

Guideline

Environmental impact statements

Triggers for environmental impact statements under the *Environmental Protection Act 1994* for mining and petroleum activities

This guideline explains environmental impact statement (EIS) triggers for mining and petroleum activities.

Table of Contents

1. Background	2
2. When resource activities trigger an EIS	2
2.1 Applications for environmental authorities	2
2.2 EIS triggers for resource activities	2
2.3 Cumulative impacts.....	3
2.4 Voluntary EIS applications	3
Approved by	4
Appendix A – EIS triggers in support of section 143 of the EP Act.....	5
1. Mining activities—triggers new applications	5
2. Mining activities—triggers for major amendment applications.....	5
3. Petroleum activities—triggers for greenfield sites (new applications) and brownfield sites (amendment applications)	6
Appendix B—Standard criteria	7

Triggers for environmental impact statements (EIS) under the *Environmental Protection Act 1994* for mining and petroleum activities

1. Background

The Department of Environment and Heritage Protection (EHP) is responsible for the administration and regulation of resource activities under the *Environmental Protection Act 1994* (EP Act). Resource activities include mining, petroleum (including coal seam gas), geothermal and greenhouse gas storage activities.

Resource activities that are proposed to be carried out under one or more resource tenures, in any combination, as a single integrated operation are known as resource projects.

A high-impact resource project may be required to be assessed through an environmental impact statement (EIS) process under chapter 3, part 1 of the EP Act.

This guideline sets out the EIS criteria (EIS triggers) for resource project applications under the EP Act.

2. When resource activities trigger an EIS

2.1 Applications for environmental authorities

Resource activities may only be carried out by a person holding, or operating under, an environmental authority (EA) issued under the EP Act and a resource tenement granted under relevant resource legislation, e.g. the *Mineral Resources Act 1989* or the *Petroleum and Gas (Production and Safety) Act 2004*.

The tenements provide the right to access the land and to undertake exploration, resource assessment, feasibility studies, prospecting or production. No resource tenement may be granted without prior EA approval for the relevant resource activity.

EA applications for resource activities may either be standard applications, variation applications or site-specific applications. Only site-specific applications for new resource activities ("greenfield" sites) or the amendment of existing EAs ("brownfield" sites) require a decision to be made whether an EIS is required under the EP Act.

Large-scale impacts associated with resource project commonly require site-specific applications that trigger assessment by EIS. The scale (i.e. relative magnitude) of an impact is determined by its intensity, duration, irreversibility and the risk of environmental harm, as well as social and economic impacts. Section 142 and 143 of the EP Act describe the circumstances under which a resource activity must or may be assessed by EIS.

2.2 EIS triggers for resource activities

A site-specific EA application can trigger EIS provisions under section 142 or 143 of the EP Act. However, while section 142 only applies to mining activities, section 143 may apply to any type of resource activity.

Section 142 of the EP Act states that an EIS must be required for a site-specific mining application in a wild river high preservation area or in a wild river special flood management area, unless:

- it is for specified works under the *Wild Rivers Act 2005*
- the application relates to a coordinated project under the *State Development and Public Works Organisation Act 1971* (SDPWO Act)
- an EIS under the EP Act has already been submitted.

Triggers for environmental impact statements (EIS) under the *Environmental Protection Act 1994* for mining and petroleum activities

Section 143 of the EP Act states that an EIS may be required for a site-specific application for a resource activity if:

- section 142 does not apply
- the application does not relate to a coordinated project under the SDPWO Act
- an EIS under the EP Act has not been submitted.

The criteria (EIS triggers) used to support of decision-making under section 143 for new (greenfield) projects and expansion of existing (brownfield) projects are set out in Appendix A. However, a decision may be made to require an EIS application, even if no EIS criteria are triggered, if EHP or the Minister for Environment and Heritage Protection determines that the project applied for would involve a significant environmental impact, or a high level of uncertainty about potential impacts, or involve a high level of public interest.

Section 143 states that, when deciding whether an EIS is required for an application, the administering authority must consider the standard criteria (Appendix B).

In deciding whether an application requires assessment by EIS, EHP will carry out its functions and responsibilities in accordance with the *Environmental Protection Act 1994*. This includes the use of its powers to require an EIS for a resource project application if consideration of the standard criteria (and other relevant considerations) shows an EIS should be required, irrespective of the EIS triggers in this guideline.

Any application for a resource activity that appears to be seeking to avoid an EIS through a staged development would be closely examined and, consistent with the standard criteria, an EIS may be required for the entire project, even though none of the individual stages would trigger an EIS by themselves.

2.3 Cumulative impacts

A decision may be made that an EIS is required for an application if the project is likely to contribute substantially to cumulative impacts, even when an EIS is not triggered based on the consideration of Appendix A. Unacceptable cumulative impacts may occur when the environmental impacts of a project are added to existing environmental impacts contributed by other activities over space and time e.g. impacts to the local airshed, a regional water catchment, or the environmental values of aquifers. To determine the spatial and chronological extent of potential cumulative impacts, EHP may take into account existing information including:

- spatial/regional planning
- strategic assessments (*Environment Protection and Biodiversity Conservation Act 1999*)
- bioregional assessments
- regional air/water/noise plans and modelling
- social impact assessments.

