed appropriate by the department, provisions may be included in an EOW approval to allow for the continued supply or use of a resource until a code is developed.

The conditions imposed on an EOW approval will relate to the holder of the approval of the resource. The holder of an EOW approval or another person acting under an EOW approval must comply with the conditions of the EOW approval. If the holder of an EOW approval becomes a registered resource producer for an EOW code for the same waste, the EOW approval lapses.

In order to streamline an application to grant or amend an EOW approval, and to ensure specialist expertise is sought to support the process, the application must be accompanied by a written report prepared by a suitably qualified person (SQP). Review by a SQP also ensures that applications are complete and technically sound before they are received by the department.

Key Points – EOW approvals

- A person may apply for an EOW approval for trialling the use of a waste as a resource.
- An application may only be for one type of waste. Multiple waste types cannot be listed on a single EOW approval.
- Any application for an EOW approval or amendment to an EOW approval must be accompanied by a SQP's report.
- It is an offence for the holder of an EOW approval not to comply with the requirements of the approval.
- The department may consider whether an EOW code should be developed for a particular waste following the conclusion of a trial under an EOW approval.
- The department may at any time require the holder of an EOW approval to provide certain information regarding the approval.

4.1 Suitably qualified persons

An application for an EOW approval or to amend an EOW approval must be assessed by a SQP before the application is submitted to the department. The SQP must prepare a written report which must accompany the application.

Under the WRR Act, a SQP is a person who has relevant professional qualifications and experience which is appropriate for preparing the report. They should be able to undertake an authoritative assessment, and provide advice and analysis in relation to the subject matter using any relevant protocols, standards, methods or literature. It is the responsibility of the person to demonstrate that they have the qualifications and experience appropriate to the waste or resource being considered.

Because an EOW approval application can relate to a wide range of wastes, it is not possible to specify detailed criteria for a SQP. The suitability of a SQP will therefore be determined on a case-by-case basis. Refer to section 4.1.1 (g) of this guideline which refers to a written self-assessment for each SQP where more than one SQP is involved.

4.1.1 Written report

The written report prepared by a SQP is intended to streamline the assessment process by ensuring that applications are complete and technically sound before they are received by the department.

The written report must be submitted in the approved form using the [Suitably qualified person written report form \(ESR/2016/3290\)](#).

A written report prepared by a SQP must include the following information:

- a) *For a new EOW approval – a summary of the application*
For an amendment of an EOW approval – a summary of the amendment sought
- b) *An assessment of the technical validity, relevance, and accuracy of the information provided in the application—*

The purpose of this assessment is to determine if the supporting information on which the application is based is complete and technically sound and from reliable and credible sources. A SQP should consider whether the application is based on appropriate information prior to being lodged.

c) An assessment of the technical feasibility and benefits of the proposed use of the resource—

In undertaking this assessment, the SQP should consider whether the underlying concept for the use of the resource is realistic, whether there are environmental benefits associated to its use. The use of the resource should support the waste and resource management hierarchy and promote the most preferred management options where available. A resource should be comparable to any virgin material for which it would substitute. A resource should not be disposed through dilution methods (i.e. where the volume/rate of use of the resource is determined by a maximum contaminant concentration).

d) An assessment of the risks associated with the proposed use of the resource and the adequacy of mitigation and protection measures—

In assessing an application, the department will consider matters such as: whether the use of a particular resource is likely to cause any serious or material environmental harm; the waste and resource management hierarchy; and the objects of the WRR Act. Where there is a high likelihood that environmental harm will occur, or where there are significant environmental consequences should a resource be mismanaged, the application will likely be refused.

e) Conclusions and recommendations

Conclusions and recommendations should be made considering the findings of the above assessments. The SQP may also address whether they consider that the resource can be used sustainably and whether it would be appropriate to develop an EOW code for the resource following the trial.

f) A statutory declaration as an attachment, providing:

- (i) confirmation that the information presented in the end of waste approval application or amendment application is, to the best knowledge of the person, accurate; and*
- (ii) the contact details of the SQP.*

g) A signed copy of the SQP's written self-assessment which demonstrates that they have the necessary qualifications and experience relevant to the application—

Where more than one SQP is involved, a signed copy of the written self-assessment should be provided for each person.

