

Guideline

Environmental Protection Act 1994 Major and minor amendments

This guideline provides an overview of the process for amending an environmental authority (EA) and / or a progressive rehabilitation and closure plan (PRCP) schedule under the Environmental Protection Act 1994 (EP Act). It also describes how the assessment level decision for an amendment application is determined under s. 228 of the EP Act. The guidance is written for the situation where the Department of Environment and Science (DES) is the administering authority but is also applicable (with any necessary changes) where a local government or the Department of Agriculture and Fisheries (DAF) is the administering authority.

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1. Introduction

The holder of an environmental authority (EA) or a progressive rehabilitation and closure plan (PRCP) schedule may, at any time, apply to the administering authority¹ to amend the EA or PRCP schedule (an amendment application). However, under s. 225 of the *Environmental Protection Act 1994* (EP Act), an amendment application cannot be made:

- if the amendment is to add an environmentally relevant activity (ERA) that is not proposed to be carried out as part of an ERA project (i.e., as a single integrated operation).²
- if the amendment is to extend the term of an EA that was issued to conduct research into, or test, technology or processes relating to an ERA, and holder relied on s. 125(8) of the EP Act in the application for the EA.³
- for prescribed ERAs, if the proposed amendment involves a change to the activity that requires a development permit under the *Planning Act 2016*, unless a development application or a change application to change a development permit has been made.

Applicants are discouraged from submitting amendment applications while another amendment application is under assessment for the same EA or PRCP schedule given the complexity of considering multiple applications simultaneously.

Further, for EAs that are required to comply with eligibility criteria, if the proposed amendment would change a condition imposed by the administering authority requiring the holder of the EA to take all reasonable steps to ensure the activity complies with the eligibility criteria for the activity, the administering authority may under s. 227A of the EP Act:

- refuse the application within 10 business days after receiving the amendment application; and
- require the EA holder to make a site-specific application for a new EA to replace the EA.

The application pathways for an amendment application are shown below.

- EA amendment – online through Online Services at www.business.qld.gov.au/running-business/environment/online-services or through the form *Application to amend an environmental authority* – ESR/2015/1733⁴
- PRCP schedule / joint EA and PRCP schedule amendment – through the form *Application to amend a PRCP schedule and/or PRCP schedule and EA* – ESR/2019/4956⁴

Application forms are available on the Business Queensland website at www.business.qld.gov.au (using the search term “ESR/2015/1733” or “ESR/2019/4956”).

¹ The administering authority is the relevant local government for ERAs devolved under s. 133 of the Environmental Protection Regulation 2019, DAF for ERAs 2, 3 and 4 or the Department of Environment and Science (the department) for all other ERAs. See the information sheets *Environmentally relevant activities devolved to local government* (ESR/2015/1662) and *Environmentally relevant activities delegated to the Department of Agriculture and Fisheries* (ESR/2015/1671) for further information (available at www.qld.gov.au using the publication number as a search term).

² In this instance, the applicant needs to apply for a new EA except where the EA is for an amalgamated local government authority. If the EA is for an amalgamated local government authority, the EA may be amended to add a new location, despite the operations not forming part of a project with one of the currently licensed sites.

³ In this instance, the applicant needs to apply for a new EA.

⁴ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.qld.gov.au.

2. Types of amendment applications

An amendment application for an environmental authority may be:

- a minor amendment (condition conversion) to convert all the EA conditions to standard conditions⁵ provided the eligibility criteria can be met;
- any other minor amendment—known as minor amendment (threshold); or
- a major amendment, which is an amendment that is not a minor amendment.

An amendment application for an approved PRCP schedule may be:

- a minor amendment (PRCP threshold); or
- a major amendment, which is an amendment that is not a minor amendment.

EA holders that also hold a PRCP schedule for the EA must consider whether a proposed amendment to the PRCP schedule requires a concurrent amendment to the EA (or vice versa) to ensure that no inconsistency occurs between the documents. Where amendments to both documents are required, the holder must apply to amend both simultaneously, using the joint PRCP schedule and EA amendment application form. Where a proposed amendment does not warrant an amendment to both documents, an application can be made to only amend the required document.

3. Application requirements and not properly made amendment applications

Amendment applications must be made in accordance with s. 224 and s. 225 of the EP Act, meet the application requirements as per s. 226 of the EP Act, and where relevant, meet the requirements of ss. 226AA, 226A, 226B, 227 and 227AA of the EP Act to be a properly made amendment application. An application will be deemed not properly made if it does not satisfy the information requirements as stated in these sections. Refer to Appendix 1 for further information about application requirements.

Where an application is deemed not properly made, the administering authority must issue a notice under s. 227AAB of the EP Act stating that the application is not properly made within 10 business days after receiving the amendment application. The notice must:

- give the reasons for the determination;
- state the actions that the applicant must take to make the application properly made; and
- provide a period of at least 20 business days after the notice is given within which the applicant must give written notice to the administering authority that the action has been taken.

If the applicant does not take the actions in the notice within the stated period (or longer by agreement), the amendment application will lapse under s. 227AAC of the EP Act.

4. Assessment level decisions for amendment applications

Under s. 228 of the EP Act, the administering authority must decide whether the proposed amendment is a minor or a major amendment. This decision is called the assessment level decision.

There is no assessment level decision for a minor amendment (condition conversion). Applicants should not submit multiple staged minor amendments to avoid determination as a major amendment.

⁵ ERA standards are comprised of eligibility criteria and standard conditions. The activities that have an ERA standard are listed on Business Queensland (available at <https://www.business.qld.gov.au/> and searching 'ERA standards').

Important note

While an applicant may propose that their application is a minor amendment, the administering authority will decide the amendment type through its assessment level decision. If the applicant is proposing that their application is a minor amendment, the onus is on the applicant to provide enough information to demonstrate that the amendment is a minor amendment, as per the definition in the EP Act.

The assessment level decision will be made based on the information provided as part of the amendment application. Consequently, applicants should ensure that sufficient information is provided in the application to allow the administering authority to consider the proposed amendment against the definitions of minor amendment and major amendment in the EP Act. For example, if proposing to vary current EA conditions, applicants should include details of the conditions proposed to be amended, the justification for the changes and how the changed conditions would / would not impact the environmental risks of the relevant activity. Providing sufficient and relevant information upfront as part of the amendment application will support the administering authority to undertake assessments in a timely manner.

Applicants who have questions regarding the level of information to include in an application or whether a proposed amendment of an existing EA or PRCP schedule is likely to be a minor or major amendment, are encouraged to arrange a pre-lodgement meeting with the administering authority. During the pre-lodgement meeting, the administering authority may indicate if the proposed changes are likely to be a minor or major amendment.

Important note

While the administering authority may indicate if the proposed changes are likely to be a minor or major amendment as part of a pre-lodgement meeting, the assessment level decision can only be made when the actual application is submitted.

The purpose of the assessment level decision is to determine the most appropriate assessment approach for an application (i.e. minor or major). Applications involving complex matters may be assessed as major to provide for a more detailed technical review to verify the conclusions made in the application.

More information on pre-lodgement meetings is available on the department's website at www.des.qld.gov.au.

An assessment level decision must be made within 10 business days after receiving the amendment application (or, where the administering authority has given a notice under s. 227AAB about a not properly made application, within 10 business days after the applicant gives notice that the action to make the application properly made has been taken). A notice of the assessment level decision must be issued to the applicant within 10 business days of making the assessment level decision. A single assessment level decision will be made, and a single decision notice issued, where the applicant has applied to amend both the EA and PRCP schedule at the same time. This is to ensure that the proposed amendments are considered together and there are no inconsistencies between environmental authorities and PRCP schedules as per the requirements of s. 226AA of the EP Act.

Where the assessment level decision is that the proposed amendment is a major amendment, and the applicant is not satisfied with the decision, a review and/or appeal process is available. See the information sheet 'Internal review and appeals' (ESR/2015/1742)⁶ for further information about review and/or appeal processes.

⁶ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.qld.gov.au.

4.1. Major and minor amendment definitions

As defined in s. 223 of the EP Act, a major amendment for an EA or PRCP schedule is an amendment that is not a minor amendment. Minor amendment, for an EA or PRCP schedule, means an amendment that is –

- (a) for an environmental authority –
 - (i) a condition conversion; or
 - (ii) a minor amendment (threshold); or
- (b) for a PRCP schedule - a minor amendment (PRCP threshold).

