

Guideline

Environmental Protection Act 1994

Final rehabilitation report for resource activities

This guideline describes the content requirements for a final rehabilitation report (ESR/2015/1616), required under s. 262 of the Environmental Protection Act 1994 (EP Act) to be submitted with an application to surrender an environmental authority for a resource activity, other than where a progressive rehabilitation and closure plan (PRC plan) applies to the activities.

Introduction	2
1.1 When is a surrender application required	2
1.2 The final rehabilitation report.....	2
1.3 Process that follows receipt of surrender application.....	3
1.4 Deciding the surrender application	3
1.5 Timeframes for deciding a surrender application	4
2 Content of final rehabilitation report	4
2.1 Application details	4
2.2 Description and status of disturbance and rehabilitation.....	4
2.3 Identification of transitional environmental programs.....	6
2.4 Landowner/holder issues	6
2.5 Contaminated land assessment	6
3 The process of preparing a final rehabilitation report	8
4 Surrender process flow chart	9
5 References	9
6 Further information	10

Introduction

1.1 When is a surrender application required

A holder of an environmental authority (EA) for a resource activity can only make a surrender application for an EA if an application to surrender the resource tenure is also made under the relevant resource legislation.

The administering authority of the Environmental Protection Act 1994 (EP Act)¹ may also require the EA holder to make a surrender application for a petroleum or geothermal activity. Under s. 258 of the EP Act the administering authority will issue a notice to the EA holder requiring a surrender of the EA if any of the following events occur:

- a relevant tenure for the authority is cancelled; or
- a relevant tenure for the authority is, according to its provisions, to end other than by cancellation; or
- if the authority is for a petroleum activity—the area of a relevant tenure for the authority is reduced under a requirement of noncompliance action taken under resource legislation; or
- part of the area of a relevant tenure for the authority is relinquished, other than under a requirement of noncompliance action taken under resource legislation; or
- part of the area of a relevant tenure for the authority is surrendered.

The EA holder must surrender the EA within 30 business days after receiving a notice to surrender. A maximum penalty of 100 penalty units exists where a surrender notice has not been complied with.

To surrender an EA, the EA holder must submit to the administering authority an Application to surrender an environmental authority (ESR/2015/1751²). Where an EA contains rehabilitation conditions, and activities under the EA have been carried out (i.e. on-ground disturbance has occurred), the application to surrender must be accompanied by a final rehabilitation report (FRR) in the approved form Rehabilitation Report (ESR/2015/1616)² as well as a compliance statement and the fee prescribed under a regulation. The compliance statement must state the extent to which the activities carried out under the EA have complied with the conditions of the EA, and the accuracy of the FRR.

NOTE: Resource activities must also submit a post-surrender management report with a surrender application. For more information see the approved form post-surrender management report (ESR/2020/5434).

1.2 The final rehabilitation report

A FRR is required to accompany an application for surrender of an EA which contains rehabilitation conditions, and to which no progressive rehabilitation and closure plan (PRCP) applies.

This guideline provides guidance on the required information of the FRR for resource activities.

In order to meet the requirements of s. 264 of the EP Act, the FRR for resource activities must:

- be in the approved form
- include enough information to allow the administering authority to decide whether --
 - the conditions of the EA have been complied with; and
 - the land on which each relevant resource activity has been carried out has been satisfactorily rehabilitated;

¹ The administering authority for the EP Act is the Department of Environment and Science (DES).

² 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

- state details of –
 - the monitoring program and the results of monitoring rehabilitation indicators required under any condition of the EA; and
 - any consultation with affected owners and occupiers, members of the public, community groups, government agencies, and other bodies about any completion criteria for rehabilitation stated in the EA; and

A FRR may be amended at any time before the administering authority decides the relevant application for surrender.

1.3 Process that follows receipt of surrender application

Once the surrender application, including the FRR, post-surrender management report (PSMR) and compliance statement, has been received the administering authority may:

- conduct a field inspection of the relevant tenure to verify the surrender application and the findings of the compliance statement
- where necessary, request further rehabilitation to be undertaken and submission of an amended surrender application including a FRR
- seek advice from the chief executive of the relevant resource legislation to which the resource activity relates.

The flow chart at the end of this guideline outlines the administrative processes which follow the submission of a surrender application.