4.2 Making an application

An application for an EOW approval may be made where:

- the use of the resource has been conceptually proven;
- there is a potential market for the use of the resource;
- the use of the resource supports the preferred waste management options in the waste and resource management hierarchy;
- the use of the resource will not produce excessive waste; and
- the use of the resource will not likely result in serious or material environmental harm and/or environmental nuisance.

Applications must be submitted in writing, either electronically or in hard copy, using the forms and report formats mentioned in section 4.8 of this guideline.

4.2.1 Information to be provided

An application for an EOW approval must include relevant information that will enable the department to effectively assess the application. This information must be reviewed by a SQP who must prepare a written report to be provided with the application.

The information below only provides general guidance and further, more specific information may be required depending on the proposed resource and use. Applicants are encouraged to participate in a pre-lodgement meeting with the department to identify any specific information that may be required.

Information to be provided should conceptually show that the resource can be used for the specified purpose and outline a plan for a trial to demonstrate proof of that concept. This information should address, as a minimum:

a) The aim of the trial – what does the trial propose to achieve?

b) The properties and characteristics of the waste subject to the trial.

For example, its physical, chemical and/or biological state and its components and their concentrations. An analysis of the resource and interpretation of any analysis should be provided with this information, identifying any characteristics which have the potential to cause environmental harm. Samples analysed should be representative of the resource to be used and be undertaken by a NATA (National Association of Testing Authorities) accredited facility. Details of any of its environmentally significant characteristics, for example, whether it is explosive, flammable, oxidising, poisonous, infectious, corrosive or toxic (see Schedule A, List 2 of the National Environmental Protection (Movement of Controlled Waste Between States and Territories) Measure as varied December 2004) should also be included.

c) Details of its origin, including, for example, its place of production and the type of activity resulting in its production.

d) Details of its proposed use and the resulting benefits.

e) An estimate of the quantity (e.g. total volume, rate of application/use, etc) of the waste proposed to be used during the trial.

f) Details of any relevant waste minimisation scheme or waste management plan.

g) Any relevant standards, guidelines, certifications and/or industry codes and details on how the proposed trial meets these standards.

h) An assessment of the potential for material or serious environmental harm or environmental nuisance arising from its proposed use of the waste.

i) An assessment of its alternative uses having regard to the waste and resource management hierarchy.

For example, the resource should be used in accordance with the waste and resource management hierarchy detailed in section 9 of the WRR Act. Opportunities for reuse where waste resources are used without further manufacturing must be considered before opportunities where waste resources are recycled to make the same or different products. Further to this, opportunities for reuse and recycling must be considered before the recovery of waste resources, including the recovery of energy.

j) The proposed trial period.

For example, a step-by-step plan of what is to occur, where it is to occur, the time it will take to complete and identify potential setbacks in the trial that may cause it to be delayed or ceased prior to completion.

- k) Contingency and emergency plans for the trial – at what point will the trial be halted if it is not achieving results? How will you prevent the release of contaminants to the environment should the resource not perform as expected?

4.3 Deciding an application

4.3.1 Timeframes

The timeframe for assessing an application for an EOW approval will begin once the completed forms and fees are received by the department. Where necessary, the department may request additional information. Pre-lodgement meetings are encouraged to minimise the need for these requests.

The department has 40 business days after receiving the application, or if additional information is requested, 40 business days after receiving the additional information, to consider and decide an application. Under circumstances where the assessment process is complex, the assessment period may be extended on one occasion by an additional 20 business days.

In circumstances where additional information is requested, the information must be provided within the period stated (the stated period) in the notice. The application is taken to have lapsed and considered to have been refused if the information is not provided within the stated period. However, the stated period may be extended by agreement between the department and the applicant before the end of the period.