4.1.1. Minor amendment (threshold)

As defined in s. 223 of the EP Act, a minor amendment (threshold) for an EA is an amendment that:

- (a) is not a change to a condition identified in the authority as a standard condition, other than -
 - (i) a change that is a condition conversion; or
 - (ii) a change that is not a condition conversion but that replaces a standard condition of the authority with a standard condition for the environmentally relevant activity to which the authority relates; or
 - (iii) a change that will not result in a change to the impact of the relevant activity on an environmental value; and
- (b) does not significantly increase the level of environmental harm caused by the relevant activity; and
- (c) does not change any rehabilitation objectives in the EA in a way likely to result in significantly different impacts on environmental values than the impacts previously permitted under the EA; and
- (d) does not significantly increase the scale or intensity of the relevant activity; and
- (e) does not relate to a new relevant resource tenure for the EA that is -
 - (i) a new mining lease; or
 - (ii) a new petroleum lease; or
 - (iii) a new geothermal lease under the *Geothermal Energy Act 2010*; or
 - (iv) a new greenhouse gas injection and storage lease under the *Greenhouse Gas Storage Act 2009*; and
- (f) involves an addition to the surface area for the relevant activity of no more than 10% of the existing area; and
- (g) for an EA for a petroleum activity:
 - (i) involves constructing a new pipeline that does not exceed 150km in length; or
 - (ii) involves extending an existing pipeline by no more than 10% of the existing length of the pipeline; and
- (h) if the amendment relates to a new relevant resource tenure for the authority that is an exploration permit or greenhouse gas permit - the amendment application seeks an EA that is subject to the standard conditions for the relevant activity, to the extent it relates to the permit.

The amendment application will only be assessed as a minor amendment (threshold) if all the relevant criteria above will be met under the amended EA.

4.1.2.Minor amendment (PRCP threshold)

As defined in s. 223 of the EP Act, a minor amendment (PRCP threshold) for a PRCP schedule is an amendment that;

- (a) does not change a post-mining land use or non-use management area; or
- (b) does not affect whether a stable condition will be achieved for land under the schedule; or
- (c) does not change the way a post-mining land use will be achieved, or a non-use management area will be managed, in a way likely to result in significantly different impacts on environmental values compared to the impacts on the values under the schedule before the change; or
- (d) does not relate to a new mining tenure for the schedule; or
- (e) does not change when a rehabilitation milestone or management milestone will be achieved by more than 5 years after the time stated in the schedule when it was first approved; or
- (f) does not extend the day by which rehabilitation of land to a stable condition will be achieved.

The amendment application will only be assessed as a minor amendment (PRCP threshold) if all the criteria above will be met, subject to the following exception.

Re-sequencing exception – PRCP schedule amendments

Despite the above criteria in paragraphs (e) and (f), if the applicant proposes an amendment to only re-sequence (i.e. change the **order**, not the process or outcome) two or more rehabilitation areas and their respective dates for completion, then the administering authority may decide that the application is a minor amendment. As per s. 228(2) of the EP Act, to be considered for a minor amendment for re-sequencing, the administering authority must be satisfied that the applicant has:

- undertaken adequate consultation (as outlined in the proponent's Stakeholder Engagement Plan) with the community on the proposed amendment; and
- adequately addressed any matters raised by community during this consultation.

Important note

The definitions of 'minor amendment (threshold)' and 'minor amendment (PRCP threshold)' refer to 'relevant activity.' Schedule 4 of the EP Act defines 'relevant activity' as:

- For an EA, means the ERA/s the subject of the EA; or
- For an application for an EA, means the ERA/s the subject of the application; or
- For a proposed PRCP or PRCP, means the relevant activities to be carried out on land the subject of the plan.

For example, for an amalgamated project authority (APA) that consists of 500 sewage pump station sites, the 'relevant activity' would encompass all activities on all sites on the EA.

The definition of 'minor amendment (threshold)' also refers to 'existing area' and 'surface area.' 'Existing area' and 'surface area' are not defined in the EP Act. Consequently, these terms have their ordinary meaning. Generally, 'existing area' would be taken to mean the entire existing area that has been lawfully disturbed or is authorised to be lawfully disturbed; while 'surface area' would be taken to refer the area of the surface of the relevant land.

4.2. Considering the element of ‘significantly’

Some elements of the definition of minor amendment (threshold) and minor amendment (PRCP threshold) require the administering authority to determine whether the proposed amendment would:

- ‘significantly’ increase the level of harm caused by the activity⁷
- ‘significantly’ increase the scale or intensity of the relevant activity⁸
- result in ‘significantly’ different impacts on environmental values than previously authorised⁹

‘Significantly’ is not defined in the EP Act. Consequently, guidance is necessary to support consistent assessment level decisions for EA and PRCP amendments. Not all increases or changes proposed through an EA or PRCP amendment process will be considered ‘significant.’ Generally, an action has a ‘significant impact’ if the impact is ‘important, notable, or of consequence’ having regard to its context.¹⁰

Appendix 2 provides detailed examples of major and minor amendments including examples which consider the significance of increases and changes.

4.2.1. EA Amendments

Subsections (b) and (d) of the definition of minor amendment (threshold)¹¹ refer to ‘significantly increase.’ While subsection (c) of the definition of minor amendment (threshold)¹² refers to ‘significantly different impacts.’

To identify if a proposed EA amendment will ‘significantly increase’ the level of harm, scale or intensity of the activity or result in ‘significantly different impacts’ on environmental values, it first needs to be considered if the proposed EA amendment will:

- For subsection (b) - increase the level of harm caused by the relevant activity;
- For subsection (c) – result in different impacts on environmental values [in reference to changes to any rehabilitation objectives]; or
- For subsection (d) – increase the scale or intensity of the relevant activity.

The starting point for considering whether there is an ‘increase’ or ‘different impacts’ is the current EA. Where the amendment proposes changes to matters not currently considered by the EA, consideration of other relevant regulatory requirements or the relevant environmental protection policies might assist in determining any potential increase or different impact and its significance.

Considering increase the level of harm caused by the relevant activity

Environmental harm is defined in section 14 of the EP Act as any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance. Environmental harm may be caused by an activity:

- whether the harm is a direct or indirect result of the activity; or
- whether the harm results from the activity alone or from the combined effects of the activity and other activities or factors.

Consequently, when assessing an increase in environmental harm, consideration must be given to all aspects of the definition of environmental harm including:

⁷ Refer to minor amendment (threshold) definition s. 223(b).

⁸ Refer to minor amendment (threshold) definition s. 223(d).

⁹ Refer to minor amendment (threshold) definition s. 223(c) and minor amendment (PRCP) threshold definition s. 223(c)

¹⁰ *Booth v Bosworth* [2001] FCA 1453 at [99].

¹¹ Refer to minor amendment (threshold) definition s. 223(b) and s. 223(d) of the EP Act.

¹² Refer to minor amendment (threshold) definition s. 223(c) of the EP Act.

- potential, not just actual, adverse effects;
- temporary or infrequent effects;
- environmental nuisance; and
- the combined effects of the activity and other activities or factors.

Considering different impacts on environmental values¹³

The use of the term 'different impacts' rather than increased impacts, may be taken to mean that the impacts on environmental values do not have to be increased, but rather the focus is on the type and extent of the impact and how this may change through the proposed amendment.

Considering scale or intensity

The scale or intensity for an EA may relate to:

- A condition setting the processing threshold or activity limit;
- A condition adopting a map or plan limiting disturbance;
- A condition setting out a table of disturbance;
- A condition specifically adopting another document, such as a figure within an environmental impact statement; or
- Conditions specifying emissions limits.

Considering significance

Once it has been identified that there will be an increase in harm, scale or intensity or different impacts on environmental values, the significance of the increase or different impact needs to be determined by considering the importance, noteworthiness, or consequence of the increase or different impact having regard to its context.

While a 10% increase is referred to in s. 223(f) and s. 223(g) of the minor amendment (threshold) definition, there is no percentage increase included in the EP Act to designate 'significance' for the purposes of s. 223(b) and s. 223(d) of the minor amendment (threshold) definition. Percentages should not be applied as the sole determination of significance in the absence of clear legislative intent for doing so. All increases should be considered contextually with regard to their importance, noteworthiness, or consequence.

4.2.2. PRCP Schedule Amendments

Subsections (c) of the definition of minor amendment (PRCP threshold)¹⁴ refer to 'significantly different impacts'. To identify if a proposed PRCP schedule amendment will result in 'significantly different impacts' on environmental values, it first needs to be considered if the proposed PRCP schedule amendment will result in different impacts on environmental values [in reference to changes to the way a post-mining land use will be achieved, or a non-use management area will be managed].

The starting point for considering whether 'different impacts' will result from the proposed amendment is the PRCP schedule and the current post-mining land uses or non-use management areas.

As noted above in relation to EA amendments, the use of the term 'different impacts' rather than increased impacts, may be taken to mean that the impacts on environmental values do not have to be increased, but

¹³ Minor amendment (threshold) definition s. 223(c) of the EP Act is not relevant where when PRCP is in place. Where a PRCP is in place, refer to minor amendment (PRCP threshold) definition s. 223(c) of the EP Act.

¹⁴ Refer to minor amendment (PRCP threshold) definition s. 223(c) of the EP Act.

rather the focus is on the type and extent of the impact and how this may change through the proposed amendment.

Considering significance

Once it has been identified that there will be different impacts on environmental values, the significance of the different impact needs to be determined by considering the importance, noteworthiness, or consequence of the different impact having regard to its context.

5. Minor amendment process

5.1. Information stage

Information requests do not apply to a minor amendment (threshold or PRCP threshold).