1.4 Deciding the surrender application

The FRR, PSMR and compliance statement provide the supporting information that allows the administering authority to decide a surrender application. In deciding an application for surrender of an EA for a resource activity, the EP Act requires the administering authority to:

- comply with any relevant Environmental Protection Policy (including EPP Water, EPP Air, EPP Noise) requirement; and
- consider each of the following—
 - the application;
 - any monitoring results relating to the rehabilitated area the subject of the application;
 - the FRR and PSMR for the EA;
 - the compliance statement for the EA, or the part of the EA the subject of the application;
 - any advice given by the chief executive administering the resource legislation;
 - any other matter prescribed under an environmental protection policy or other regulation; and
- if progressive certification has been given for a relevant tenure for the EA confirm that the certified area for the relevant tenure still meets the criteria against which it was certified; and
- if the EA relates to land recorded in the environmental management register, consider whether or not the land has been removed from the environmental management register or the land has a site management plan approved for it.

The administering authority may grant the application only if:

- it is satisfied the conditions of the EA have been complied with; and
- it is satisfied the land to which the surrender application relates has been satisfactorily rehabilitated; or
- it has approved a transitional environmental program and is satisfied the land will be satisfactorily rehabilitated under the program.

The administering authority can request further information from the EA holder within 10 business days after the surrender application is received.

1.5 Timeframes for deciding a surrender application

The administering authority must decide whether to approve or refuse a surrender application. Timeframes for the decision period are determined by the relevant tenure of the EA and whether a request for further information has been made by the administering authority.

The decision period for the administering authority to make a decision to approve or refuse a surrender application is as follows:

- if the administering authority requests further information — 40 business days after the further information is received by the authority; or
- if the administering authority does not request further information — 40 business days after the application is made; or
- if the EA is for a resource activity and the relevant tenure is an exploration permit — 60 business days after the relevant tenure ends; or
- if the EA is for a resource activity and the relevant tenure is a petroleum lease — 90 business days after the relevant tenure ends.

2 Content of final rehabilitation report

A FRR must contain all of the following:

- Application details
- Disturbance and rehabilitation details
- Landowner/landholder issues
- Transitional environmental program details
- Contaminated land assessment

A description of each of the contents for these headings is described below.

2.1 Application details

- EA holder's name and contact details
- EA number
- Author or compiler of the FRR, including contact details
- Relevant contact persons responsible for post-surrender management commitments.

2.2 Description and status of disturbance and rehabilitation

The following information must be included with the FRR:

- Period of disturbance

Final rehabilitation report for resource activities

- Total area disturbed
- Total area rehabilitated;
- A description of the nature and extent of disturbance
- A description of status of final rehabilitation,
- An assessment of the rehabilitation against any conditions of the EA or any standards referenced in a relevant plan of operations. This must include analysis of any monitoring data and results relevant to any rehabilitation indicators.
- Maps and diagrams at an appropriate scale that identify:
 - the proposed rehabilitated area in relation to the property/tenure boundaries
 - GPS coordinates (in GDA 94) of the corners of the rehabilitated area or metes and bounds of the perimeter of the rehabilitated area
 - the extent of disturbance
 - the final landform (contoured at an appropriate intervals) and drainage pattern
 - the nature of the rehabilitation (if different types were used)
 - any remaining items of infrastructure (if any) including any heritage listed features and for petroleum activities, infrastructure that has been transferred to a landholder prior to the surrender of the EA
 - any inhabited dwellings and community infrastructure
 - any land that was or is contaminated as a result of the activities undertaken onsite
 - relevant photographs of the rehabilitation and a plan illustrating where the photograph was taken from and its aspect
- For petroleum activities, a list of infrastructure items that have been transferred to landholders prior to the surrender of the environmental authority including transfer dates
- Any statements or certificates by an appropriately qualified person regarding the construction, stability or likely future performance of structures forming part of the rehabilitation (e.g. dams, escarpments).

EAs relating to activities other than resource activities must also provide a description of any ongoing environmental management needs for the land as part of their FRR.

EAs relating to resource activities must also provide the following information as part of their FRR:

- Information about any consultation undertaken regarding the rehabilitation
- Identification and illustration of any areas that have previously been certified under a progressive certification application
- For surrender application for mining activities, description of any mining activities that have occurred in the area, noting historic disturbance that occurred prior to the grant of the current tenement and any previous tenements that gave continuous entitlement to the resource.
- Indicative figures for any amounts of overburden, waste rock or resources that have been removed from the land or is now deposited on the land.