If the application is not decided within this timeframe, it is taken that the application has been refused. If an application is refused, an information notice will be given to the applicant, and they will be provided with an opportunity to seek a review of the decision.

If the application is granted, the applicant will be given a notice of the granted EOW approval. The approval will include details such as who is the holder, the period of the approval and any conditions that have been imposed.

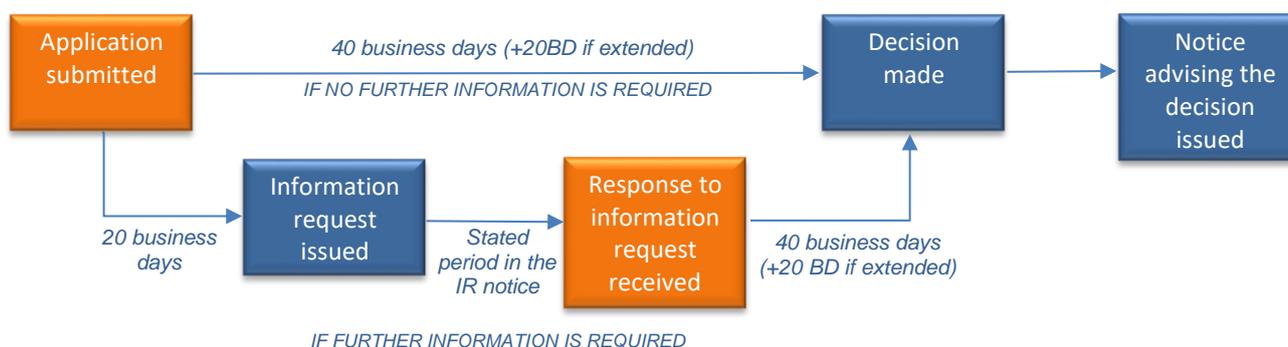


Figure 3 – Process for deciding an EOW approval

4.3.2 Matters considered when deciding an application

In assessing an application, the department will consider the matters listed in sections 173J and 173V of the *WRR Act*. The department will place a greater focus on determining whether the waste is suitable to be moved onto the next phase of proof of concept under trial conditions.

In doing so, the following considerations will be made:

- a) The objects of the WRR Act and how they are to be achieved;
- b) The waste and resource management hierarchy;
- c) Whether the proposed management of a particular waste or the use of a particular resource is likely to cause any serious or material environmental harm or environmental nuisance; and
- d) Whether it is reasonable and practicable for an EOW code to be made for the particular waste or resource that is the subject of the application.

4.3.3 Conditions of approvals

An application will only be approved where it has been conceptually demonstrated that the resource may be used with a low risk of environmental harm occurring. The department may impose conditions on an approval holder to ensure that the trial will demonstrate a proof of concept.

These conditions may relate, but are not limited to, the following:

- a) The resource including:
 - (i) its properties and characteristics;
 - (ii) its compliance with relevant standards, guidelines, or regulations (including any Australian Standards, International Organisation for Standardisation (ISO) Standards, or other industry accepted standards);
 - (iii) its permissible uses; and
 - (iv) quality monitoring, control and assurance measures.
- b) The supply of the resource including supply documentation, such as safety data sheets, and instructions for use.
- c) The use of the resource.
- d) Record keeping and reporting.
- e) Provision of information on the trial results and any conclusions drawn about the waste's suitability to be approved as a resource under an EOW code (also refer to section 4.2.1 of this guideline)
- f) Conditions for transitioning from the EOW approval to an EOW code, where the trial has been successful and the development of a code is deemed appropriate.

Conditions that have been put on an EOW approval will apply to both the holder and the user of the resource under the approval. Non-compliance with EOW approval conditions is an offence and may result in fines, prosecution, or the approval being suspended or cancelled.

4.4 Amending an approval

The holder of an EOW approval may apply to amend the approval at any time. This includes former specific BUAs that are now considered EOW approvals. An application can be for a minor amendment or otherwise.

