

# Guideline

## Environmental Protection Act 1994

### Preparing a plan of operations for an environmental authority relating to a petroleum lease

*This guideline is intended to assist in the preparation of a plan of operations for petroleum activities on a petroleum lease, within the general framework provided by the Environmental Protection Act 1994 (EP Act).*

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## **1 Introduction**

A **plan of operations**<sup>1</sup> will only be required for an **Environmental Authority** (EA) for a **resource activity other than mining** where the EA is for a petroleum activity authorised under a petroleum lease and any of the activities for the authority are an **ineligible environmentally relevant activity** (ERA).

An ineligible ERA is an activity for which no **eligibility criteria** have been developed, or the activity cannot meet the eligibility criteria when they are developed, or the activity is being carried out as part of a significant project.

It is an offence to carry out activities on a relevant lease without a plan of operations that complies with s. 288 of the *Environmental Protection Act 1994* (EP Act).

A plan of operations may relate to one or more relevant leases. The period of the plan of operations must not exceed five years.

### **1.1 Purpose of the plan of operations**

The purpose of a plan of operations is to clearly and transparently state the way in which the conditions of an EA will be complied with. This is achieved by:

- describing all relevant activities that will take place on the site during the period of the plan.
- proposing an action program for complying with the conditions of the EA.
- presenting a rehabilitation program for **significantly disturbed** or proposed to be significantly disturbed land during the period of the plan.
- providing the maximum **Financial Assurance** (FA) for the relevant project during the period of the plan.

### **1.2 Purpose of the compliance statement**

A compliance statement is required under s. 288(1)(d) of the EP Act. The purpose of the compliance statement is to state the extent to which the plan of operations complies with the conditions of the EA and to confirm the calculation method for the nominated FA is in accordance with the requirement—of the guideline Financial assurance under the *Environmental Protection Act 1994* (EM1010).

### **1.3 Lodgement of the plan of operations for new projects**

A plan of operations is required to be submitted to the administering authority<sup>2</sup> at least 20 business days prior to the carrying out of an activity under the relevant lease. A shorter period may be agreed to in writing by the administering authority and the EA holder. A plan of operations must be accompanied by the fee prescribed under the regulation. Note that there is currently no fee prescribed for a plan of operations in the Environmental Protection Regulation 2008.

The EA will contain a condition requiring that the EA holder pay the FA prior to commencing the relevant activity(ies). A maximum penalty of 1665 penalty units exists where a condition requiring FA has not been met.

## **2 Content of a plan of operations**

The plan of operations must be delivered in accordance with the content requirements of s. 288 of the EP Act and this guideline. For clarity and ease of reference, a submitted plan of operations should state the project name and the holders of the EA. Under s. 288 of the EP Act, the plan of operations must also include the information outlined below.

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<sup>1</sup> Terms defined in the glossary of this guideline are **bolded** the first time they appear.

<sup>2</sup> The administering authority is the Department of Environment and Heritage Protection (EHP).

## **2.1 Term of the plan of operations**

A plan of operations must include a stated period for the plan (the plan period). The plan period should be at least one year but, in accordance with s. 288(4), cannot exceed five years duration. In order to satisfactorily state the period to which the plan applies, an end date should be specified.

A replacement plan of operations must be submitted to the administering authority not less than 20 business days prior to the expiry of the current plan of operations.

## **2.2 Description of each relevant lease**

For the purposes of meeting the requirement of s. 288(1)(a)(i) a plan of operations is to include a description of each relevant lease for the EA.

The location of project activities should be identified and supported by maps, plans, aerial photographs and/or shapefiles.

## **2.3 Description of the land to which each lease applies**

A plan of operations is to include a description of the land to which each relevant lease applies. This section should, where relevant to any activity, include identification of:

- land uses
- lots on plans
- sensitive places
- other existing tenures in the near vicinity of the proposed project activities.

## **2.4 Description of the land to which the plan applies**

A plan of operations must include a description of the land to which the plan applies. For the purposes of meeting the requirements of s. 288(1)(a)(iii), the description should, include identification of the following, where relevant to any areas or potential areas of significant disturbance during the period of the plan.

