

Guideline

Environmental Protection Act 1994

Final rehabilitation report for resource activities other than mining

This guideline describes the content requirements for a final rehabilitation report, required (under s. 262 of the Environmental Protection Act 1994) to be submitted with an application to surrender an environmental authority for a resource activity other than mining. The guideline outlines the approved form for a final rehabilitation report, as required under s. 264 of the Act.

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Version History

Version	Effective 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.

1 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). The application to surrender must be accompanied by a final rehabilitation report (FRR), 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.

1.2 The final rehabilitation report

A final rehabilitation report (FRR) is required to accompany an application for surrender of an EA that relates to a resource authority.

This guideline details the approved form, including required information, for the FRR.

In order to meet the requirements of s. 264 of the EP Act, the FRR must be in the approved form, and:

- (a) include enough information to allow the administering authority to decide whether --
 - (i) the conditions of the EA have been complied with; and
 - (ii) the land on which each relevant resource activity has been carried out has been satisfactorily rehabilitated;
- (b) describe any ongoing environmental management needs for the land;
- (c) for an EA for a resource activity—
 - (i) state details of—

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

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(A) the monitoring program and the results of monitoring rehabilitation indicators required under any condition of the EA; and

(B) 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

- (ii) state an environmental risk assessment of the land; and
- (iii) propose the residual risks associated with the rehabilitation of the land, worked out under a guideline or other document publicly available from the administering authority³; and (d) include another matter prescribed under a regulation.

The environmental risk assessment in item (c)(ii) above must—

- use a methodology agreed to by the administering authority; and
- show any part of the land that is likely to change or fail to the extent that monitoring, maintenance, reconstruction or other remedial action may be necessary.

Examples of proposed residual risks under item (c)(iii) above include—

- the present value of the future costs of likely repairs
- necessary monitoring and maintenance costs
- ongoing management costs

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 and compliance statement, has been received the administering authority may:

- conduct a field inspection of the relevant tenure to verify the FRR 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;
- prepare and give to the EA holder an assessment report about the FRR.

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 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:

- (a) comply with any relevant Environmental Protection Policy (including EPP Water, EPP Air, EPP Noise) requirement; and
- (b) consider each of the following—
 - (i) the application;

³ Note that there is currently no guideline or publicly available document under this section.

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- (ii) any monitoring results relating to the rehabilitated area the subject of the application;
 - (iii) the FRR for the EA;
 - (iv) the compliance statement for the EA, or the part of the EA the subject of the application; and
- (c) if progressive certification has been given for a relevant tenure for the EA confirm that the certified rehabilitated area for the relevant tenure still meets the criteria against which it was certified; and
- (d) 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:

- (a) it is satisfied the conditions of the EA have been complied with; or
- (b) it is satisfied the land to which the surrender application relates has been satisfactorily rehabilitated; or
- (c) 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:

- (a) if the administering authority requests further information — 40 business days after the further information is received by the authority; or
- (b) if the administering authority does not request further information — 40 business days after the application is made; or
- (c) 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
- (d) 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:

- Project details;
- Project description;
- Status report;
- Contaminated land assessment;
- Residual commitments and risks;
- Landowner/holder issues; and
- Rehabilitation status, on-going commitments and financial assurance calculations.

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

2.1 Project details

- Environmental authority holder's name and contact details;
- Environmental authority number and project name;
- Resource (petroleum, greenhouse gas storage or geothermal) tenure number(s) and termination date(s) for tenure(s) if applicable;
- Location information for resource tenure(s) being surrendered, including lot/plan number and parish of land tenure;
- Period of disturbance;
- Total area disturbed and total area rehabilitated;
- Adjacent land use and agreed final land use;
- Author or compiler of the FRR, including contact details; and
- Relevant contact persons responsible for post-surrender management commitments.

2.2 Project description

- A general description of activities carried out as part of the resource project.
- Maps of the area the subject of the surrender application, and illustration of the areas disturbed by resource activities and their rehabilitation status. Maps must illustrate the location of:
 - (a) any remaining items of infrastructure (e.g. dams, pipelines etc.); and
 - (b) land that was or is contaminated as a result of resource activities.