A minor amendment of an approval is one that corrects a minor or formal error in the approval, or makes a change that does not:

- relate to the characteristics of the resource, such as the physical, chemical or biological properties of the resource;
- relate to the use of the resource;
- significantly increase any environmental harm caused by the use of the resource;
- adversely affect the interests of the approval holder or another person.

Potential applicants are encouraged to arrange a pre-lodgement meeting with the department for advice on whether or not a particular amendment would be considered minor.

An application for an amendment (whether minor or otherwise) must:

- explain the amendment sought and the reasons for the amendment;
- include details of any changes resulting from the proposed amendment, to the information previously given to obtain the EOW approval; and
- include a SQP written report containing information required in section 4.1.1 of this guideline.

An application may be made to change any aspect of an approval. Sufficient information should be provided to demonstrate that the use of the resource still supports the waste and resource management hierarchy and to enable the department to reassess any new or changed risks associated with the proposed amendment.

The department may request further information if needed to decide the amendment application. The department must decide a minor amendment application within 10 business days, and must decide a non-minor application within 40 business days. In both cases, the decision period starts after receiving the valid application and relevant fees or receiving additional information, and may be extended by a further 20 business days if required.

The department may also initiate the amendment of an EOW approval by issuing the approval holder a notice, and providing them with an opportunity to make a submission about why the proposed action should not be taken.

4.5 Transferring an approval

A transfer application must contain the signed consent of the proposed transferee, details of the transferee, the reasons for transfer and a signed statement by the proposed transferee stating that the person is aware of, and agrees to comply with the requirements of the EOW approval.

See section 4.8 of this guideline for the relevant forms to be submitted. The department may request further information, if necessary, and must decide the application within 10 business days of either receiving the application or receiving any additional information. Both the applicant and the proposed transferee will be notified of the decision.

4.6 Extending an approval

The holder of an EOW approval can make one application to extend the period of the approval. An application to extend an EOW approval must be made at least two months before the approval expires.

The application must include the length of the extension being requested, and the reasons for the extension. Sufficient information must be provided to justify the request. For example, supporting information for an application to extend the timeframes for conducting a trial should include reasons for any delay, how these are proposed to be rectified and any new/amended milestone timeframes. The department may request additional information from the applicant and must decide the application within 10 business days of receiving either the application or any additional information requested.

4.7 Transitioning from an approval to a code

Following conclusion of the trial, an assessment of the findings should be conducted and the supporting post trial report endorsed by an SQP. This information may be used by the department before deciding whether or not to make an EOW code. A documented final assessment of the trial should include:

- a) a determination of whether the trial goals were achieved;

- b) details of any environmental harm caused by the trial;
- c) an assessment of the efficiency of the use of the resource (did the process trialled create waste? If so, what type of waste was created? How much waste was created in comparison to the resource consumed?);
- d) an examination of the applicability of the trialled process to sites beyond the trial site (e.g. sites with different environmental considerations);
- e) a conclusion on whether an EOW code should be established based on the results of the trial; and
- f) suggested limitations for any proposed code based on the trial.

Based on the success measures of the trial including the above information, the department will evaluate whether an EOW approval should be transitioned to an EOW code.

4.8 Forms

All applications relating to an EOW approval must include the Part A and Part B forms below. In addition, applications for a new EOW approval or an amendment to an existing EOW approval will require a report by a SQP to support the application:

- [Part A—General details for all applications—ESR/2015/1663](#)
- [Part B – End of waste approval – ESR/2016/3279](#)
- [Suitably qualified person written report – ESR/2016/3290](#)

Applicants are encouraged to participate in a pre-lodgement meeting with the department prior to making an application. This process assists in identifying whether an application for an EOW approval should be submitted, whether any issues relevant to a specific project exist, and to seek guidance on regulatory expectations. These meetings are free of charge and may assist in reducing assessment times.

To request a pre-lodgement meeting, applicants should complete and return the form [Application for pre-lodgement services—ESR/2015/1664](#).

4.9 Fees

An application for a new EOW approval must be accompanied by the prescribed fee in the *Waste Reduction and Recycling Regulation 2011* and have been categorised based on the proposed use of the resource. Fees also apply for transferring or amending an approval.