- any environmentally sensitive areas
- any **state-significant biodiversity values**
- any **endangered, vulnerable, rare or near threatened wildlife species**
- dominant ecosystems, topographic features, and soils
- **strategic cropping land** or potential strategic cropping land
- **watercourses, wetlands, springs** (including relevant environmental values), **river improvement trust asset areas** and **wild river declaration areas**
- **floodplains.**

## **2.5 A plan showing where all activities are to be carried out on the land**

A plan of operations must show where all of the activities are to be carried out on the land. This information is needed:

- to transparently demonstrate compliance with EA conditions through the location and siting of activities on the land; and
- so that administering authority can properly and efficiently monitor the performance of approved activities in accordance with EA conditions.

In describing where the activities are to be carried out, this section must include:

- a description of the existing and all proposed activities within the plan period.
- a map or series of maps that:
  - (i) record the location of all **infrastructure** and its unique reference name/number that exists at the commencement of the plan period, including but not necessarily being limited to:
    - (a) **low hazard dams and regulated dams**
    - (b) **exploration, appraisal and development wells**
    - (c) water and gas gathering and flow lines
    - (d) power lines
    - (e) gas processing facilities (including generators and compressors)
    - (f) water treatment facilities
    - (g) brine encapsulation facilities
    - (h) sewage treatment plants and any associated irrigation/disposal areas
    - (i) initial compressor stations
    - (j) field compressor stations
    - (k) central compressor stations;
    - (l) pipeline compressor stations
    - (m) tracks and roads.
  - (ii) show the location of all programmed and approved infrastructure (known at the commencement of the plan period) that will be constructed during the plan period.
  - (iii). Spatial datasets (GIS) which depict those requirements under (i) in shapefile format.

**Note:** The location of activities should be updated each year (at a minimum) where the plan period is greater than a year.

## **2.6 Action program**

The plan of operations must include an action program for complying with the conditions of the EA. Diagrams, plans and/or maps indicating environmental management activities should be used to assist the description of the action program.

The holders of an EA may choose to reference internal processes and management systems for complying with EA conditions in the action program provided that:

- the processes and management systems intended to ensure compliance with the EA conditions; and
- the information in the processes or management systems can be readily provided to the administering authority when requested.

Where referencing existing management and compliance systems, processes and/or practices in the action program, a brief description of how those documents will achieve compliance with the EA conditions should be included and the relevant schedule, group, general or specific conditions those processes or systems provide for.

Where existing systems are not identified to illustrate compliance management, then it is recommended that the details of the action program be provided in a tabular format similar to that presented below.

EA conditions	Action program
(X1) All reasonable and practicable erosion protection measures and sediment control measures must be implemented and maintained to minimise erosion and the release of sediment.	All storm water run-off from significantly disturbed areas will be intercepted and directed to sediment control dams designed to remove sediment. Location of control dams are shown in the attached map of this plan of operations. Sediment control dams are maintained by removing sediment deposits on an annual basis or if maximum design capacity is reduced to less than 70%. Design of the sediment control dams will be accordance with the International Erosion Control Association (IECA) Best Practice Erosion and Sediment Control (BPESC) document.

## 2.7 Rehabilitation program

The rehabilitation program required in the plan of operations is to be a schedule of rehabilitation activities detailing the types and areas of land significantly disturbed within the project area and the area of rehabilitation to be undertaken for each year (preferably financial) of the period of the plan of operations.

The purpose of the rehabilitation program is to:

- clearly demonstrate that land is being rehabilitated in accordance with the standards in the EA condition/s; and
- to state the amount of FA.

The rehabilitation program should be developed considering the nature, staging and areas of proposed rehabilitation works including proposed rehabilitation techniques, justification for these techniques, final landform and final land use. Progressive and final rehabilitation acceptance criteria should also be considered.

The rehabilitation program must include:

- At the commencement of the plan period:
  - (i). total lease area
  - (ii). total undisturbed area
  - (iii). total area of significant disturbance to land (including details of areas(s) of disturbance to Category A, B and C environmentally sensitive areas and their buffers, areas of state significant biodiversity value, and high value regrowth and remnant vegetation areas that are not environmentally sensitive areas)
  - (iv). total Areas(s) rehabilitated.