5.2. Public notification

Public notification does not apply to a minor amendment (threshold or PRCP threshold).

5.3. Timeframes

The minor amendment (threshold or PRCP threshold) process (from receiving the amendment application, to issuing the amended EA or PRCP schedule to the applicant) takes no more than 35 business days, provided the application is properly made as per s. 227AAA of the EP Act and there are no agreed extensions to the timeframe for deciding the application¹⁵.

Minor amendment (condition conversion) applications must be decided within 10 business days of receipt of the application.

6. Major amendment process

A major amendment application for an EA goes through a similar assessment process as a site-specific EA application (i.e. Chapter 5, parts 3 to 5 of the EP Act apply). A major amendment application for a PRCP schedule generally goes through a similar assessment process as a proposed PRCP accompanying a site-specific application for an EA (i.e. s. 136A and Chapter 5, parts 3 to 5 of the EP Act). However, there are some exceptions to the public notification requirements for major amendment applications for a PRCP schedule as noted in section 6.2 of this guideline.

As outlined in section 4 of this guideline, where the applicant has applied to amend both the EA and PRCP schedule at the same time, a single assessment level decision will be made.

6.1. Information stage

The information stage (Chapter 5, part 3 of the EP Act) applies to all major amendment applications. During this stage, the administering authority checks the application to ensure sufficient information has been provided to decide the application. If sufficient information has not been provided, an information request notice can be issued to the applicant during the information request period,¹⁶ requesting the applicant to supply the missing information.

If an environmental impact statement (EIS) decision has previously been made by the administering authority and an EIS is deemed required, or is otherwise deemed necessary through the application process, an information request will be made for a new EIS to be submitted for the amendment application.

¹⁵ Under s. 240(1)(b)(ii) of the EP Act, an applicant may agree to extend the 10 business days timeframe for deciding minor amendment applications by no more than 20 business days.

¹⁶ The timeframe required may differ depending on the application type submitted. The information request period may be extended once by written notice by the administering authority or further extended by agreement with the applicant.

However, the information stage does not apply to certain amendment applications when an EIS has been completed prior if, since the application was made, materially relevant changes have not been proposed as mentioned in either the existing EIS process or the Coordinator-General stated conditions mentioned in s. 34D(3)(b) of that Act that relate to each relevant activity the subject of the application.

6.2. Public notification

As per s. 230 of the EP Act, an application for a major amendment of an EA for a resource activity will require public notification.¹⁷

Public notification applies to applications for a major amendment of a PRCP schedule, except to the extent that the proposed change to the PRCP schedule:¹⁸

- reduces the area of a non-use management area under the schedule; or
- is likely to reduce, or cause no change to, the impacts on environmental values raised by the activities the subject of the schedule.

Public notification, under the EP Act, is not applicable for prescribed ERAs.

The requirement for public notification will be stated on the ALD Notice, even if an EIS has already been notified.

Note: Public notification under Chapter 5, part 4 of the EP Act may not ultimately be required if a relevant EIS has been notified under the EP Act or *State Development and Public Works Organisation Act 1971*, and the application is consistent with the criteria listed in s. 150 of the EP Act. In this instance, it is important to note, that any properly made submissions to the EIS are considered to be submissions to the EA amendment application.

6.3. Timeframes

The timeframe for the major amendment assessment process (from receiving the amendment application, to issuing the amended EA or PRCP schedule to the applicant) can vary and depends on whether public notification and/or an information request are required.

7. Making a change to a major amendment application

Where an application is deemed to be a major amendment, an applicant may change their amendment application before the application is decided under s. 236 of the EP Act, provided the change does not result in the application being not properly made. The applicant must give the administering authority written notice detailing the change and pay a fee before the change is considered. If the information stage applies to the changed application, the administering authority may, within 10 business days after notice of the change is received, ask the applicant to give further information needed to assess the application. The administering authority may also determine that public notification must be undertaken for the changed application, even if public notification has already been undertaken for the original application.

Information on the fee for changing an amendment application is in the Information sheet 'Fees for permits for environmentally relevant activities (ERAs)' (ESR/2015/1721)¹⁹.

¹⁷ Section 230 of the EP Act was amended by the *Environmental Protection and Other Legislation Amendment Act 2022*. Under s. 805 of the EP Act, new s. 230 of the EP Act applies where an amendment application was submitted, and the assessment level decision for the application had not been made immediately before the commencement of the Environmental Protection and Other Legislation Amendment Act 2022.

¹⁸ Refer to s. 232(2) of EP Act.

¹⁹ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.qld.gov.au.

8. Decision

The decision on an application must be made within:

- 10 business days of receiving the application for a minor amendment (condition conversion).
- 10 business days after notice of the assessment level decision is given to the applicant for a minor amendment (threshold or PRCP threshold). This timeframe can be extended by no more than 20 business days provided the applicant agrees to the extended decision timeframe.²⁰
- 20 business days after the day the decision stage for the application starts for a major amendment for an EA. This timeframe can be extended once without applicant's agreement by no more than 20 business days and further extended with the applicant's agreement.²¹
- 30 business days after the day the decision stage for the application starts for a major amendment for a PRCP schedule. This timeframe can be extended once without applicant's agreement by no more than 30 business days and further extended with the applicant's agreement.

Note: If a public interest evaluation (PIE) is required for the proposed PRCP schedule amendment application, then the timeframes may differ from those stated above.

If the amendment application is approved, the administering authority will, within 5 business days of the decision, amend the EA and/or PRCP schedule to reflect the changes, issue the amended document to the applicant and include a copy of the amended document in the relevant register.

If the amendment application is refused or the EA and/or PRCP schedule is amended other than as agreed to by the applicant, the administering authority will give the applicant an information notice about the decision within 5 business days of the decision. The information notice will include the review or appeal details. Further information about internal review and appeals is available in the information sheet 'Internal review and appeals' (ESR/2015/1742).²²

9. Fees

9.1. Application fee

A fee is payable upon submission of an amendment application. Information on this fee is included in the information sheet 'Fees for permits for environmentally relevant activities (ERAs)' (ESR/2015/1721)²², as well as Schedule 10 of the Environmental Protection Regulation 2019.

9.2. Assessment fee for major amendment application

Where the administering authority determines the assessment level decision for the application as being a major amendment, an assessment fee is also payable to the administering authority in addition to the application fee. The assessment fee is calculated as 30% of the annual fee for the authority at the time the application is made. The assessment fee is payable once notification of the assessment level decision is issued. The assessment level decision notice will indicate the amount payable and how it can be paid. The assessment fee must be paid before the assessment of the amendment application can proceed.

²⁰ Under s. 240(1)(b)(ii) of the EP Act, an applicant may agree to extend the 10 business days timeframe for deciding minor amendment applications by no more than 20 business days.

²¹ If the EA amendment also includes a PRCP schedule amendment, refer to the timeframe for the PRCP amendment.

²² This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.qld.gov.au.

9.3. Supplementary annual fee

All EA holders are required to pay an annual fee based on the ERA with the highest aggregate environmental score (AES). If amending an EA results in an annual fee being payable that is higher than the annual fee payable prior to the amendment, the difference between these fees (the supplementary annual fee) must be paid for the remainder of the licensing year from when the amendment takes effect. For example, this would apply if the amendment was to add a new non-concurrence ERA, which has a higher annual fee than the existing ERA.

The supplementary annual fee is payable to the administering authority within 20 business days after the amendment application is approved. The amendment decision notice will indicate if a supplementary annual fee is payable and how it can be paid. For more information on how your administering authority will calculate the supplementary annual fee, refer to the fee calculator²³.

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

Approved:

XX Month 2023

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Version history

Version	Date	Comments
4.00	25 November 2015	Inclusion of examples of amendment decisions. Addition of information about application requirements, environmental offsets and fees. Various other amendments to improve readability and clarity.
5.00	08 June 2016	Replaced Example 16 in Appendix 1; Updated references to other documents.
6.00	16 December 2016	Updated section 2 about invalid applications. Updated section 3.2 for legislative amendments regarding public notification for Co-ordinator General's coordinated projects and mining activities.
7.00	06 March 2017	Updated for Connect.
7.01	07 July 2017	Replaced <i>Sustainable Planning Act 2009</i> with <i>Planning Act 2016</i> .
7.02	11 June 2018	Document rebranded to align with machinery of government changes.
8.00	01 July 2019	Updated for the Environmental Protection (Waste ERA framework) Amendment Regulation 2018.
8.01	08 October 2019	Updated to reflect the Environmental Protection Regulation 2019 remake.
9.00	01 November 2019	Updated to reflect the commencement of the <i>Mineral and Energy</i>

²³ Available at www.qld.gov.au, using 'ESR/2015/1731' as a search term.

Version	Date	Comments
		<i>Resources (Financial Provisioning) Act 2018</i> and the subsequent changes to the <i>Environmental Protection Act 1994</i> .
10.00	29 September 2020	Updated to reflect the commencement of the <i>Environmental Protection and Other Legislative Amendments Act 2020</i> and the subsequent changes to the <i>Environmental Protection Act 1994</i> .
10.01	04 May 2022	Facsimile number removed.
11.00	XX Month 2023	Updated to reflect the commencement of the <i>Environmental Protection and Other Legislation Amendment Act 2022</i> and the subsequent changes to the <i>Environmental Protection Act 1994</i> . Addition of information to provide further rigour and certainty around assessment level decisions.

