

Eligibility criteria and standard conditions for new cropping and horticulture development (ERA#) – Version X

This document provides eligibility criteria and standard conditions for new Agricultural Environmentally Relevant Activity (ERA) - cropping and horticulture for new development, where the extent of new cropping or horticulture is equal to or greater than 2 hectares, or has reached the 2 hectares cumulative threshold since the commencement of the regulatory requirements, and is less than 30 hectares in extent.

1. Eligibility criteria

Eligibility criteria are constraints set to ensure environmental risks associated with the operation of the Ag ERA are able to be managed by the standard conditions. Eligibility criteria set out the circumstances in which a standard or variation application for an environmental authority can be made.

2. Standard conditions

Standard conditions are the minimum operating requirements an environmental authority holder must comply with.

3. Standard applications

If an applicant can meet all of the eligibility criteria and standard conditions, then they can make a standard application. Applicants are required to complete a 'Standard application form'. The form can be downloaded from the Queensland Government's Business and Industry Portal at www.business.qld.gov.au/ea

4. Variation applications

If an applicant can meet all of the eligibility criteria but needs to vary one or more of the standard conditions to suit their operational needs, then they can make a variation application. Applicants are required to complete a 'Variation application form'. The form can be downloaded from the Queensland Government's Business and Industry Portal at www.business.qld.gov.au/ea

5. Site specific applications

A site specific application is required for applicants who cannot meet the eligibility criteria or when the extent of new cropping exceeds the 30 hectares threshold. Applicants are required to complete a 'Site specific application form'. The form can be downloaded from the Queensland Government's Business and Industry Portal at www.business.qld.gov.au/ea

6. Amendment applications

If the holder of an environmental authority needs to amend a standard condition in the issued environmental authority, then the holder must submit an 'Amendment application form'. The form can be downloaded from the Queensland Government's Business and Industry Portal at www.business.qld.gov.au/ea

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7. Definitions

Common terms used in this document are **bolded** the first time they appear and are defined in Appendix 1.

8. Version history

Version	Date	Description of changes
X	March 2019	Draft for consultation
X	April 2019	Revised draft following consultation

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Eligibility criteria

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Standard conditions

Conditions
General
GC1: All conditions in the following agricultural ERA standards, relevant to the agricultural commodity, must be complied with: <ul style="list-style-type: none">Agricultural ERA standard for sugarcane cultivation in the Great Barrier Reef CatchmentAgricultural ERA standard for banana cultivation in the Great Barrier Reef Catchment
Erosion and sediment control
ESC1: The following farm design measures must be applied to minimise the movement of soil and nutrients to receiving waters : <ul style="list-style-type: none">diversion banks are in place to divert surface water flows away from blocks/areas of exposed soil;a zonal or zero tillage system is used post-farm establishment;<u>cover crops or other cover that provides adequate surface cover must be established on fallow paddocks.</u>where crops are to be grown on gradients of 3% or greater, contour banks are in place that intercept run-off and channel it into a structure (e.g., grassed channels) that reduces run-off velocity <u>and erosive potential</u>;all surface water drainage structures are designed to reduce run-off velocity (e.g. wide vegetated spoon drains);all surface water drains are designed to channel water to sediment traps or similar structures prior to release to receiving waters;vegetated buffers <u>at least 5m</u> with adequate groundcover are in place <u>to intercept runoff moving from cropped areas into waterways</u>;A permanent bed system with dedicated traffic pathways is in place for all field operations e.g., bed forming, planting, spraying/fertilising, and harvesting (<u>new banana cultivation only</u>).
NOTES: <ul style="list-style-type: none"><u>Vegetated buffers, vegetated spoon drains and any grassed contour or diversion banks should be grassed to provide adequate groundcover by 1 November in the first year of the new cropping and horticulture development, and all subsequent years.</u><u>The permanent bed system condition (new banana cultivation only) does not prevent periodic renovation works to re-configure blocks etc. Block renovation may be carried out at any time of year, however as it can remove groundcover, all reasonable and practicable measures should be taken to minimise the release of sediment as a result of the works, such as <u>timing works to coincide with drier periods</u>, and/or installing temporary sediment and erosion control measures.</u>

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Irrigation
IC1: If the agricultural ERA is irrigated, the irrigation system must be designed to be matched to the farm- and soil-specific characteristics to maximise crop water use efficiency and minimise loss of irrigation water off farm.
IC2: Irrigation system performance assessments must be carried out on an annual basis, and recorded, to ensure irrigation system achieves IC1.
Nitrogen and phosphorus application
NPC1: (new banana cultivation only) Farm must be established to enable fertiliser containing nitrogen (N) and/or phosphorus (P) to be regularly applied (e.g., fortnightly).

Deleted: [\(new banana cultivation only\)](#).