2.3 Identification of transitional environmental programs

As part of the FRR you must identify whether a transitional environmental program exists in relation to the EA the subject of the application.

2.4 Landowner/holder issues

There are various reasons why some items of infrastructure may be left after decommissioning of a resource project. For example, an EA may permit that a landholder can take over a dam for water storage purposes, or a road remain to provide access to land.

Inheritance of disturbed land and infrastructure brings with it responsibilities for maintenance and management of that land and infrastructure. In order to meet these responsibilities, the FRR must contain an agreement signed by the current landowner and any future landowner (if applicable) clearly indicating what existing structures or disturbed areas they will be taking ownership of, and the state of the structure or area upon transfer. The agreement must be completed in the template which is attached to the FRR approved form.

For an EA over a mining lease or mining claim tenure, approval from the Minister under the Mineral Resources Act 1989 is required for infrastructure to be left on the land. Written authorisation must be obtained from the Mining Registrar. This approval must be attached to the FRR if applicable.

EA holders for petroleum activities are able to transfer certain infrastructure to landholders prior to the surrender of the EA. Where this has occurred, the FRR is to include the following information:

- Maps showing the location of the infrastructure;
- A list of all infrastructure that has been transferred;
- Evidence of landholder agreement to the transfer; and
- Transfer agreement dates.

The FRR does not need to include information on infrastructure transferred to a landholder prior to the surrender of the EA providing the above information is either attached to the FRR form separately or has previously been provided to the administering authority.

2.5 Contaminated land assessment

Where land the subject of the FRR is on the environmental management register or contaminated land register the FRR must include information on:

- The contamination land status
- Contamination from the activity relevant to the EA and from any historic activities conducted on site
- How the land will meet the rehabilitation commitments, including the intended future land use for the site
- Any suitability statements or draft site management plans for the land.

Throughout the life of the resource activity project, the EA holder is required to notify the administering authority if a notifiable activity (listed in Schedule 3 of the EP Act) is being carried out on land or if land has been or is being contaminated by a hazardous contaminant as part of the project (e.g. chemical or fuels storage, brine dams). The particulars of such land are then recorded on the environmental management register. If a site investigation report shows that the land is not contaminated, the administering authority may remove the land from the environmental management register (refer to s. 384 of the EP Act).

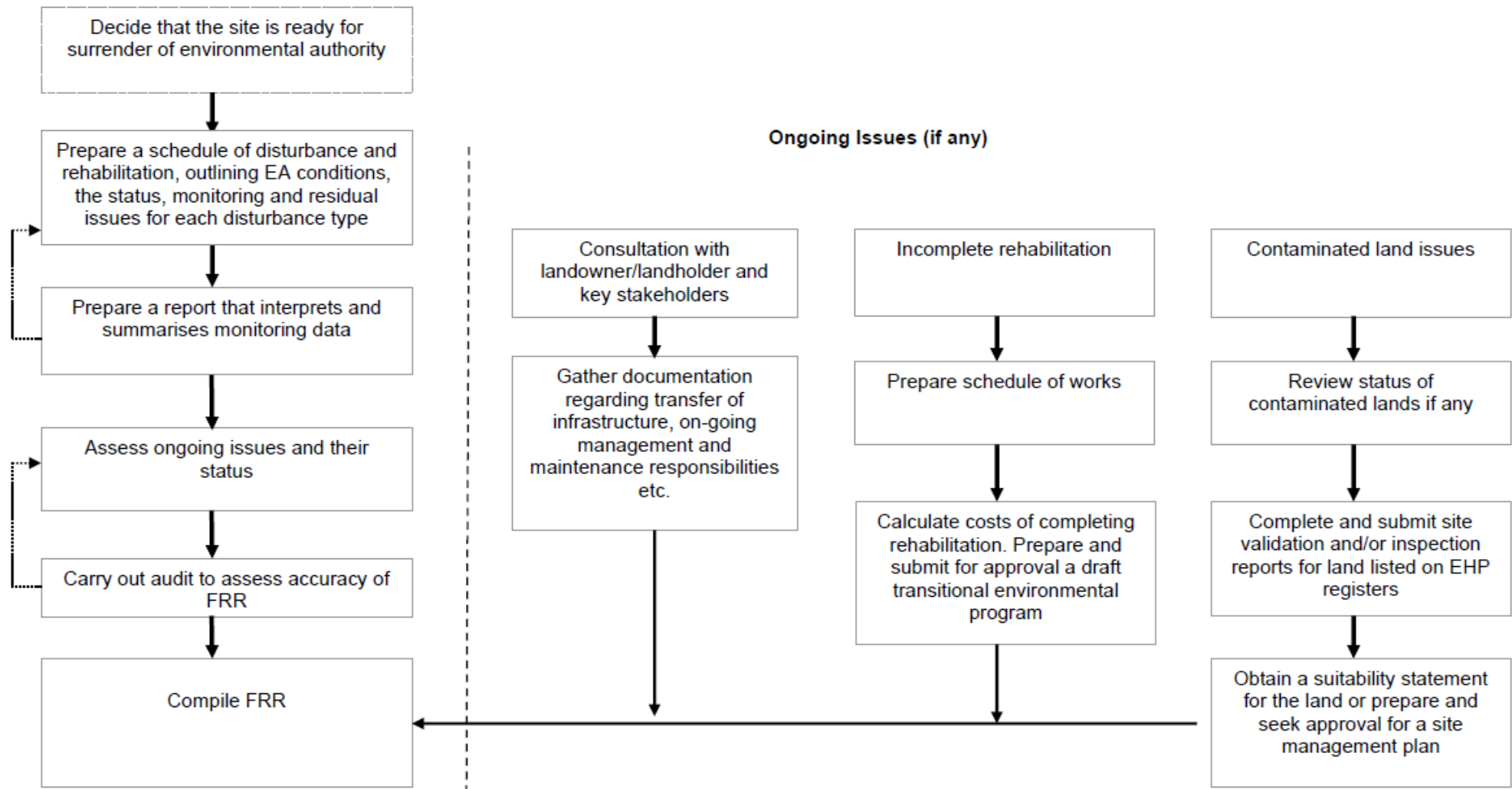
An EA holder is required to demonstrate that land that is to be surrendered has been satisfactorily rehabilitated prior to the administering authority approving the application for surrender of the related EA. Rehabilitation