Consultation Questions:

During initial consultation, external stakeholders requested additional guidance information about the requirements for amendment applications. Appendix 1 has been proposed in response to this request. The department is seeking feedback as to whether:

- The information included in the Appendix provides clarity about what information is required for applications to be properly made?
- The information should be contained within a separate or different document?

Appendix 1: Application Requirements

Amendment applications must meet the application requirements as per s. 226 of the EP Act, and where relevant, meet the requirements of ss. 226AA, 226A, 226B, 227 and 227AA of the EP Act to be a properly made amendment application. An application will be deemed not properly made if it does not satisfy the information requirements as stated in these sections.

As general guidance:

- The administering authority operates under an evidence-based decision-making framework and amendment applications are required to provide sufficient information in support of the application.
- The administering authority encourages EA and PRCP holders to arrange pre-lodgement meetings so they are fully apprised of the information that they must provide as part of an amendment application.
- As relevant, applications should identify the environmental values likely to be affected by the proposed amendment, the nature and extent of any impacts, and the management practices proposed to be implemented to prevent or minimise adverse impacts.
- If any of the requirements of the EP Act or approved form are not applicable to the application, the EA or PRCP holder must state why the requirement is not applicable.
- Information that has been previously submitted to the administering authority may be resubmitted as part of an EA or PRCP amendment if it is still current, relevant and meets the information requirements.
- Where a proposed activity poses an unacceptable risk to the environment based on the nature or location of the activity, or the level of information provided in the amendment application about environmental impacts, the amendment application may be refused.

The following table is intended to support determination about whether an amendment application has satisfied the information requirements outlined in the EP Act and is properly made.

Requirement	Guidance
Section 226 - Requirements for amendment applications generally	
<input type="checkbox"/> Be made to the administering authority	<p>The administering authority for an application depends on the nature of the activity and the proposed amendment.</p> <ul style="list-style-type: none"> • For ERA 2, ERA 3 or ERA 4 – The administering authority is the Department of Agriculture and Fisheries • For a mining ERA where the proposed amendment impacts upon the resource tenure –

Requirement	Guidance
	<p>Applications should be submitted to the Mining Registrar, Department of Resources</p> <ul style="list-style-type: none"> For all other ERAs - The administering authority is the Department of Environment and Science
<input type="checkbox"/> Be in the approved form	<p>The approved form depends on the type of amendment application:</p> <ul style="list-style-type: none"> Application to amend an EA - ESR/2015/1733²⁴ Application to amend a PRCP schedule or joint PRCP and EA - ESR/2019/4956²⁴ <p>Note: For applications²⁵ to the Department of Environment and Science, you can apply through Online Services at: https://business.qld.gov.au/running-business/environment/online-services.</p>
<input type="checkbox"/> Be accompanied by the fee prescribed by regulation	<p>Refer to section 9 of this Guideline for fee information. Information about the fees for amendment applications is also included in:</p> <ul style="list-style-type: none"> The information sheet 'Fees for permits for environmentally relevant activities (ERAs)' available at www.qld.gov.au using the publication number ESR/2015/1721 as a search term. Schedule 10 of the Environmental Protection Regulation 2019.
<input type="checkbox"/> Describe the proposed amendment ²⁶	<p>The approved form will prompt the applicant to describe the proposed amendment.</p> <p>Applicants should ensure that full details of the proposed amendment are included so that the administering authority can clearly determine the requested changes to the EA or PRCP schedule.</p> <p>Applicants should also include justification of how the proposed amendment meets the criteria for a major or minor amendment and attach any supporting information to the application.</p>
<input type="checkbox"/> Describe the land that will be affected by the proposed amendment. ²⁶	<p>The approved form will prompt the applicant to describe the land that will be affected by the proposed amendment. This includes describing if:</p>

²⁴ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.qld.gov.au.

²⁵ Online Services is available for ERA other than ERA13A.

²⁶ This requirement is not relevant to condition conversion applications.

Requirement	Guidance
	<ul style="list-style-type: none"> the activity will be carried out within the existing designated areas of the EA; a new area; or if the activity is mobile or temporary. <p>Applicants should ensure that full details are included so that the administering authority understands the land that will be affected by the proposed amendment. Additional supporting information can be attached to the amendment application.</p>
<input type="checkbox"/> Include any other document relating to the application prescribed by regulation.	<p>There are currently no other documents that are prescribed by regulation to be included as part of an amendment application.</p>
Section 226AA - Requirement for amendment application by holder of environmental authority and PRCP schedule	
<input type="checkbox"/> If approval of an amendment application for an EA or PRCP (each a relevant environmental requirement) would result in inconsistencies between the two relevant environmental requirements, an application must be made to amend both the EA and the PRCP schedule.	<p>This section only applies where:</p> <ul style="list-style-type: none"> Both an EA and PRCP schedule is held The holder is proposing to amend only the EA or PRCP The amendment to one relevant environmental requirement would mean an inconsistency with the other relevant environmental requirement. <p>This section is aimed at reducing any inconsistencies between EAs and PRCP schedules and is intended to ensure applicants take responsibility for assessing their EAs and PRCP schedules for consistency prior to making an amendment application.</p>
226A - Requirements for amendment applications for <u>environmental authorities</u>	
<input type="checkbox"/> The application must describe any development permits in effect under the Planning Act for carrying out the relevant activity for the authority. ²⁶	<p>This requirement is relevant to EA amendment applications where the activity is a prescribed ERA.</p> <p>The approved form will prompt the applicant to provide details of the development permits in effect under the Planning Act for carrying out the relevant activity for the EA.</p> <p>Written confirmation from the relevant council and State Assessment and Referral Agency that a material change of use for a development approval is not required to undertake the amended activity is an acceptable way to address this requirement.</p>

Requirement	Guidance
<input type="checkbox"/> The application must state whether each relevant activity will, if the amendment is made, comply with the eligibility criteria for the activity.	This requirement is only relevant where the relevant ERA has eligibility criteria and standard conditions. ²⁷ The approved form will prompt the applicant to state whether the eligibility criteria or standard conditions can be complied with, if the amendment is made.
<input type="checkbox"/> If the application states that each relevant activity will, if the amendment is made, comply with the eligibility criteria for the activity, the application must, include a declaration that the statement is correct.	The approved form will prompt the applicant to provide a declaration.
<input type="checkbox"/> The application must state whether the application seeks to change a condition identified in the authority as a standard condition. ²⁶	Any changes to conditions identified in the EA as standard conditions must be detailed in the amendment application.
<input type="checkbox"/> If the application relates to a new relevant resource tenure for the authority that is an exploration permit or GHG permit, the application must state whether the applicant seeks an amended environmental authority that is subject to the standard conditions for the relevant activity or authority, to the extent it relates to the permit. ²⁶	This requirement only applies where the application relates to a new exploration permit or GHG permit. Where the applicant seeks the standard conditions for the relevant activity, this must be clearly stated in the application material.
<input type="checkbox"/> The application must include an assessment of the likely impact of the proposed amendment on the environmental values, including: ^{26, 28, 29} <ul style="list-style-type: none"> <input type="checkbox"/> A description of the environmental values likely to be affected by the proposed amendment. <input type="checkbox"/> Details of emissions or releases likely to be generated by the proposed amendment. <input type="checkbox"/> A description of the risk and likely magnitude of impacts on the environmental values. <input type="checkbox"/> Details of the management practices proposed to be implemented to prevent or minimise adverse impacts. <input type="checkbox"/> If a PRCP schedule does not apply for each relevant activity, details of how the land that is the subject of the application will be rehabilitated after each relevant activity ends.³⁰ 	<p>The approved form will prompt the applicant to provide an assessment of the likely impact of the proposed amendment on the environmental values.</p> <p>An assessment is required for all environmental values. Where there are no likely impacts to an environmental value, this must be stated and justified in the application material.</p> <p>Several technical guidelines have been developed to assist applicants to submit site-specific and variation applications for EAs. These guidelines may also assist in preparation of EA amendment application depending on the nature of the proposed EA amendment:</p> <ul style="list-style-type: none"> • Application requirements for activities with impacts to air (ESR/2015/1840)³¹ • Application requirements for activities with impacts to land (ESR/2015/1839)³¹

²⁷ ERAs with eligibility criteria and standard conditions are listed at: www.business.qld.gov.au (use the search term "eligibility criteria").

²⁸ This requirement is not relevant to certain applications where an EIS exists for the proposed EA. Refer to s. 226A(2) for further details.

²⁹ Altered requirements apply if the amendment application is for an EA for the prescribed ERA mentioned in the Environmental Protection Regulation 2019, schedule 2, section 13A. Refer to s. 226A(4) for further details.