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Appendix 1: Terms and definitions

Term	Definition
Activity	The agricultural environmentally relevant activity to which this agricultural ERA standard applies.
Adequate groundcover	Means trash, mulch, or another material or crop that is placed or retained across the surface of the paddock to protect soil from wind and water erosion and minimise soil and nutrient loss. An adequate cover is one that covers the paddock soil surface (not including roads, drains and headlands) and is of sufficient depth and composition that the cover remains in place and is effective, e.g. until canopy closure of subsequent crops.
Agricultural Environmentally Relevant Activity (agricultural ERA)	Has the same meaning as the <i>Environmental Protection Act 1994</i> . (1) An activity is an agricultural ERA if it is— (a) carrying on any of the following on a commercial basis— (i) cattle grazing; (ii) horticulture; (iii) cultivation of another crop. (b) carried out on a lot that is in the Great Barrier Reef catchment. (2) However, if only part of the lot is in the Great Barrier Reef catchment, the activity is an agricultural ERA if the part of the lot that is in the catchment is— (a) More than 75% of the lot; or (b) More than 20,000 hectares.
Contour banks	Means a constructed earth embankment, incorporating a channel on the upslope side, typically traversing a slope on or close to the contour to control and/or prevent the erosion of that slope. Also referred to as graded banks, terraces, or bunds.
Cover crops	Means plants (including grass) that are grown during the fallow period in order to provide soil cover and improve the physical, chemical and biological characteristics of soil.
Diversion banks	Means a structure to divert run-off away from areas where it could cause problems (such as cultivated paddocks or buildings) into stable waterways, natural depressions or water storages.
Fertiliser	Means a product that contains a quantified amount, obtained by analysis, of nitrogen and/or phosphorus.
Grassed channels	Means a vegetated, stable, longitudinally sloping water disposal area of sufficient capacity used to discharge surplus run-off and to allow it to flow to a lower level without causing erosion.
Grassy fallow or cover crop	Means plants (including grass) that are grown during the fallow period in order to provide soil cover and improve the physical, chemical and biological characteristics of soil.
Great Barrier Reef catchment	Has the same meaning in the <i>Environmental Protection Act 1994</i> . The Great Barrier Reef catchment is the area shown on a map prescribed by regulation as the Great Barrier Reef catchment.

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Permanent bed system	Means maintaining the same row location. Successive crops are planted back into the same row.
Receiving waters	Means the <i>waters</i> into which the relevant agricultural property drains. <i>Waters</i> has the meaning in the <i>Environmental Protection Act 1994</i> and includes all or any part of a creek, river, stream, lake, lagoon, swamp, wetland, spring, unconfined surface water, unconfined water in natural or artificial watercourses, bed and bank of any waters, non-tidal or tidal waters (including the sea), and underground water. For the purposes of this standard, receiving waters also includes structures or features which may reasonably be expected to drain to <i>waters</i> including a stormwater channel, stormwater drain, or roadside gutter.
Relevant agricultural property	The agricultural property on which the agricultural ERA is carried out.
Sediment Trap	Means a basin that removes coarse sediment and litter from run-off water by allowing it to settle out and be left behind when the water moves on.
Surface water	Has the same meaning as in the <i>Environmental Protection (Water) Policy 2009</i> and means waters other than ground waters.
Vegetated buffer	Means a strip of retained or planted vegetation used to prevent off-site effects of intensive cropping. These must be at least 5m wide, flat (less than 2% slope) and relatively smooth (i.e. no ruts or tyre tread impressions that can channel water)
Wide, vegetated spoon drains	Means shallow, open, vegetated channels primarily designed for conveying water along drainage pathway.
Zero tillage	Means planting cane directly into untilled land.
Zonal tillage	Means minimising the area of land that is cultivated and the number of cultivations, and restricting the zone of cultivation to the row area. Also known as strategic tillage.

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Appendix 2: General obligations under the *Environmental Protection Act 1994*

This appendix is not intended to provide a comprehensive list of all obligations under Queensland law. It provides some general information and person(s) conducting an agricultural ERA (banana cultivation) are encouraged to familiarise themselves with all requirements related to their specific activity.

Separate to the banana cultivation standard, a person conducting an agricultural ERA (banana cultivation) must also be aware of, and meet their obligations under the *Environmental Protection Act 1994*, and the regulations made under that Act including the following provisions.

Record keeping requirements

The Environmental Protection Regulation 2008 states that the person carrying out an agricultural ERA must make and keep records (an agricultural ERA record) about the matters prescribed. The person carrying out the agricultural ERA must also keep all relevant primary documents related to the agricultural ERA records (i.e. invoices, receipts). The department has the power under section 466 of the *Environmental Protection Act 1994* to request the production of these records for inspection. It is an offence under section 477 of the *Environmental Protection Act 1994* for a person not comply with a request to produce documents.