2.3 Status report

- A table providing, for each land disturbance/impact type:
 - The nature and extent of disturbance, including the area (ha) concerned;
 - The status of final rehabilitation, with reference to the standard prescribed in the conditions of the EA;
 - An analysis of monitoring data collected to demonstrate compliance;
 - Requirements for any ongoing remediation, rehabilitation, management, monitoring and/or maintenance; and
 - A reference to attached photographs, monitoring reports etc.

2.4 Contaminated land assessment

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

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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 DES. 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 DES.
- 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.
- The contaminated land status of the land the subject of the FRR and a reference to related documentation must be included in the FRR with any related documentation (e.g. a suitability statement, a draft site management plan).
- In the case where land the subject of the FRR has not been listed on the environmental management register and is not contaminated, a statement can be provided that there are no contaminated land requirements outstanding for the project.

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

2.5 Residual commitments

Ideally, all environmental commitments associated with a resource activity project should be brought to completion prior to surrender. However, in some instances there may be a residual issue that cannot be brought to closure and that the administering authority considers can be satisfactorily handled under a transitional environmental program or site management plan. Any further land management or rehabilitation monitoring and maintenance commitments following surrender may be dealt with by submitting for approval a transitional environmental program. Refer to the DES guideline for preparing a *Transitional environmental program* (ESR/2016/2277⁴). Alternatively, the administering authority may require the EA holder to make a payment for any residual risks to the land the subject of the relevant tenure.

In the case where residual commitments exist, The FRR must include a statement advising of:

- any residual rehabilitation commitments; and how you propose to manage any residual rehabilitation commitments.

⁴ 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.

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In the case where no residual commitments exist, the FRR may include a statement to this effect.

2.6 Landowner/holder issues

There are various reasons why some items of infrastructure may be left after decommissioning of a resource project. For example, an environmental authority 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 should contain:

- A statement from the landowner/landholder, or proposed future landowner, documenting any agreement for transfer of management and maintenance commitments or transfer of infrastructure ownership following surrender of whole or part of the EA;
- In the case where the EA holder is not the landowner/landholder, it is requested that where possible the FRR include a statement from the landowner/landholder commenting on overall satisfaction with rehabilitation;
- In the case where there are no items of infrastructure or areas of disturbed land requiring further management or maintenance by the landowner/landholder, it is requested that where possible the FRR include a statement that no further management or maintenance commitments exist.

The landowner/holder statement should also contain the landowner/holder name, contact details and land tenure description.