³⁰ This requirement does not apply if the amendment application is for an EA for the prescribed ERA mentioned in the Environmental Protection Regulation 2019, schedule 2, section 13A.

³¹ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.qld.gov.au.

Requirement	Guidance
	<ul style="list-style-type: none"> • Application requirements for activities with noise impacts (ESR/2015/1838) ³¹ • Application requirements for activities with impacts to water (ESR/2015/1837) ³¹ • Application requirements for activities with waste impacts – (ESR/2015/1836) ³¹ • Requirements for site-specific and amendment applications – underground water rights (ESR/2016/3275)³¹ <p>A specific guideline has also been developed which outlines the application requirements for petroleum activities. This guideline may also assist in preparation of EA amendment applications for petroleum activities depending on the nature of the proposed EA amendment.</p> <p>An application may also require consideration of potential significant impacts to matters of national environmental significance (MNES). There are currently nine MNES which have been defined in the <i>Environmental Protection and Biodiversity Conservation Act 1999 (Cth)</i>. Applicants can refer the guidance provided by the Federal Government's Department of Environment on www.australia.gov.au and www.environment.gov.au to determine if a proposed amendment will have a significant impact on MNES.</p>
<p><input type="checkbox"/> The application must include a description of the proposed measures for minimising and managing waste generated by amendments to the relevant activity. ²⁶</p>	<p>The approved form will prompt the applicant to describe the proposed measures for minimising and managing waste generated by amendments to the relevant activity.</p> <p>The guideline 'Application requirements for activities with waste impacts' (ESR/2015/1836) ³¹ may assist applicants to prepare this information.</p>
<p><input type="checkbox"/> The application must include details of any site management plan or environmental protection order that relates to the land the subject of the application. ²⁶</p>	<p>The approved form will prompt the applicant to identify whether the relevant land is currently subject to an environmental protection order or a site management plan. Applicants should provide details including:</p> <ul style="list-style-type: none"> • The document reference number • And a description of the land including lot and plan numbers and local government area.

Requirement	Guidance
Section 226B - Requirements for amendment applications for <u>PRCP schedules</u>	
<p><input type="checkbox"/> The application must be accompanied by an amended rehabilitation planning part for the holder's PRC plan that complies with section 126C of the EP Act in relation to the proposed amendment including:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Be in the approved form. <input type="checkbox"/> Describe each resource tenure, including the area of each tenure, to which the application relates. <input type="checkbox"/> Describe the relevant activities to which the application relates. <input type="checkbox"/> Describe the likely duration of the relevant activities. <input type="checkbox"/> Include a detailed description, including maps, of how and where the relevant activities are to be carried out. <input type="checkbox"/> Include details of the consultation undertaken by the applicant in developing the proposed PRC plan. <input type="checkbox"/> Include details of how the applicant will undertake ongoing consultation in relation to the rehabilitation to be carried out under the plan. <input type="checkbox"/> State the extent to which each proposed post-mining land use for land, or non-use management area, identified in the proposed PRCP schedule for the plan is consistent with: <ul style="list-style-type: none"> • The outcome of consultation with the community in developing the plan. • Any strategies or plans for the land of a local government, the State or the Commonwealth. <input type="checkbox"/> State, for each proposed post-mining land use for land, the applicant's proposed methods or techniques for rehabilitating the land to a stable condition in a way that supports the rehabilitation milestones under the proposed PRCP schedule. <input type="checkbox"/> Identify the risks of a stable condition for land not being achieved, and how the applicant intends to manage or minimise the risks; and 	<p>The approved form will prompt the applicant to provide details about amendments to the rehabilitation planning part of the applicant's PRCP. While the rehabilitation planning part of the PRCP is not approved, it must meet the content requirements under the EP Act and is necessary to give the regulator, the community, and the mine operator a clear understanding of how the site will be rehabilitated progressively to support post mining land uses.</p> <p>Where a content requirement is not applicable, this must be stated and justified in the application material.</p> <p>Applicants should refer to the Guideline Progressive Rehabilitation and Closure Plans (ESR/2019/4964)³¹ to prepare their application material.</p>

Requirement	Guidance
<ul style="list-style-type: none"> <input type="checkbox"/> State, for each proposed non-use management area, the reasons the applicant considers the area cannot be rehabilitated to a stable condition. <input type="checkbox"/> Include copies of reports or other evidence relied on by the applicant for each proposed non-use management area. <input type="checkbox"/> State, for each proposed non-use management area, the applicant's proposed methodology for achieving best practice management of the area to support the management milestones under the proposed PRCP schedule for the area. <input type="checkbox"/> Include the other information the administering authority reasonably considers necessary to decide whether to approve the PRCP schedule for the plan. 	
227 - Requirements for amendment applications - <u>CSG activities (water management)</u>	
<p><input type="checkbox"/> The application must state the matters mentioned in s. 126(1) of the EP Act including:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The quantity of CSG water the applicant reasonably expects will be generated in connection with carrying out each relevant CSG activity. <input type="checkbox"/> The flow rate at which the applicant reasonably expects the water will be generated. <input type="checkbox"/> The quality of the water, including changes in the water quality the applicant reasonably expects will happen while each relevant CSG activity is carried out. <input type="checkbox"/> The proposed management of the water including, for example, the use, treatment, storage or disposal of the water. <input type="checkbox"/> The measurable criteria (the management criteria) against which the applicant will monitor and assess the effectiveness of the management of the water, including, for example, criteria for each of the following: <ul style="list-style-type: none"> <input type="checkbox"/> The quantity and quality of the water used, treated, stored or disposed of. <input type="checkbox"/> Protection of the environmental values affected by each relevant CSG activity. 	<p>This section only applies for an amendment application if:</p> <ul style="list-style-type: none"> • The application relates to an EA for a CSG activity; and • The proposed amendment would result in changes to the management of CSG water; and • The CSG activity is an ineligible ERA. <p>The approved form will prompt the applicant to provide details about changes to CSG water management. This information is required as a change in the activity may significantly affect the amount and quality of the water produced and the regime necessary to manage it.</p> <p>Applicants can refer to the Coal Seam Gas Water Management Policy 2012 (ESR/2016/2381)³¹ for further details about the government's position on the management and use of CSG water.</p>

Requirement	Guidance
<p><input type="checkbox"/> The disposal of waste, including, for example, salt, generated from the management of the water.</p> <p><input type="checkbox"/> The action proposed to be taken if any of the management criteria are not complied with, to ensure the criteria will be able to be complied with in the future.</p> <p><input type="checkbox"/> The application must comply with section 126(2) of the EP Act which prohibits the use of a CSG evaporation dam in connection with carrying out a relevant CSG activity unless:</p> <ul style="list-style-type: none"> • The application includes an evaluation of: <ul style="list-style-type: none"> ○ Best practice environmental management for managing the CSG water; and ○ Alternative ways for managing the water; and • The evaluation shows there is no feasible alternative to a CSG evaporation dam for managing the water. 	
227AA Requirements for amendment applications - <u>Underground water rights</u>	
<p><input type="checkbox"/> The application must state the matters mentioned in s. 126A(2) of the EP Act including:</p> <p><input type="checkbox"/> Any proposed exercise of underground water rights during the period in which resource activities will be carried out under the relevant tenure.</p> <p><input type="checkbox"/> The areas in which underground water rights are proposed to be exercised.</p> <p><input type="checkbox"/> For each aquifer affected, or likely to be affected, by the exercise of underground water rights:</p> <ul style="list-style-type: none"> <input type="checkbox"/> A description of the aquifer. <input type="checkbox"/> An analysis of the movement of underground water to and from the aquifer, including how the aquifer interacts with other aquifers and surface water. <input type="checkbox"/> A description of the area of the aquifer where the water level is predicted to decline 	<p>This section only applies for an amendment application if:</p> <ul style="list-style-type: none"> • The application relates to a site-specific EA³² for: <ul style="list-style-type: none"> ○ A resource project that includes a resource tenure that is a mineral development licence, mining lease or petroleum lease; or ○ A resource activity for which the relevant tenure is a mineral development licence, mining lease or petroleum lease; and • The proposed amendment involves changes to the exercise of underground water rights. <p>The approved form will prompt the applicant to provide details about changes to the exercise of underground water rights. This information is required to ensure that the environmental impacts of the exercise of underground water rights by mining and petroleum tenure holders are appropriately assessed as part of an EA amendment application.</p>

³² For this requirement, site-specific EA means an EA that includes one or more ineligible ERAs.