includes the remediation of contaminated land. In cases where activities are carried out as part of the resource activity project have resulted in land contamination, the following applies:

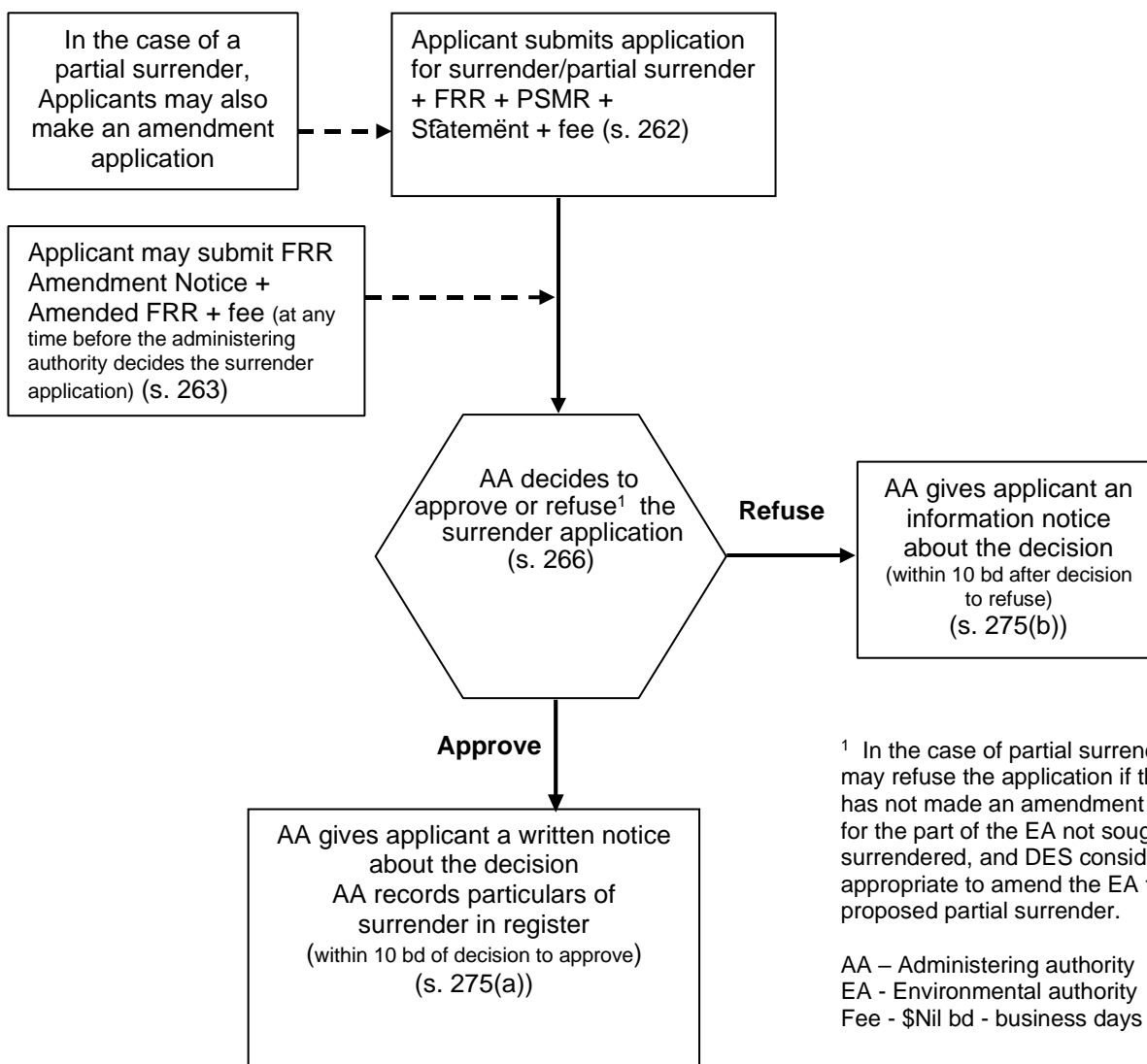
- The administering authority is unable to approve an application for surrender of EA until it is satisfied that remediation of contaminated land has been satisfactorily addressed.
- In order to demonstrate that any contaminated land has been satisfactorily remediated, the EA holder is required to follow the process in Chapter 7, Part 8 of the EP Act, and obtain a suitability statement for the relevant land from the administering authority. The suitability statement will state whether or not the land is suitable for the intended post-resource activities land use.
- Division 3 of Chapter 7, Part 8 specifies requirements for the investigation of land to scientifically assess whether the land is contaminated in a way that poses an unacceptable risk to human health or another part of the environment. Division 4 outlines requirements for conducting remediation (including rehabilitation) work and validation of that work resulting in the issuing of a suitability statement by the administering authority.
- Where land has not been removed from the environmental management register, an approved site management plan will also be required in order to manage any environmental harm that may be caused by the hazardous contaminants. Division 5 of Chapter 7, Part 8 specifies the requirements with respect to site management plans.

Further information is available at www.des.qld.gov.au using the search term 'contaminated land'.

3 The process of preparing a final rehabilitation report



4 Surrender process flow chart