Applicants are encouraged to participate in a pre-lodgement meeting prior to making an application to determine if an approval is necessary as fees paid in making an application may not be refunded.

The above-mentioned fees relate only to making an application. All costs associated with gathering supporting information needed to make an application, including analytical costs, are to be met by the applicant.

4.10 Cancellation or suspension of an approval

Once an EOW approval is granted, the approval may be cancelled or suspended if:

- a) there is no longer a use, or likely to be a future use, for a particular resource under the approval; or
- b) the management of a particular waste or the use of the particular resource under the approval has caused, or is likely to cause, serious or material environmental harm or environmental nuisance (note that an approval or code is not an instrument that can lawfully permit environmental harm under section 493A of the *Environmental Protection Act 1994*); or

- c) the use of the particular waste or a resource covered by the approval is otherwise unlawful; or
- d) the approval was granted because of materially false or misleading representation or declaration; or
- e) the approval was granted on the basis of particular matters or information that has changed and the change is likely to result in material environmental harm, serious environmental harm or environmental nuisance; or
- f) a condition imposed on the approval has not been complied with; or
- g) a request for information about the approval under section 173ZF of the WRR Act has not been complied with; or
- h) it is necessary or desirable to do so having regard to the objects of the WRR Act.

The department may also cancel an EOW approval if:

- a) a code for the particular resource to which the approval relates comes into effect; and
- b) the department believes the holder of the approval may operate under an EOW code.

If the department proposes to cancel or suspend an EOW approval, the approval holder will be given a show cause notice about the proposed action before making a decision on the proposed action. This process provides the holder of the EOW approval the opportunity to make a written submission about why the proposed action should not be taken.

4.11 Surrendering an EOW approval

The holder of an EOW approval may surrender the approval by giving the department a written notice of surrender. A holder does not need to surrender where they become a registered resource producer or user for an EOW code that has been developed for the same waste or resource. In this instance, the approval automatically lapses when the producer becomes a registered resource producer or user for the EOW code.

5 Offences

A registered resource producer for an EOW code must not do any of the following unless the producer complies with the requirements of the EOW code: (a) produce the resource; or (b) use, sell or give away the resource (section 158(1) of the WRR Act).

A person, other than a registered resource producer, must not use a resource in a way, or for a purpose, that does not comply with an EOW code for the resource (section 158(2)).

The holder of, or a resource user or other person acting under, an EOW approval must comply with the conditions of the EOW approval (section 173K(2) of the WRR Act).

The maximum penalty for the above offences is 1665 penalty units² for an individual and 8325 penalty units for a corporation. If the offence is committed by a corporation, an executive officer of the corporation may be taken to have also committed the offence under section 268 of the WRR Act.

6 Review and appeal rights

If you have been affected by a decision in relation to an EOW code or an EOW approval, you may have review rights. Sections 174-179 of the WRR Act detail the internal review process. An internal review must be requested prior to pursuing a review from other external parties. If you are eligible to request an internal review

² The value of a penalty unit is prescribed in the Penalties and Sentences Regulation 2015

and you would like to have the decision reviewed, please complete and return the form [Application for an internal review—ESR/2015/1633](#) within 14 days after the information notice for the decision is given.

7 Further information

Further information and advice on waste management and reuse can be obtained by:

- a) visiting the department's website at www.des.qld.gov.au
- b) contacting or emailing the department's Permit and Licence Management unit on 13 QGOV (13 74 68) or at palm@des.qld.gov.au
- c) reading the legislation. Electronic copies of Queensland legislation may be accessed from the Office of the Queensland Parliamentary Counsel website link www.legislation.qld.gov.au/OQPChome.htm.

The latest version of this publication can be found at www.des.qld.gov.au using the publication number 'ESR/2016/3323' as a search term.

Approved:

19 July 2022

Enquiries:

Permit and Licence Management
Ph: 13 QGOV (13 74 68)
Email: palm@des.qld.gov.au