Requirement	Guidance
<p>because of the exercise of underground water rights.</p> <p><input type="checkbox"/> The predicted quantities of water to be taken or interfered with because of the exercise of underground water rights during the period in which resource activities are carried out.</p> <p><input type="checkbox"/> The environmental values that will, or may, be affected by the exercise of underground water rights and the nature and extent of the impacts on the environmental values.</p> <p><input type="checkbox"/> Any impacts on the quality of groundwater that will, or may, happen because of the exercise of underground water rights during or after the period in which resource activities are carried out.</p> <p><input type="checkbox"/> Strategies for avoiding, mitigating or managing the predicted impacts on the environmental values or the impacts on the quality of groundwater.</p>	<p>An EA amendment application will only need to include information relating to the changes to the proposed exercise of underground water rights which will occur, or are predicted to occur, as a result of the proposed amendment to the EA. A proposed amendment may, for example, involve a change to the exercise of underground water rights where there is a change in tenure, where there is a significant change to the nature or scale of activities or volumes of water proposed to be taken or where there are likely to be different impacts on environmental values.</p> <p>Applicants can refer to the guideline 'Requirements for site-specific and amendment applications - underground water rights' (ESR/2016/3275)³¹ for further details about exercising underground water rights or the associated requirements.</p>

Consultation Questions:

During initial consultation, external stakeholders requested that the detailed examples be revised to focus on the minor amendment definitions rather than industry type. Structural revisions to Appendix 2 [Appendix 1 in the current guideline] have been proposed in response to this request. The department is seeking feedback as to whether:

- The examples clarify the minor and major amendment definitions?
- The proposed structure is easily understood?
- The examples should be contained within a separate document?

Appendix 2: Major and minor amendment examples

Important note

The following examples are provided to assist applicants better understand how assessment level decisions may be applied in different circumstances. **The examples are a guide only and are not intended to be legally binding on the administering authority. They do not override the EP Act or limit a delegate** from making assessment level decisions that they consider appropriate having regard to the specifics of the amendment application. Other relevant site-specific facts and circumstances influence the actual decisions made. Where minor amendment criteria are not specifically addressed, it is assumed that these are satisfied in the examples.

As outlined in section 4.1, a major amendment for an EA or PRCP schedule is an amendment that is not a minor amendment. Given the definition of minor amendment is the basis for determining the assessment level decision, the following examples are structured around the minor amendment (threshold) and minor amendment (PRCP threshold) definitions as outlined in section 223 of the EP legislation.

To provide clear guidance for the statutory definitions, each example is focussed on a single statutory section. Consequently, **the examples do not reflect the complexity of an actual assessment for an amendment application.** In reality, amendment applications will be assessed against the entirety of the minor amendment (threshold) or minor amendment (PRCP threshold).

Part 1 - EA amendments

Minor amendment (threshold) definition:

- (a) is not a change to a condition identified in the authority as a standard condition, other than -
- (i) a change that is a condition conversion; or
 - (ii) a change that is not a condition conversion but that replaces a standard condition of the authority with a standard condition for the environmentally relevant activity to which the authority relates; or
 - (iii) a change that will not result in a change to the impact of the relevant activity on an environmental value

1. MINOR amendment example - Administrative amendment to a standard condition

The applicant holds several EAs for sewage treatment works (ERA 63) including an EA that includes the standard conditions. The applicant proposes to align the monitoring conditions across all its sewage treatment works EAs by amending a standard condition which requires quarterly monitoring of treated effluent to be consistent with their other sewage treatment works EAs which have more contemporary and frequent monitoring conditions. No other changes are proposed. The change will not change any impacts that the sewage treatment works activities will have on environmental values.

The amendment could be determined to be minor on the following grounds:

- The change to the standard condition is administrative in nature and will not change any assessment regarding the impacts that the sewage treatment works activities will have on environmental values.

Minor amendment (threshold) definition:

(b) does not significantly increase the level of environmental harm caused by the relevant activity

2. MINOR amendment example - Adding new activities to an existing prescribed ERA site

The applicant operates a composting activity—ERA 53(a) (AES 18) and other waste reprocessing or treatment activity—ERA 55(2)(b) (AES 52) at a site.

It is proposed to amend the EA to add a resource recovery and transfer station operation—ERA 62(1)(c) (AES 26).

The addition of this new ERA will not substantially change the operation of the site and the resource recovery activities will be carried out as a single integrated operation with the existing composting and waste reprocessing activities. The proposal does not involve new environmental risks, such as the acceptance of different waste types.

The amendment could be determined to be minor on the following grounds:

- The environmental risks associated with the resource recovery and waste transfer station operation are considered minor given the existing approved activities at the site. The lower AES for ERA 62(1)(c) compared to the AES for ERA 55(2)(b) is indicative of this.
- The proposal does not involve new environmental risks that require reassessment or new conditions.
- The conditions on the existing EA were imposed on the basis of the higher risk activity (ERA 55) and should be sufficient to manage the lower risk activities for ERA 62.
- Consequently, it can be determined that the amendment does not increase the level of environmental harm caused by the existing activities.
- As there will be no increase in the level of harm for the relevant activity, it is not necessary to consider significance.

3. MINOR amendment example - Decrease to release limits for prescribed ERA site

The applicant operates a meat processing plant—ERA 25.

It is proposed to amend the EA to install a new waste water treatment plant which is ancillary to the meat processing activities. The current water treatment system is unable to meet the release limits set in the EA, and a transitional environmental program has been implemented pending the installation.

The proposed amendments to the EA include new release limits which are more stringent than the current imposed limits.

The amendment could be determined to be minor on the following grounds:

- The level of environmental harm caused by the relevant activity would be reduced with more stringent release limits.
- As there will be a decrease in the level of harm for the relevant activity, it is not necessary to consider significance.

4. MINOR amendment example - Combination of amendments

The applicant holds a resource project authority to conduct a mining activity. The applicant proposes several amendments. These consist of:

- Correcting a clerical error regarding release point coordinates;
- Authorising in-situ testing of electrical conductivity at a discharge point;
- Addition of the analyte cyanide concentration to the monitoring regime.

The proposed amendments are considered necessary to ensure the currency of the monitoring program and not expected to impact environmental values.

The amendment could be determined to be minor on the following grounds:

- The proposed amendments, individually and in combination, are not expected to impact environmental values.
- As such, the amendments are not expected to result in an increase in the level of harm for the relevant activity and it is not necessary to consider significance.

5. MAJOR amendment example - Additional ERA threshold for activity

The applicant currently operates an aquaculture activity ERA 1(1)(b) — cultivating or holding crustaceans in enclosures that are on land and have a total area of more than 10ha but not more than 100ha. The AES for this activity is 21.

It is proposed to amend the EA to add ERA 1(2)(a) — cultivating or holding marine, estuarine or freshwater organisms, other than crustaceans, in enclosures that are on land and have a total area of more than 100m² but not more than 10ha. The AES for this activity is 19.

The amendment could be determined to be major on the following grounds:

- While the AES for the new proposed activity is similar, albeit slightly less, than the existing activity, the proposed amendments will increase the potential level of environmental harm caused by the activities.
- The environmental risks associated with cultivating crustaceans and finfish are different. The conditions on the existing EA were imposed based on cultivating or holding crustaceans and new conditions will be required to address the environmental risks associated with cultivating or holding finfish.
- Consequently, when the potential increase in environmental harm is considered in relation to the baseline levels of harm caused by the relevant activity and authorised by the current EA, the increase is considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the levels of environmental harm is considered significant.

6. MAJOR amendment example - Adding a new site to a project authority

The applicant holds a project authority authorising extraction, screening and dredging activities at various thresholds at seven sites. The extracting and screening activities meet the eligibility criteria and operate under standard conditions and the dredging activity operates under model conditions.

The applicant proposes an amendment to add a new site for the EA on which the following activities will be conducted:

- Extraction—ERA 16(2)(a)—5000 to 100,000 tonnes/year; and
- Screening—ERA 16(3)(a)—5000 to 100,000 tonnes/year.

The additional site is a 'greenfield' site and there would be considerable impacts on environmental values. The activity would include blasting, crushing and screening plant, with road transport accessing the site. Sensitive receptors have been identified which may be impacted by noise and dust. The site does not meet the eligibility criteria for standard conditions. The higher risk site would require site-specific conditions to manage these impacts.

The amendment could be determined to be major on the following grounds:

- The proposed amendments would increase the level of harm caused by the relevant activity as:
 - The environmental impacts at the proposed new site would be considerable and cannot be adequately managed with existing conditions.
 - Activities at the proposed new site pose a risk of environmental nuisance from noise and dust being experienced by the sensitive receptors.
- When the potential increase in environmental harm is considered in relation to the baseline levels of harm caused by the relevant activity and authorised by the current EA, the increase is considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the levels of environmental harm is considered significant.

7. MAJOR amendment example – Increased risk of environmental nuisance

The applicant undertakes ERA 60(2)(h) operating a facility for disposing of more than 200,000t of general waste in a year. The EA authorised 8 landfill cells on site, 6 of which are constructed and in use, and two additional cells which are not yet constructed but approved. The location of the 8 landfill cells is shown in a site layout map and the EA includes a condition requiring that the activity be conducted in accordance with the site layout map. An amendment is proposed to move the location of the two future landfill cells due to changes in onsite operational practices.

Over time, the facility has experienced residential encroachment. The applicant submits full details of the relevant environmental values and expected impacts from the proposed new location of the landfill cells. This information includes that the new location reduces the distance to sensitive receptors and there is a potential increased risk in odour nuisance, particularly during hot weather conditions. These risks will persist despite the implementation of all practical mitigation measures.