5 References

- *Application to surrender an environmental authority* (ESR/2015/1751)
- *Final rehabilitation report* (ESR/2015/1616)
- *Post-surrender management report* (ESR/2020/5434)
- *Transitional environmental program* (ESR/2016/2277)
- *Application for a decision on the estimated rehabilitation cost* (ESR/2018/4426)
- *Transferring petroleum infrastructure to landholders* (ESR/2020/5403)

6 Further information

The latest version of this publication can be found at www.qld.gov.au using the publication number ESR/2016/1874 as a search term.

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

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Enquiries:

Permit and Licence Management
 Phone: 1300 130 372 (select option 4)
 Fax: (07) 3330 5875
 Email: palm@des.qld.gov.au

Version history

Version	Date	Description of changes
1.00	26 March 2013	First published version of the guideline.
2.00	26 March 2013	Minor updates.
2.01	29 June 2018	The document template, header and footer have been updated to reflect current Queensland Government corporate identity requirements and comply with the Policy Register.
3.00	1 April 2019	Updated to reflect the introduction of the <i>Mineral and Energy Resources (Financial Provisioning) Act 2018</i> and the subsequent changes to the <i>Environmental Protection Act 1994</i> .
4.00	4 September 2020	Updated to reflect introduction of the <i>Environmental Protection and Other Legislation Amendment Act 2020</i> and the subsequent changes to the surrender framework under the <i>Environmental Protection Act 1994</i> .
4.01	27 October 2020	Updated to reflect the requirements for transfer of petroleum infrastructure to landholders prior to surrender of an environmental authority.