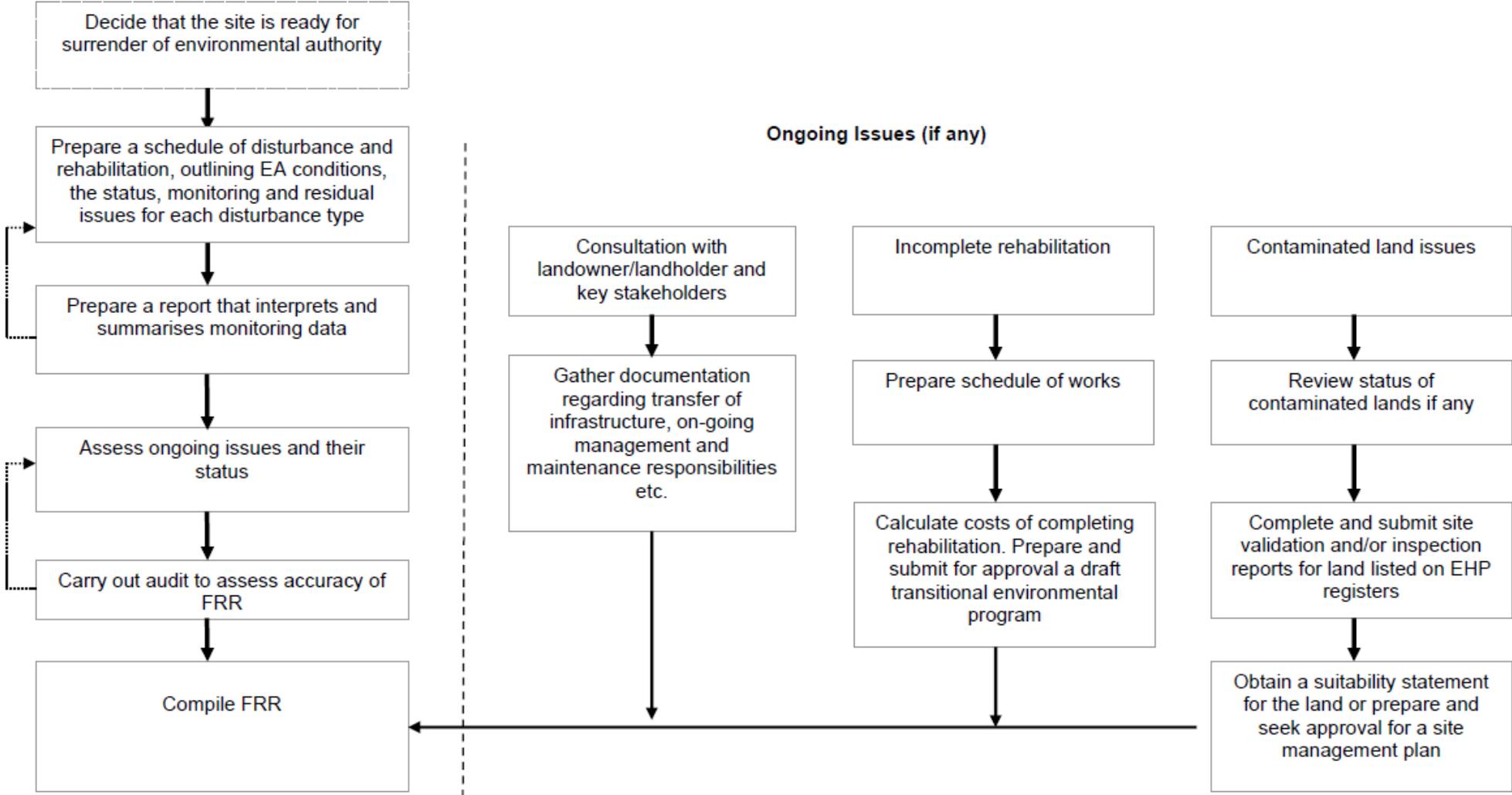
2.7 Rehabilitation status, ongoing commitments and financial assurance

Where rehabilitation is complete and there are no on-going management, maintenance or monitoring commitments, the EA holder should provide a statement to this effect. The EA holder may apply for a complete discharge of financial assurance, or an amendment of financial assurance in the case of partial surrender (s. 302 of the EP Act). To apply for an amendment or complete discharge of financial assurance the EA holder should complete and submit an *Application to vary or discharge financial assurance for an environmental authority* (ESR/2015/1752⁵) to the administering authority.