The amendment could be determined to be major on the following grounds:

- Due to residential encroachment, increased impacts on sensitive receptors, including potential odour nuisance, may result from the proposed new landfill cell location. Potential odour nuisance would constitute environmental harm as per the EP Act definition.
- Research shows that Australia's climate is warming, indicating that the risks and frequency of odour nuisance being experienced by local residents during hot weather may increase over time.

- The risk of odour nuisance will persist despite the implementation of all practical mitigation measures.
- Consequently, when the potential increase in environmental harm is considered in relation to the baseline levels of harm caused by the relevant activity and authorised by the current EA, the increase is considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the levels of environmental harm is considered significant.

8. MAJOR amendment example – Fracking of coal seam gas wells

The applicant holds a resource project authority to conduct a coal seam gas (CSG) activity. Fracking activities are not currently authorised under the EA.

The applicant proposes an EA amendment to conduct fracking of 500 CSG wells. The application includes highly technical and complex modelling regarding the potential release of contaminants into groundwater and the potential interconnection of aquifers. The application also includes proposed mitigation measures including requiring 150% flowback of injected fracking fluids.

The amendment could be determined to be major on the following grounds:

- Environmental harm includes potential adverse effects.
- The current EA does not currently authorise any fracking activities.
- The proposed amendments could increase the level of environmental harm caused by the relevant activity as the fracking activities may potentially result in groundwater contamination or interconnection of aquifers if the proposed mitigation measures are not viable or work as proposed.
- When the potential increase in environmental harm is considered in relation to the baseline levels of harm caused by the relevant activity and authorised by the current EA, the increase is considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the levels of environmental harm is considered significant.

9. MAJOR amendment example - Release of treated sewage effluent

The applicant holds a resource project authority to conduct a CSG activity. The project site includes a 'no release' sewage treatment plant. This is not considered an ERA. The applicant proposes to install a larger plant which includes the release of treated effluent to an irrigation scheme. There is a wetland adjacent to the site that is of environmental significance.

The applicant proposes an EA amendment to add a sewage treatment plant—ERA 63(1)(a)(i)—21EP to 100EP with an irrigation scheme.

The amendment could be determined to be major on the following grounds:

- Although the STP activity is ancillary to the CSG activity, the proposed amendments would increase the level of harm caused by the relevant activity as:
 - Release of effluent will be authorised for the first time; and
 - There are areas of environmental significance in proximity to the irrigation area.
- When the potential increase in environmental harm is considered in relation to the baseline levels of harm caused by the relevant activity and authorised by the current EA, the increase is considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the levels of environmental harm is considered significant.

10. MAJOR amendment example – Increase in waste stockpiles and waste storage time

The applicant holds an EA for resource recovery and transfer facility operation – ERA 62(1)(a) and mechanical waste reprocessing – ERA 54(1). The EA authorises the acceptance of construction and demolition waste, furniture, household appliances, and general non-degradable and non-hazardous household waste.

The applicant proposes the following EA amendments:

- Addition of green waste as an accepted waste type.
- Increase in the onsite storage time of wastes from 24 hours to 2 weeks; and
- Increase of waste stockpile heights from 5m to 10m.

The amendment could be determined to be major on the following grounds:

- Environmental harm includes potential adverse effects.
- The proposed increase in waste storage time and waste stockpile heights has the potential to increase the risk of fires occurring in the waste stockpiles.
- Waste fires, when they occur, have the potential to cause environmental harm by:
 - the release of contaminants into the air including smoke, asbestos and particulate matter.
 - The run-off of firewater, combustion products and firefighting chemicals that may impact ground and surface waters
- When the potential increase in environmental harm is considered in relation to the baseline levels of harm authorised by the current EA, the increase is considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the levels of environmental harm is considered significant.

11. MAJOR amendment example - Combination of amendments

The applicant conducts sewage treatment plant activities at several sites at various ERA 63 thresholds on an amalgamated local government authority. The applicant is planning to upgrade the plant at a particular site, as the existing plant is not meeting EA release limit conditions and a TEP has been implemented in the interim.

The applicant proposes the following EA amendments in respect of that site:

- The replacement of the current release limits. Total nitrogen (TN) and total phosphorous (TP) limits will be specified for the first time. The maximum release limit for ammonia will be increased. The other release limits will be more stringent;
- The inclusion of the model ERA 63 bypass conditions; the above release limits would not apply to bypass waters;
- The replacement the Environmental Impact Monitoring Program conditions with the model ERA 63 Receiving Environment Monitoring Program conditions;
- Change the location of the water sampling point; and
- Design capacity increased from 7,300 equivalent persons (EP) to 12,500EP.

The amendment could be determined to be major on the following grounds:

- The proposed amendments would increase the level of harm caused by the relevant activity as:
 - The EA will authorise the release of TN and TP for the first time.

- Bypass conditions will allow releases to exceed limits in certain circumstances and increasing allowed inflows to reflect the increased EP capacity will result in larger volumes of effluent being authorised.
- When the proposed increase in environmental harm is considered in relation to the baseline levels of harm caused by the relevant activity and authorised by the current EA, the increase is considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the levels of environmental harm is considered significant.

Minor amendment (threshold) definition:

- (c) does not change any rehabilitation objectives in the EA in a way likely to result in significantly different impacts on environmental values than the impacts previously permitted under the EA**

12. MINOR amendment example – change to rehabilitation objective for waste disposal site

The applicant holds an EA to conduct waste disposal – ERA 60. The EA conditions include rehabilitation objectives for land that has been disturbed by the waste disposal activities. The objectives include requirements for the EA holder to plant and establish suitable native species of vegetation as an effective groundcover. Since the EA was approved, the post-closure land use for the site has changed.

The applicant proposes an amendment to the EA to change the rehabilitation objectives for the site to require the EA holder to establish and support vegetation types appropriate to post-closure land use and which will not cause the disruption of the integrity of the final cover system.

The amendment could be determined to be minor on the following grounds:

- The proposed amendment to the rehabilitation objective may result in different impacts on environmental values for the disturbed land when compared to the impacts previously permitted under the EA due to the changed requirements for vegetation species.
- However, the amendments are to support the changed post-closure land use for the site, and the difference in environmental impacts is not considered 'important, notable, or of consequence' having regard to its context.
- As such, the different impact on environmental values is not considered significant.

Minor amendment (threshold) definition:

- (d) does not significantly increase the scale or intensity of the relevant activity**

13. MINOR amendment example - Adding a new site to an amalgamated project authority for a prescribed ERA

The applicant proposes to add a sewage pump station—ERA 63(1)(b)—more than 40KL/hour, on a new site, to an amalgamated project authority (APA). The new pump station will meet the eligibility criteria and standard conditions for ERA 63(1)(b). The APA consisted of over 500 sewage pump station sites and the new activity will be carried out as part of the same single integrated operation.

The amendment could be determined to be minor on the following grounds:

- Although the addition of a new sewage pump station could be considered an increase in the scale or intensity of the relevant activity, or potential harm, for an APA, the application is to apply a new activity that meets the eligibility criteria and standard conditions for ERA 63(1)(b).

- When the potential increase in scale or intensity is considered in relation to the baseline scale and intensity authorised by the current EA (i.e. 500 other sites in aggregate), the increase is not considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the scale and intensity and increase in environmental harm is not considered significant.

14. MINOR amendment example - Increase to waste acceptance limits for a prescribed ERA

The applicant operates ERA 55 – other waste reprocessing or treatment and ERA 62 – resource recovery and transfer facility operation on a site. It is proposed to amend the EA to double the waste acceptance limit for used oil filters from 25,000kg to 50,000kg.

The amendment could be determined to be minor on the following grounds:

- There is an increase in the scale or intensity of the relevant activity due to increased acceptance limit for used oil filters. This increase represents 0.6% of the total waste receiving limit by weight.
- Consequently, when the potential increase in scale or intensity is considered in relation to the baseline scale and intensity authorised by the current EA, the increase is not considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the scale and intensity is not considered significant.

15. MAJOR amendment example - Increase to the run of mine rate

The applicant holds a resource project authority to conduct a coal mining activity. The project site is approved to produce 4 million tonnes per annum (Mtpa) of run-of-mine (ROM) coal. The applicant proposes to increase production rate of ROM coal.

The applicant proposes to amend the EA to:

- Change the approved ROM rate to 5.5Mtpa

The amendment would be determined to be major on the following grounds:

- The proposed amendments would increase the scale and intensity of the relevant activity as:
 - The approved ROM rate would increase by 1.5Mtpa
- When the potential increase in scale and intensity is considered in relation to the baseline scale and intensity of the relevant activity as authorised by the current EA, the increase is considered 'important, notable, or of consequence' having regard to its context.
- As such, the increase in the scale or intensity of the relevant activity is considered significant.

16. MAJOR amendment example –Tailings storage facility lift

The applicant holds a resource project authority to conduct copper mining and mineral processing. The applicant proposes to lift the tailings storage facility to extend the capacity of the facility and ensure continued production rates at the mine.

The applicant proposes to amend the EA to:

- Lift the tailings storage facility.