**Note:** The rehabilitation program should also refer to, and be based on, the programmed and approved infrastructure for the plan period required under section 2.5.

- For each year in the plan period, the total area to be rehabilitated by each category. The following categories should generally be used:
  - (i) re-contoured
  - (ii) topsoiled
  - (iii) seeded; and
  - (iv) established.

Maps, diagrams and/or plans can be used to visually represent the areas listed above so long as areas are also included in the program.

The rehabilitation program is used to inform the total rehabilitation liability required for determining the proposed amount of financial assurance (which is required under s.288(2) of the EP Act. The rehabilitation program must state a proposed amount of FA for the plan period. FA must be calculated in accordance with the guideline: Financial assurance under the *Environmental Protection Act 1994* (EM1010). The EA will contain a condition requiring that the relevant activities must not commence until FA has been paid to the administering authority.

## **2.8 Compliance statement**

A plan of operations must be accompanied by a compliance statement which states the following:

- the extent to which the plan of operations complies with the conditions of the EA.
- whether or not the amount of FA for the EA has been calculated in accordance with the Financial assurance under the *Environmental Protection Act 1994* (EM1010).

The compliance statement must be made by the EA holder (if an individual), or if the EA holder is a corporation, by an executive officer of the corporation.

## **3 Amending or replacing a plan of operations for continuing projects**

A plan of operations can be amended or replaced at any time before the plan period ends, however there are some circumstances in which the holder of an EA will be required to amend or replace a plan of operations.

### **3.1 When an EA holder must amend or replace a plan of operations**

The holder of an EA for which a plan of operation is in effect for, must amend or replace a plan of operations if:

- the conditions of the EA change (e.g. through an approval of new activities, an amendment, a partial surrender, or other).
- the operations are inconsistent with the plan.
- the amount of FA required for the activity changes (i.e. there is a significant change in the standard costs, rates or standards).
- the holder becomes aware that the plan is inconsistent with the EA.

An amendment of a plan of operations cannot extend the plan period. The original plan period applies.

### **3.2 When an EA holder must replace a plan of operations**

Projects operating under a current plan of operations require a new (replacement) plan to be submitted to the administering authority at least 20 business days (or an agreed shorter period) prior to the expiry of the current plan period. The original plan ceases to apply if it is replaced. A replacement plan may apply for a period of no more than five years from the date in which notice of the replacement plan is given.

### **3.3 How to amend or replace a plan of operations**

To amend or replace a plan of operations, the EA holder must submit to the administering authority a written notice that states:

- the amendment to the original plan; or
- that the original plan is replaced.

The notice must be accompanied by:

- for an amendment—the original plan (including amendments)
- for a replacement—the replacement plan
- a compliance statement for the original plan, as amended, or for the replacement plan; and
- the fee prescribed under a regulation.

Note that there is currently no fee prescribed for a plan of operations in the Environmental Protection Regulation 2008.

## **4 Other considerations**

### **4.1 Offence not to comply with plan of operations**

Under section 290 of the EP Act it is an offence not to comply with the plan of operations when carrying out activities under a relevant lease. The maximum penalty is 100 penalty units.

### **4.2 Inconsistency between environmental authority and plan of operations**

If there is any inconsistency between an EA and a relevant plan of operations, the conditions of the EA prevail. If the holder of an EA becomes aware of an inconsistency between the conditions of the EA and the plan of operations, they must amend the plan of operations to remove the inconsistency within 15 business days.

## **5 Transitional arrangements**

Transitional arrangements for requiring and preparing a plan of operations for petroleum activities are provided under s.703 of the EP Act. Holders of an EA for petroleum activities will be required to develop and submit a plan of operations where the EA is for petroleum activities authorised under a petroleum lease. A plan of operations must be developed in accordance with the content prescribed under s.288 of the EP Act and this guideline.

Holders of existing EAs may or may not have conditions in their current EAs requiring the development and submission of an operational plan. The existence or non-existence of conditions requiring an EA holder to develop and submit an operational plan to the administering authority does not diminish the requirement to develop and submit a plan of operations in accordance with s.288 of the EP Act and this guideline.