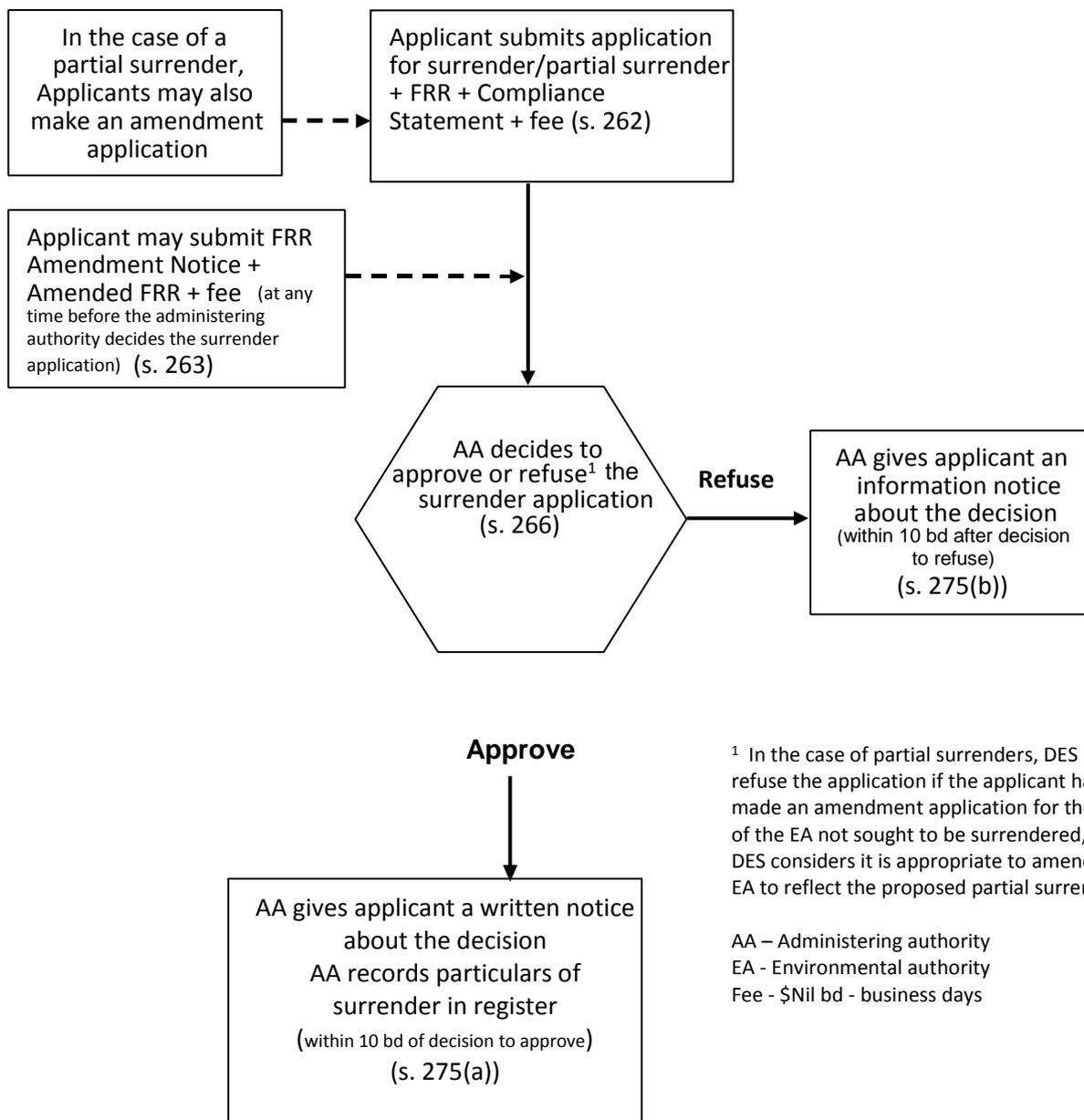
Where rehabilitation is incomplete and there are on-going management, maintenance or monitoring issues, the EA holder is required to provide a schedule of land disturbance types requiring completion of rehabilitation and ongoing management, maintenance or monitoring commitments, together with third party costs to complete rehabilitation or ongoing commitments. EA holders should apply to amend the financial assurance using the form *Application to vary or discharge financial assurance for an environmental authority* (ESR/2015/1752⁵) for that portion currently held above the amount required to be retained for completion of rehabilitation and ongoing management, maintenance or monitoring commitments. The administering authority may also require the EA holder to make a payment for any residual risks to the area the subject of the relevant tenure.

⁵ 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 The process of preparing a final rehabilitation report



4 Surrender process flow chart



¹ In the case of partial surrenders, DES may refuse the application if the applicant has not made an amendment application for the part of the EA not sought to be surrendered, and DES considers it is appropriate to amend the EA to reflect the proposed partial surrender.

AA – Administering authority
EA - Environmental authority
Fee - \$Nil bd - business days

5 References

- *Application to surrender an environmental authority* (ESR/2015/1751).
- *Transitional environmental program* (ESR/2016/2277).
- *Application to vary or discharge financial assurance for an environmental authority* (ESR/2015/1752).

6 Further information

The latest version of this publication can be found at www.business.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.

Approved:

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Enquiries:

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