The amendment would be determined to be major on the following grounds:

- The proposed amendments would increase the scale and intensity of the relevant activity beyond what has been considered and approved previously.

- The tailings storage facility lift would result in a change to the design storage allowance (DSA) for the structure and also potential changes to groundwater and surface water impacts.
- Environmental harm includes potential adverse effects. The reduction in the DSA for the structure increases the potential for releases from the tailings storage facility and also mounding of groundwater.
- When the potential increases in scale and intensity and environmental harm are considered in relation to the baseline scale and intensity of the relevant activity and environmental harm authorised by the current EA, the increases are considered 'important, notable, or of consequence' having regard to their context.
- As such, the increases in the scale or intensity and environmental harm of the relevant activity are considered significant.

Minor amendment (threshold) definition:

(e) does not relate to a new relevant resource tenure for the EA that is -

- (i) a new mining lease; or**
- (ii) a new petroleum lease; or**
- (iii) a new geothermal lease under the *Geothermal Energy Act 2010*; or**
- (iv) a new greenhouse gas injection and storage lease under the *Greenhouse Gas Storage Act 2009***

17. MAJOR amendment example - Adding a mining lease to a project authority

The applicant holds a resource project authority to conduct a mining activity. The applicant has acquired an additional mining lease on which to construct a pipeline to provide water for the project.

The applicant proposes to amend the EA to add:

- The area of the new mining lease to the project authority
- Conditions to manage impacts of construction and operation of the pipeline

The amendment would be determined to be major on the following grounds:

- The amendment relates to a new mining lease.

Minor amendment (threshold) definition:

(f) involves an addition to the surface area for the relevant activity of no more than 10% of the existing area

18. MINOR amendment example - Additional irrigation area for sewage treatment plant

The applicant holds a resource project authority to conduct a mining activity. The authority includes a sewage treatment plant—ERA 63(1)(a)(i)—21EP to 100EP with an irrigation scheme. An additional irrigation area is required due to elevated volumes of effluent created during maintenance of the STP settlement pond and the oversaturation of the current irrigation area. The applicant proposes amending the authority to include this new area as a designated irrigation area. The new area represents an increase of 40% of the existing irrigation area but only 4% of the combined areas impacted by the mining activity.

The amendment could be determined to be minor on the following grounds:

- The surface area of the relevant activity would increase by less than 10% of the existing area.

- The addition of the irrigation area represents an overall reduction in risk of environmental harm, as it results in a lower irrigation rate to land with no other change to the treatment activity proposed.

19. MAJOR amendment example - Adding a new site to an amalgamated project authority

The applicant holds an amalgamated project authority for dredging - ERA 16(1)(a) -1000 to 10,000 tonnes/year at five locations along various watercourses, which in aggregate total 19.4kms (50.4ha), and screening activities - ERA 16(3)(a) - 5000 to 100,000 tonnes/year at various locations totalling 8ha.

The applicant proposes to amend the EA to:

1. Add dredging ERA 16(1)(b) -10,000 to 100,000 tonnes/year to a site adjacent to an existing site. This will add another 4.5kms (11.7ha) of watercourse to the dredging activities.
2. Add a screening operation - ERA 16(3)(a) to an existing dredging site. This will occupy areas totalling approximately 2ha.

The new activity will be carried out as part of the single integrated operation.

The amendment could be determined to be major on the following grounds:

- The baseline approved surface area for the relevant activity is 58.4ha (dredging 50.4ha + screening 8ha).
- Through the EA the approved surface area would increase to 72.1ha (dredging 62.1ha + screening 10 ha).
- This is an increase of more than 10% of the existing surface area of the relevant activity (increase of (23.5%).

Minor amendment (threshold) definition:

(g) for an EA for a petroleum activity:

- (i) involves constructing a new pipeline that does not exceed 150km in length; or
- (ii) involves extending an existing pipeline by no more than 10% of the existing length of the pipeline

20. MAJOR amendment example – Constructing new pipeline

The applicant holds a resource project authority to conduct petroleum activities. The applicant is proposing to construct a pipeline to transport associated water for beneficial reuse to a location which is 170km away from the project site.

The applicant proposes to amend the EA to add:

- Authorise the construction a new pipeline that is 170km in length
- Conditions to manage impacts of construction and operation of the pipeline

The amendment would be determined to be major on the following grounds:

- The amendment relates to construction of a pipeline that exceeds 150km in length.

Minor amendment (threshold) definition:

- (h) if the amendment relates to a new relevant resource tenure for the authority that is an exploration permit or greenhouse gas permit - the amendment application seeks an EA that is subject to the standard conditions for the relevant activity, to the extent it relates to the permit.

21. MINOR amendment example – New mining exploration permit subject to standard conditions

The applicant holds a resource project authority to conduct mining activities.

The applicant is proposing to amend the EA to add a new exploration permit for minerals which will be subject to the eligibility criteria and standard conditions for exploration and mineral development projects.

The amendment would be determined to be minor on the following grounds:

- The amendment relates to a resource tenure that is an exploration permit and seeks an EA that is subject to the standard conditions for the relevant activity.

Part 2 - PRCP Schedule Amendments

Minor amendment (PRCP threshold) definition:

- (a) does not change a post-mining land use or non-use management area

22. MAJOR amendment example - Proposing a change to a non-use management area

The applicant has a non-use management area (NUMA) approved as part of a PRCP schedule.

Due to a change in the proposed mining activities, the applicant proposes to amend the PRCP schedule to change the NUMA (a residual void) to a post-mining land use (grazing land).

The amendment would be determined to be major on the following grounds:

- The amendment is a change to a NUMA.

Minor amendment (PRCP threshold) definition:

- (b) does not affect whether a stable condition will be achieved for land under the schedule

23. MAJOR amendment example - Proposing a change to achieving a stable condition

The applicant has a post-mining land use (grazing land) approved as part of a PRCP schedule.

Due to a change in the proposed mining activities, the applicant proposes to amend the PRCP schedule so that a stable condition will not be achieved for part of the land previously approved for post-mining land use (grazing land). The applicant can demonstrate that failing to rehabilitate the part of the land to a stable condition is justified, having regard to the costs of rehabilitation, and the public interest in the resource activity being carried out.

The amendment would be determined to be major on the following grounds:

- The amendment affects whether a stable condition will be achieved for land.

Minor amendment (PRCP threshold) definition:

- (c) does not change the way a post-mining land use will be achieved, or a non-use management area will be managed, in a way likely to result in significantly different impacts on environmental values compared to the impacts on the values under the schedule before the change**

24. MINOR amendment example – change to way post-mining land use will be achieved

The applicant has a post-mining land use (grazing land) approved as part of a PRCP schedule. The milestone criteria for revegetation (grazing) include completing hydroseeding of target species.

The applicant proposes to amend the PRCP schedule to change the milestone criteria for revegetation (grazing) to specify direct seeding rather than hydroseeding.

The amendment would be determined to be minor on the following grounds:

- The proposed amendment to how the post-mining land use will be achieved may result in different impacts on environmental values compared to the impacts on the values under the existing change.
- However, the difference in environmental impacts is not considered 'important, notable, or of consequence' having regard to its context.
- As such, the different impact on environmental values is not considered significant.

Minor amendment (PRCP threshold) definition:

- (d) does not relate to a new mining tenure for the schedule**

25. MAJOR amendment example - Adding a mining lease to schedule

The applicant has a PRCP schedule for its existing mining activities. After the approval of its PRCP schedule, the applicant has acquired an additional mining lease.

The applicant proposes to amend the PRCP schedule to include the new mining lease.

The amendment would be determined to be major on the following grounds:

- The amendment relates to a new mining tenure.

Minor amendment (PRCP threshold) definition:

- (e) does not change when a rehabilitation milestone or management milestone will be achieved by more than 5 years after the time stated in the schedule when it was first approved**

26. MINOR amendment example – Change to rehabilitation milestone

The applicant's approved PRCP schedule includes a rehabilitation milestone to achieve 10ha of cumulative area revegetation (native ecosystem) by 10 December 2026 for rehabilitation area one.

Due to a change in the proposed mining activities, the applicant proposes to amend the PRCP schedule to change this rehabilitation milestone so that it will be achieved by 10 December 2030.

The amendment would be determined to be minor on the following grounds:

- The change to when the rehabilitation milestone will be achieved is less than 5 years (change of 4 years).

Minor amendment (PRCP threshold) definition:

(f) does not extend the day by which rehabilitation of land to a stable condition will be achieved

27. MAJOR amendment example – Extension to when a stable condition will be achieved

The applicant's approved PRCP schedule includes a rehabilitation milestone for achievement of post-mining land use to a stable condition (grazing) for a cumulative area of 20ha by 10 December 2070 for rehabilitation area four.

Due to a change in the proposed mining activities, the applicant proposes to amend the PRCP schedule to change this rehabilitation milestone so that it will be achieved by 10 December 2075.

The amendment would be determined to be major on the following grounds:

- The amendment extends the day by which rehabilitation of land to a stable condition will be achieved.