General environmental duty

Section 319 of the *Environmental Protection Act 1994* states that we all have a general environmental duty. This means that we are all responsible for the actions we take that affect the environment. We must not carry out any activity that causes, or is likely to cause, environmental harm unless we take all reasonable and practicable measures to prevent or minimise the harm. To decide what meets your general environmental duty, you need to consider:

- the nature of the harm or potential harm
- the sensitivity of the receiving environment
- the current state of technical knowledge for the activity
- the likelihood of successful application of the different measures to prevent or minimise environmental harm that might be taken
- the financial implications of the different measures as they would relate to the type of activity.

It is not an offence not to comply with the general environmental duty. However, maintaining your general environmental duty is a defence against the following:

- a) an act that causes serious or material environmental harm or an environmental nuisance
- b) an act that contravenes a noise standard
- c) a deposit of a contaminant, or release of stormwater run-off, mentioned in section 440ZG.

More information is available on the Queensland Government website <https://www.business.qld.gov.au>.

Duty to notify

Section 320A of the *Environmental Protection Act 1994* explains the duty to notify. The duty to notify applies to all persons and requires a person or company to give notice where serious or material environmental harm is caused or threatened. Notice must be given of the event, its nature and the circumstances in which the event happened. Notification can be verbal, written or by public notice depending on who is notifying and

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being notified.

The duty to notify arises where:

- a person carries out activities or becomes aware of an act of another person arising from, or connected to, those activities that causes or threatens serious or material environmental harm
- while carrying out activities a person becomes aware of the happening of one or both of the following events:
 - the activity negatively affects (or is reasonably likely to negatively affect) the water quality of an aquifer
 - the activity has caused the unauthorised connection of two or more aquifers.
- the owner or occupier of contaminated land or an auditor performing an auditor's function (as defined in section 568(b) of the Environmental Protection Act 1994 becomes aware of:
 - the happening of an event involving a hazardous contaminant on the contaminated land; or
 - a change in the condition of the contaminates land; or
 - a notifiable activity having been carried out, or being carried out, on the contaminated land;
 - that is causing, or is reasonably likely to cause, serious or material environmental harm.

For more information on the duty to notify requirements refer to the guideline 'Duty to notify of environmental harm' (ESR/2016/2271).

Some relevant offences under the *Environmental Protection Act 1994*

Causing serious or material environmental harm (sections 437–39)

Material environmental harm is when the harm is not trivial or negligible in nature. Serious environmental harm is harm that is irreversible, of a high impact or widespread, or that is caused to an area of high conservation value or special significance.

Serious or material environmental harm excludes environmental nuisance.

Causing environmental nuisance (section 440)

Environmental nuisance is unreasonable interference with an environmental value caused by aerosols, fumes, light, noise, odour, particles or smoke. It may also include an unhealthy, offensive or unsightly condition because of contamination.

Depositing a prescribed water contaminant in waters (section 440ZG)

Prescribed water contaminants include a wide variety of contaminants listed in schedule 9 of the Environmental Protection Regulation 2008.

It is your responsibility to ensure that prescribed water contaminants are not left in a place where they may or do enter a waterway, the ocean or a stormwater drain. This includes making sure that stormwater falling on or running across your site does not leave the site contaminated. Where stormwater contamination occurs you must ensure that it is treated to remove contaminants. You should also consider where and how you store material used in your processes onsite to reduce the chance of water contamination.

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Placing a contaminant where environmental harm or nuisance may be caused (section 443)

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause serious or material environmental harm or environmental nuisance.

Responsibilities under other legislation

An agricultural ERA (banana cultivation) pursuant to the *Environmental Protection Act 1994* does not remove the need to obtain any additional approval for the activity that might be required by other state and/or Commonwealth legislation.

Other legislation for which a permit may be required includes, but is not limited to:

- *Aboriginal Cultural Heritage Act 2003*
- *Contaminated land provisions of the Environmental Protection Act 1994*
- *Fisheries Act 1994*
- *Forestry Act 1959*
- *Nature Conservation Act 1992*
- *Petroleum and Gas (Production and Safety) Act 2004 / Petroleum Act 1923*
- *Queensland Heritage Act 1992*
- *Planning Act 2016*
- *Waste Reduction and Recycling Regulation 2011*
- *Water Supply (Safety and Reliability) Act 2008*
- *Water Act 2000*
- *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and *Work Health and Safety (Codes of Practice) Notice 2011*

Additional obligations may be applicable including, but not limited to:

- *Safe Work Australia Code of Practice on How to Safely Remove Asbestos 2011* or the *Safe Work Australia Code of Practice on How to Manage and Control Asbestos in the Workplace 2011* or any subsequent versions
- *Australian Dangerous Goods Code*
- *Australian and New Zealand Environment and Conservation Council (ANZECC) Polychlorinated Biphenyls Management Plan Revised Edition – April 2003.*

Persons are advised to check with all relevant statutory authorities and comply with all relevant legislation.