The content requirements for a plan of operations are largely the same as the content for an operational plan (where the content requirements of an operational plan are prescribed in the EA). The resource an notable differences are that EA holders will be required to develop an action program for complying with the conditions of their EA and the plan of operations must be accompanied by a compliance statement.

### **5.1 When must an EA holder submit a plan of operations**

Holder of existing EAs will have 6 months from the commencement of the provisions of the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* to develop and submit a plan of operations in accordance with s.288 of the EP Act and this guideline (i.e. 1 October 2013).

Transitional arrangements for the preparation and submission of a plan of operations under s.703 only apply if an EA was issued before the commencement of the provisions of the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

Where an application for an EA was made prior to the commencement of the provisions of the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* but not decided, a plan of operations will be required to be submitted at least 20 business days prior to the commencement of activities. The plan of operations must be developed in accordance with the content prescribed under s.288 of the EP Act and this guideline.

Penalties apply where these requirements have not been met.

## **5.2 Amending EAs to remove operational plan conditions**

Once an EA holder submits a plan of operations, the administering authority will amend the EA to remove any conditions that relate to matters included in the plan of operations.

To amend the EA, the administering authority will issue the EA holder a notice of proposed action to amend, unless the EA holder has already agreed in writing to the amendment.

An amendment to remove conditions relating to matters now included in the plan of operations must be made within 12 months after the commencement of the provisions of the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* (i.e. by 1 April 2014).

## **6 Related documents**

This guideline should be read in conjunction with the following documents:

- Financial Assurance Guideline under the *Environmental Protection Act 1994* (EM1010)



## Glossary

Note: Where a term is also defined in an EA, the definition in the EA will take precedence over this glossary.

Aquifer	An identifiable stratigraphic formation that has the potential to produce useful flows of water and may include formations where due to hydraulic fracturing activity a changed hydraulic conductivity allows such water flows.
Appraisal well	A petroleum well to test the potential of 1 or more natural underground reservoirs for producing or storing petroleum. For clarity, an appraisal well does not include an exploration well.
Category A Environmentally Sensitive Area	Category A Environmentally Sensitive Area means any area listed in Section 25 of the Environmental Protection Regulation 2008.
Category B Environmentally Sensitive Area	Category B Environmentally Sensitive Area means any area listed in Section 26 of the Environmental Protection Regulation 2008.
Category C Environmentally Sensitive Area	<p>Category C Environmentally Sensitive Area means any of the following areas:</p> <ul style="list-style-type: none"> <li>• Nature Refuges as defined in the conservation agreement for that refuge under the <i>Nature Conservation Act 1992</i>.</li> <li>• Koala Habitat Areas as defined under the Nature Conservation (Koala) Conservation Plan 2006.</li> <li>• State Forests or Timber Reserves as defined under the <i>Forestry Act 1959</i>.</li> <li>• Resources reserves under the <i>Nature Conservation Act 1992</i>.</li> <li>• An area validated as Essential Habitat or Essential Regrowth Habitat from ground-truthing surveys in accordance with the <i>Vegetation Management Act 1999</i> for a species of wildlife listed as endangered, vulnerable, rare or near threatened under the <i>Nature Conservation Act 1992</i>.</li> <li>• Of Concern Regional Ecosystems identified in the database called 'RE description database' containing Regional Ecosystem numbers and descriptions.</li> <li>• Threshold regional ecosystems as defined and listed in Appendix 6 of the Queensland Biodiversity Offsets Policy.</li> <li>• Critically limited regional ecosystems as defined and listed in Appendix 5 of the Queensland Biodiversity Offsets Policy.</li> </ul>
Development well	A petroleum well which produces or stores petroleum. For clarity, a development well does not include an appraisal well.
Eligibility criteria	<p>For an environmentally relevant activity, it means</p> <p>(a) if the activity is a prescribed ERA—the eligibility criteria made by the chief executive under section 318 for the activity and prescribed under a regulation; or</p>

