



Consultation report

Draft guideline: Reef discharge standards for industrial activities



Queensland
Government

Prepared by: Operational Support, Environmental Services and Regulation, Department of Environment and Science

© State of Queensland, 2021.

The Department of Environment and Science acknowledges Aboriginal peoples and Torres Strait Islander peoples as the Traditional Owners and custodians of the land. We recognise their connection to land, sea and community, and pay our respects to Elders past, present and emerging.

The department is committed to respecting, protecting and promoting human rights, and our obligations under the Human Rights Act 2019.

The Queensland Government supports and encourages the dissemination and exchange of its information. This work is licensed under a Creative Commons Attribution 4.0 International License.



Under this licence you are free, without having to seek our permission, to use this publication in accordance with the licence terms. You must keep intact the copyright notice and attribute the State of Queensland as the source of the publication.

For more information on this licence, visit <https://creativecommons.org/licenses/by/4.0/>

Disclaimer

This document has been prepared with care, based on the best available information at the time of publication. The department holds no responsibility for any errors or omissions within this document. Any decisions made by other parties based on this document are solely the responsibility of those parties.

If you need to access this document in a language other than English, please call the Translating and Interpreting Service (TIS National) on 131 450 and ask them to telephone Library Services on +61 7 3170 5470.

This publication can be made available in an alternative format (e.g. large print or audiotape) on request for people with vision impairment; phone +61 7 3170 5470 or email <library@des.qld.gov.au>.

May 2021

Purpose

The communications objectives for this public consultation is to consult with key external stakeholders and relevant environmental authority (EA) holders on the draft guideline - *Application requirements for activities that release particular contaminants to Great Barrier Reef catchment waters*, also known as the new Reef discharge standards for industrial activities which will take effect from 1 June 2021.

The primary purpose of this guideline is to:

- assist applicants in making well-supported EA applications, where the applicant proposes discharges to Great Barrier Reef (GBR) catchment waters from the release of fine sediment and dissolved inorganic nitrogen (DIN); and
- describe the way the department will assess an EA application in accordance with section 41AA of the Environmental Protection Regulation 2019 (EP Regulation).

Regulatory background

Mechanisms to achieve no net decline in water quality have been introduced into the *Environmental Protection Act 1994* (EP Act) and EP Regulation. The policy intent of no net decline has been enacted through the *Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019* and the Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Regulation 2019.

Chapter 4, Part 3 of the EP Regulation includes additional regulatory requirements for environmental management decisions. No net decline to water quality is met through assessing new or expanded prescribed environmentally relevant activities (ERAs) and resource activities against section 41AA of the EP Regulation.

From 1 June 2021, the administering authority must consider section 41AA of the EP Regulation when making an environmental management decision (EMD) for an ERA in the GBR catchment waters. The administering authority must refuse to approve an application if it considers that the activity will, or may, have a residual impact from particular contaminants. The contaminants of interest are DIN and/or fine sediment.

Public consultation

Public consultation on the draft guideline was held from 12 March 2021 to 16 April 2021.

An email inviting comments on the draft guideline were provided through the department's 'Have your say' webpage and sent to the list of targeted stakeholders in **Table 1 List of targeted stakeholders**.

In addition, the following two online information sessions were delivered to the targeted stakeholders to introduce the guideline and answer any questions:

- 23 March 2021 to the Resource Working Group
- 24 March 2021 invitation sent to targeted stakeholders in Table 1

Comments were received from 10 stakeholders.

All comments were reviewed, and contents summarised and collated by issue in **Table 2 - Summary of comments from public consultation**.

Results of consultation and response

Table 2 - Summary of comments from public consultation provides a summary of the key issues identified in the comments for the draft guideline and the department's responses to each issue. Most issues that were within the scope of the draft guideline were addressed through amendments to the guideline. Issues not within the scope of the draft guideline and not addressed in the guideline included questions about the policy intent of the Reef reforms and detailed questions about the Point Source Water Quality Offsets Policy.

