

# Information sheet

## *Environmental Protection Act 1994*

### **Adjustment of financial assurance to remove Goods and Services Tax**

*The following information outlines the processes that environmental authority holders may follow if seeking to adjust the amount of financial assurance (FA) that they have provided under the Environmental Protection Act 1994 (EP Act), so that it no longer includes Goods and Services Tax (GST). The change to departmental policy regarding the inclusion of GST in FA calculations took effect on 3 October 2015. This information applies to both resource activities and prescribed environmentally relevant activities (ERA), for which the department holds FA, and where that FA includes GST.*

#### **Background**

The department's guideline Financial Assurance under the *Environmental Protection Act 1994* (ESR/2015/1758)<sup>1</sup> (FA Guideline), includes the approved calculation method that must be used where an environmental authority (EA) holder is required to provide FA to the department. Historically, this guideline has required that GST be incorporated into FA calculations. As of 3 October 2015, GST is no longer required to be included in FA calculations. This change will be reflected in amendments to the FA Guideline proposed to occur in late 2015/early 2016. In the interim, pending guideline amendments, the department's Director-General has approved for the new policy to be adopted.

If you are an EA holder, and you have lodged an amount of FA that includes GST<sup>2</sup>, you are entitled to request an adjustment to the amount of FA currently held for your environmental authority, to remove that GST component.

This information sheet has been developed to outline processes that an EA holder can follow to apply for a return of the GST component of the FA that they have lodged. EA holders who have received a Notice of Decision on the amount and form of FA required, but who have not yet lodged the FA, may also follow these processes to adjust the required amount of FA before lodgement.

#### **Process to adjust FA**

Depending on the type of EA held, the department has identified two preferred options for EA holders wishing to request an adjustment to their FA to remove GST.

#### **Option 1 – Amend plan of operations (for holders of EAs for certain mining leases and petroleum leases)**

Environmental authority holders who have calculated FA through a plan of operations, and whose plan is still current, have the option of adjusting their required FA amount by submitting an amended plan of operations under section 289 of the EP Act.

<sup>1</sup> This guideline is available at [www.qld.gov.au](http://www.qld.gov.au), using the title and publication number (ESR/2015/1758) as a search term.

<sup>2</sup> Where the amount of financial assurance has been prescribed in an ERA Standard, it is taken to not include GST.

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To do this, the EA holder must give the department a written notice that:

- a) states the intended amendment to the plan (i.e. that the FA amount is being adjusted to remove the GST component of calculations); and
- b) is accompanied by a compliance statement for the plan as amended.

To satisfy requirements of the EP Act, the compliance statement must—

- a) be made by or for the EA holder; and
- b) state the extent to which the plan complies with the conditions of the EA; and
- c) state whether or not the amount of the FA for the EA has been calculated in accordance with the department's FA Guideline. Note: If your application is lodged before the department has amended the FA Guideline to remove reference to GST in calculations, please include reference to this Information Sheet (ESR/2015/1846) in your statement.

Provided that the only change to FA calculations is to remove the GST component, and it is clearly demonstrated that GST was included in original calculations, this application will be subject to a straightforward assessment process. The department will make a decision on the amount of financial assurance within 15 business days after the amended plan is submitted, or within a further period agreed with the EA holder.

If the EA holder is proposing to also include other amendments to FA calculations, or the existing amount of FA is not in accordance with the FA Guideline (e.g. does not reflect existing significant disturbance on site), the application will be subject to full assessment against the requirements of the FA Guideline.

### Option 2 – Application to amend financial assurance

Section 302 of the EP Act enables a holder of an EA, for which FA has been given to the administering authority, to apply to amend the amount, or form, of financial assurance.

The department has an approved form Application to amend or discharge financial assurance held for an environmental authority (ESR/2015/1752)<sup>3</sup> which must be used for this application.

Question 4 of this application form prompts the EA holder to provide more information about why the application is being made. In this section, it is recommended that you select 'Other' and state 'adjust the amount of financial assurance to remove GST'. Amended FA totals are to be included at Question 8.

The declaration at the end of this application requires the EA holder to confirm that the amount of FA has been calculated in accordance with the FA Guideline. If you are submitting this application before the department has amended the FA Guideline to remove the requirement to incorporate GST in calculations, please add reference to this Information Sheet (ESR/2015/1846) in the declaration.

Provided that this is the only change that you are proposing to make to the amount of financial assurance held, that the existing FA amount was calculated in accordance with the FA Guideline, and it is clearly demonstrated that GST was included in original calculations, the department's assessment of this application will be streamlined and you can expect a decision within 20 business days of lodging the application. You will not be required to provide a compliance statement as is sometimes required for this type of application.

### Further Information

Please contact your relevant regional office if you have any enquiries in relation to the information contained within this Information Sheet.

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<sup>3</sup> This form is available at [www.qld.gov.au](http://www.qld.gov.au), using the form title and publication number (ESR/2015/1752) as a search term.

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### 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.

### Approved:

22 December 2015

### Enquiries:

Please contact your relevant Business Centre if you have any enquiries in relation to this Information sheet.

Alternatively, please contact:

Permit and Licence Management

Ph. 1300 130 372 (select option 4)

Ph:13 QGOV (13 74 68)

Fax. (07) 3330 5875

Email: [palm@des.qld.gov.au](mailto:palm@des.qld.gov.au)

### Version History

Version	Effective date	Description of changes
1.00	29 October 2015	First published version of the guideline.
2.00	22 December 2015	Updates to the enquiries section and other general updates.
2.01	18 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.