	<p>(b) if the activity is a resource activity—</p> <p>(i) the eligibility criteria prescribed under a regulation for the activity; or</p> <p>(ii) the eligibility criteria made by the chief executive under section 318 for the activity and prescribed under a regulation.</p>
Endangered wildlife species	Native wildlife that is prescribed under Schedule 2, part 1 of the Nature Conservation (Wildlife) Regulation 2006 as endangered wildlife.
Environmental Authority	An environmental authority issued by the administering authority under Chapter 5 of the <i>Environmental Protection Act 1994</i> .
Exploration well	<p>A petroleum well that is drilled to:</p> <ul style="list-style-type: none"> <li>• explore for the presence of petroleum or natural underground reservoirs suitable for storing petroleum, or</li> <li>• obtain stratigraphic information for the purpose of exploring for petroleum.</li> </ul> <p>For clarity, an exploration well does not include an appraisal or development well.</p>
Financial assurance	Under the <i>Environmental Protection Act 1994</i> means a security deposit, either cash or a bank guarantee, held by the administering authority to cover the potential costs of rehabilitating areas significantly disturbed by the petroleum activities. Financial assurance can be required for other legislation and policy.
Floodplain	<p>Has the meaning in the <i>Water Act 2000</i>. It means an area of reasonably flat land adjacent to a watercourse that:</p> <ul style="list-style-type: none"> <li>• is covered from time to time by floodwater overflowing from the watercourse</li> <li>• does not, other than in an upper valley reach, confine floodwater to generally follow the path of the watercourse, and</li> <li>• has finer sediment deposits than the sediment deposits of any bench, bar or in-stream island in the watercourse.</li> </ul>
Groundwater	Water that occurs naturally in, or is introduced artificially into, an aquifer, whether or not it would, if tapped by a bore, flow naturally to the surface.
High value regrowth	<p>High value regrowth vegetation means</p> <ul style="list-style-type: none"> <li>• Any of the following: <ul style="list-style-type: none"> <li>- an endangered regional ecosystem</li> <li>- an of concern regional ecosystem</li> <li>- a least concern regional ecosystem, and</li> </ul> </li> <li>• It has not been cleared since 31 December 1989, and</li> <li>• It is shown on a regrowth vegetation map.</li> </ul>

Ineligible environmentally relevant activity (ERA)	An environmentally relevant activity that does not comply with the eligibility criteria in effect for the activity, or for which eligibility criteria are not in effect, or that is carried out as part of a significant project.
Infrastructure	<p>Plant or works including for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads and tracks, water storage dams, evaporation or storage ponds and tanks, equipment, buildings and other structures built for the purpose and duration of the conduct of the petroleum activity(ies) including temporary structures or structures of an industrial or technical nature, including, for example, mobile and temporary camps.</p> <p>Infrastructure does not include other facilities required for the long-term management of the impact of those petroleum activities or the protection of potential resources. Such other facilities include dams other than water storage dams, pipelines and assets, that have been decommissioned, rehabilitated, and lawfully recognised as being subject to subsequent transfer with ownership of the land.</p>
Low hazard dams	Any dam that is not classified as high or significant as assessed using the <i>Manual for Assessing Hazard Categories and Hydraulic Performance of Dams</i> , and which contains contaminants in concentrations which exceed or will exceed during the dam's operational life, the values or range shown in Table 3 of the manual.
Plan of operations	Is a planning document required under the <i>Environmental Protection Act 1994</i> which must be submitted to the administering authority prior to carrying out activities on a mining or petroleum lease. The plan contains information about where activities will be carried out, an action program which demonstrates how the holder of the environmental authority will comply with conditions, a rehabilitation program and a proposed amount of financial assurance.
Primary protection zone	Area within a 200 metre buffer from the boundary of any Category A, B or C Environmentally Sensitive Area.
Programmed and approved	When the location of infrastructure has been approved by the authorised person(s) within the organisation (s).
Rare or near threatened wildlife species	Native wildlife that is prescribed under Schedule 5, part 1 of the Nature Conservation (Wildlife) Regulation 2006 as near threatened wildlife.
Regulated dams	Any dam in the significant or high hazard category as assessed using the <i>Manual for Assessing Hazard Categories and Hydraulic Performance of Dams</i> , as amended from time to time.
Remnant vegetation areas	<p>Vegetation, part of which forms the predominant canopy of the vegetation, and:</p> <ul style="list-style-type: none"> <li>• covers more than 50% of the undisturbed predominant canopy</li> <li>• averages more than 70% of the vegetation's undisturbed height</li> <li>• is composed of species which are characteristic of the vegetation's undisturbed predominant canopy cover.</li> </ul>