Table 1 List of stakeholders

Submission received	Attended info session	Organisation
Yes	Yes	AMEC
Yes	Yes	Australian Barramundi Farmers Association
Yes	Did not attend	Australian Marine Conservation Society
Yes	Yes	Association of Mining and Exploration Companies
No	Yes	Australian Petroleum Production and Exploration Association
No	Did not attend	Australian Prawn Farmers Association
No	Yes	BHP Mitsubishi Alliance
No	Yes	Bundaberg Regional Council
Yes	Yes	Cement Concrete & Aggregates Australia
No	Did not attend	Chamber of Commerce & Industries Qld (CCIQ)
No	Yes	Coral Coast Barramundi
Yes	Did not attend	Department of Agriculture and Fisheries
No	Yes	Environmental Defender's Office
No	Did not attend	Environmental Institute Australia and New Zealand (EIANZ)
No	Yes	GHD
Yes	Did not attend	Gladstone Ports Corporation Limited
No	Yes	Glencore
No	Did not attend	Institute of Quarrying Australia
No	Did not attend	Irrigation Australia
No	Yes	Local Government Association of Queensland
No	Yes	Mainstream Aquaculture Queensland Pty Ltd
No	Did not attend	North Queensland Bulk Ports Corporation
Yes	Yes	Queensland Resources Council
No	Did not attend	Queensland Seafood Industry Association
Yes	Yes	Queensland Water Directorate
No	Yes	Ravens Wood Gold
No	Yes	Santos Limited
No	Did not attend	Sealord
No	Yes	Senex
No	Yes	Sunwater
No	Yes	Tassal
No	Yes	Townsville City Council
Yes	Did not attend	University of Queensland
No	Yes	UTM Global
No	Did not attend	Waste Recycling Industry Association
Yes	Yes	Wide Bay Burnett Environment Council Inc
No	Yes	World Wide Fund

Insert your content here

Table 2 – Summary of comments from public consultation

Theme	Stakeholder/s	Summary of issue and DES Response
Application to ERA 50 bulk handling	Gladstone Ports Corporation (GPC)	<p>Issue summary:</p> <p>GPC raised concerns relating to the potential overlap of s.41AA and ERA 50 where the definition of ERA 50 now includes liquids in pipelines and therefore being applied to dredged material. GPC is concerned that the potential overlap will result in s.41AA being applied unintentionally to dredging operations when they are exempt in the legislation.</p> <p>Department response:</p> <p>The guideline has been updated to clarify that any ancillary activity to ERA 16, is excluded from s. 41AA.</p>
Modelling contaminant loads	GPC, QldWater, Cement Concrete and Aggregates Australia (CCAA), UQ – Sustainable Minerals Institute, Queensland Resources Council (QRC), Department of Agriculture and Fisheries (DAF),	<p>Issue summary:</p> <p>Stakeholders requested further details on how to calculate and model contaminant loads, noting the departments good modelling practices principles guideline is high level and does not provide enough detail. Stakeholders requested further information on the method to convert concentration to load, a method to convert TN to DIN and TSS to fine sediment, and requested examples in the guideline.</p> <p>Stakeholders requested that the requirement to provide modelling of contaminants loads from any existing activities should not be required and should be deleted.</p> <p>CCAA also had several questions about what should be included in baseline models, and requested clarification that baseline loads or loads from greenfield/undeveloped sites should not be included in the total residual load amount.</p> <p>Department response:</p> <p>There is no standard approach to modelling and the approach will be specific to the option, nature and site specificity of the application. Numerous options exist for site-scale modelling but there is no one model that exists and would be used. Technical experts would potentially use different approaches depending on the proposal being modelled. Models would need to be checked if “fit for purpose” along with how these models are applied.</p> <p>The guideline has been updated to reflect that modelling is not a mandatory requirement and will be dependent on the site-specific nature of the activity. The guideline also indicates that applicants should contact the department for a pre-lodgement meeting to discuss the specifics of their application and obtain site specific guidance on the best available options for modelling.</p>
Definition of Great Barrier Reef waters	QRC, DAF	<p>Issue summary:</p> <p>Stakeholders raised concerns related to the use of the term ‘adjacent waters’ in the guideline. Concerns were surrounding the clarity of the term and that ‘adjacent waters’ are not used in the Regulation.</p> <p>Department response:</p> <p>The guideline was amended to remove ‘adjacent waters’ and replace with terms consistent with s.41AA of the ER Regulation, including Great Barrier Reef catchment waters.</p>