2.4 Voluntary EIS applications

Sections 69 to 72 of the EP Act allow a proponent to apply for approval to voluntarily prepare an EIS. The EIS triggers discussed in this guideline will be considered by EHP when deciding applications for the voluntary preparation of an EIS.

Triggers for environmental impact statements (EIS) under the *Environmental Protection Act 1994* for mining and petroleum activities

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.

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Signature

10 February 2014

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Triggers for environmental impact statements (EIS) under the *Environmental Protection Act 1994* for mining and petroleum activities

Appendix A – EIS triggers under section 143 of the EP Act

1. Mining activities—triggers new applications

An EIS is required for mining activities that would result in:

- the removal of two million tonnes/year (t/y) or more of run-of-mine (ROM)¹ ore or coal
- the removal of one million t/y or more of ROM ore or coal on or under a floodplain² or in a coastal hazard area³
- the introduction of a novel or unproven resource extraction process, technology or activity⁴.

2. Mining activities—triggers for major amendment applications

An EIS is required for a proposed major amendment⁶ of mining activities as a result of one or more of the following:

- for existing mines extracting between 2–10 million tonnes/year (t/y) ROM ore or coal, an increase in annual extraction of more than of 100% or 5 megatonnes/y (Mt/y) (whichever is the lesser)
- for existing mines extracting over 10 million t/y ROM ore or coal, an increase in annual extraction of more than 50% or 10 Mt/year (whichever is the lesser)
- for existing mines extracting more than 20 million t/y ROM ore or coal extraction, an increase in annual extraction greater than 25%
- proposed activities in a Category A or B environmentally sensitive area⁵, unless previously authorised under Queensland legislation
- a substantial change in mining operations, e.g. from underground to open cut, or (for underground mining), or a change from minor subsidence to potentially substantial subsidence
- the introduction of a novel or unproven resource extraction process, technology or activity.

¹ROM ore or coal is the excavated raw, unprocessed ore or coal requiring physical or chemical treatment prior to selling. It does not include overburden.

² The *Water Act 2000* defines a floodplain as an area of reasonably flat land adjacent to a watercourse that (a) is covered from time to time by floodwater overflowing from the watercourse; and (b) does not, other than in an upper valley reach, confine floodwater to generally follow the path of the watercourse; and (c) has finer sediment deposits than the sediment deposits of any bench, bar or in-stream island in the watercourse.

³ The Queensland Coastal Plan defines a coastal hazard area as land under tidal waters, erosion prone areas, land at risk from storm tide inundation or permanent inundation due to sea level rise. Maps of these areas are available at www.ehp.qld.gov.au/coastal/management/coastal_plan_maps.php and <http://dds.information.qld.gov.au/dds/>

⁴ Examples include: underground coal gasification, in-seam coal slurring or a new method of ore concentration. These matters will be decided on a case- by-case basis.

⁵ Refer to section 25 and 26 of the Environmental Protection Regulation 2008.

⁶ as determined in section 228 and section 229 of the *Environmental Protection Act 1994*

Triggers for environmental impact statements (EIS) under the *Environmental Protection Act 1994* for mining and petroleum activities

3. Petroleum activities—triggers for greenfield sites (new applications) and brownfield sites (amendment applications)

An EIS is required where an activity would:

- have a total disturbance area greater than 2000 hectares at any one time during the life of the proposed activity. This includes areas occupied by well pads (single or multi-directional), access tracks and roads, water storage dams, and process plants
- involve the construction of a high pressure pipeline over a distance of 300 kilometres or greater
- involve the construction of a liquefied natural gas plant.

Triggers for environmental impact statements (EIS) under the *Environmental Protection Act 1994* for mining and petroleum activities

Appendix B—Standard criteria

Schedule 4, *Environmental Protection Act 1994*

Page 645–646, current as at 1 July 2013

standard criteria means—

(a) the following principles of environmental policy as set out in the Intergovernmental Agreement on the Environment—

- (i) the precautionary principle;
- (ii) intergenerational equity;
- (iii) conservation of biological diversity and ecological integrity; and

(b) any Commonwealth or State government plans, standards, agreements or requirements about environmental protection or ecologically sustainable development; and

(c) any relevant wild river declaration; and

(d) any relevant environmental impact study, assessment or report; and

(e) the character, resilience and values of the receiving environment; and

(f) all submissions made by the applicant and submitters; and

(g) the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows—

- (i) an environmental authority;
- (ii) a transitional environmental program;
- (iii) an environmental protection order;
- (iv) a disposal permit;
- (v) a development approval; and

(h) the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and

(i) the public interest; and

(j) any relevant site management plan; and

(k) any relevant integrated environmental management system or proposed integrated environmental management system; and

(l) any other matter prescribed under a regulation.