<p>Resource activity other than mining</p>	<p>Resource authority other than mining means:</p> <ul style="list-style-type: none"> <li>(a) any of the following under the GHG storage Act: <ul style="list-style-type: none"> <li>(i) a GHG exploration permit (also called a GHG permit)</li> <li>(ii) a GHG injection and storage lease (also called a GHG lease)</li> <li>(iii) a GHG injection and storage data acquisition authority (also called a GHG data acquisition authority)</li> </ul> </li> <li>(b) a geothermal tenure under the <i>Geothermal Energy Act 2012</i></li> <li>(c) a 1923 Act petroleum tenure granted under the <i>Petroleum Act 1923</i></li> <li>(d) a petroleum authority granted under the <i>Petroleum and Gas (Production and Safety) Act 2004</i></li> <li>(e) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the <i>Petroleum (Submerged Lands) Act 1982</i>.</li> </ul>
<p>River improvement trust asset areas</p>	<p>An area within a river improvement area declared under the <i>River Improvement Trust Act 1940</i> that is or has been subject to restoration or flood mitigation works. The location and details of these areas can be obtained from the relevant river improvement trust.</p>
<p>Significantly disturbed land</p>	<p>Disturbance to land as defined in section 28 of the Environmental Protection Regulation 2008.</p>
<p>Species diversity</p>	<p>The diversity within an ecological community that incorporates both species richness and the evenness of species' abundances.</p>
<p>Species richness</p>	<p>The number of different species in a given area.</p>
<p>Spring</p>	<p>The land to which water rises naturally from below the ground and the land over which the water then flows.</p>
<p>State-significant biodiversity values</p>	<p>Those regional ecosystems, essential habitat, wetlands, watercourses, legally secured offset areas and connectivity areas provided in Appendix 1 of the Queensland Biodiversity Offsets Policy.</p>
<p>Strategic cropping land</p>	<p>Land recorded in the decision register as being strategic cropping land under the <i>Strategic Cropping Land Act 2011</i>.</p>
<p>Top soil</p>	<p>The surface (top) layer of a soil profile, which is more fertile, darker in colour, better structured and supports greater biological activity than underlying layers. The surface layer may vary in depth depending on soil forming factors, including parent material, location and slope, but generally is not greater than about 300mm in depth from the</p>

	natural surface.
Vulnerable wildlife species	Native wildlife that is prescribed under Schedule 3, part 1 of the Nature Conservation (Wildlife) Regulation 2006 as vulnerable wildlife.
Watercourse	<p>Has the meaning provided in Schedule 5, section 12 of the Environmental Protection Regulation 2008. It means a river, creek or stream in which water flows permanently or intermittently:</p> <p>(a) in a natural channel, whether artificially improved or not; or</p> <p>(b) in an artificial channel that has changed the course of the watercourse.</p> <p>A watercourse includes the bed and banks and any other element of a river, creek or stream confining or containing water.</p>
Wetland	<p>A wetland as defined under the Queensland Wetlands Program and are areas of permanent or periodic/intermittent inundation, with water that is static or flowing fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed 6 metres. To be classified as a wetland, the area must have 1 or more of the following attributes:</p> <p>At least periodically, the land supports plants or animals that are adapted to and dependent on living in wet conditions for at least part of their life cycle, or</p> <p>The substratum is predominantly undrained soils that are saturated, flooded or ponded long enough to develop anaerobic conditions in the upper layers, or</p> <p>The substratum is not soil and is saturated with water, or covered by water at some time.</p>
Wild river declaration areas	An area of the State of Queensland declared by the minister to be a wild river area under the <i>Wild Rivers Act 2005</i> .

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

**Approved by**

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10 September 2013

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