Diffuse sources	GPC, Australian Marine Conservation Society (AMCS),	<p>Issue summary:</p> <p>Stakeholders questioned the reasoning for excluding diffuse sources from the guideline.</p> <p>AMCS also raised that including information regarding the management and monitoring of diffuse sources under different regulatory requirements is irrelevant to this guideline and should be removed.</p> <p>Department response:</p> <p>References to diffuse sources has been removed from the guideline to avoid confusion. Further guidance around what a point sources is and how it relates to s.41AA has been included in the guideline along with examples of different point sources.</p>
Dredging	QRC, Wide Bay Burnett Environmental Council (WBBEC)	<p>Issue summary:</p> <p>QRC raised concerns regarding pervious comments made by OGBR that ports would be exempt from the s.41AA but the scope has been narrowed to only exclude marine dredging (ERA16(1)).</p> <p>WBBEC raised concerns relating to the exclusion of ERA16, stating that it has the potential to release sediments to GBR waters and should be considered in s.41AA.</p> <p>Department response:</p> <p>The guideline has not been updated in response to these issues as they have been deemed to have been addressed through the policy development stage. More information can be found in the Decision Regulatory Impact Statement (Broadening and enhancing Reef protection regulations) dated February 2019. https://www.qld.gov.au/__data/assets/pdf_file/0028/94636/broadening-enhancing-reef-protection-decision-ris.pdf</p>
Application to existing activities	UQ – Sustainable Minerals Institute, QRC	<p>Issue summary:</p> <p>Stakeholders have raised concerns regarding the application of s.41AA to existing activities and the mention of existing requirements in the guideline.</p> <p>Department response:</p> <p>The department has confirmed that s.41AA does not apply retrospectively and has amended that guideline to clarify that existing releases authorised in an EA without specific sediment release limits will not be considered under section 41AA.</p>
General application requirements	GPC, CCAA, AMEC, QRC, DAF	<p>Issue summary:</p> <p>Stakeholders raised several questions relating to specific application requirements, the assessment process and level of detail required to be submitted with an application to be assessed against s.41AA.</p> <p>Department response:</p> <p>In response to these issues, the guideline has been amended to include a more detailed description of the s. 41AA exemptions with examples and to describe what information is required when an applicant is not proposing direct releases to GBR catchment waters</p>
Interaction with model mining conditions	UQ – Sustainable Minerals Institute, QRC	<p>Issue summary:</p> <p>The resource stakeholders strongly suggested the guideline does not need to apply to the resource sector because model mining conditions authorise releases of mine-affected water from point sources and are designed to enable operations to adapt to rainfall variations. They believe that concentration limits ensure the level of protection of environmental values, as it is based on specific requirements for dilution ratios. They</p>

		<p>believe the current model mining conditions allow enough flexibility for sporadic releases (frequency and volume) to occur as long as releases meet the concentration limits.</p> <p>They also believe the model mining conditions to develop and implement erosion and sediment control (ESC) plans and stormwater management plans effectively mitigate diffuse sources and should not be considered point sources.</p> <p>QRC notes that the resource industry has invested a lot of time to develop and negotiate these model mining conditions with government and the coal mining industry and do not want the framework to change. They suggest that for the mining sector a more useful addition to the suite of Government guidance.</p> <p>Department response:</p> <p>The guideline has been updated to clarify that stormwater containing sediment only will not be considered under s.41AA, examples have also been included to provide further clarity. This will allow for an exclusion for stormwater proposed to be managed through erosion and sediment control measures. This approach is consistent with Reef protection reforms required for the agricultural industry, where stormwater is managed through best practice environmental management. Regardless of this determination, appropriate erosion and sediment control measures will be conditioned through the environmental authority to prevent as much sediment as is practical from entering the GBR catchment waters.</p>
Lower risk activities	UQ – Sustainable Minerals Institute, DAF	<p>Issue summary:</p> <p>Stakeholders requested additional guidance and an example of what should be considered a 'lower risk activity' and inclusion of reference to pre-lodgement meetings.</p> <p>Department response:</p> <p>Section 2.1.2 of the guideline provides general guidance on how to prepare an application with impacts to waters. The general guidance refers to low and high risk activities, the applicant is responsible for determining the risk level of their activity. No additional changes were required to the guideline.</p>
Measuring residual impact at the end of pipe	QRC	<p>Issue summary:</p> <p>QRC raised concerns that measuring residual impact at end-of-pipe may be conflating the measurement of fine sediment and DIN at end-of-pipe with the 'actual impact' and the precedent this may create.</p> <p>Department response:</p> <p>The guideline has been amended to clarify that applicants for any new or expanding activities should measure residual impact at the end of pipe, because this is the first point where the presence or potential presence of DIN/fine sediment can be detected in the GBR catchment waters. The guideline has also been amended to clarify that conditions of the environmental authority will impose water quality release limits and monitoring at the end of pipe, and this is consistent with existing assessment and conditioning approaches and is the most practicable location.</p>
Major and minor amendment	GPC, CCAA, Association of Mining and Exploration Companies (AMEC), QRC	<p>Issue summary:</p> <p>Stakeholders raised concerns regarding a lack of clarity regarding what would constitute a major amendment and impacts of s. 41AA on the assessment level decision.</p> <p>Department response:</p> <p>The guideline has been updated to reflect that the assessment level decision made under section 228 of the EP Act is not an environmental</p>

		<p>management decision and is not subject to section 41AA of the EP Regulation.</p> <p>The guideline has also been amended to clarify that applicants should expect their application to be deemed major if the proposed amendment would increase the contaminant loads being discharged to waters by more than 10%. This is consistent with the standard approach adopted in the guideline: <i>Major and minor amendments</i> (ESR/2015/1684) where increasing the scale and intensity of the operation by 10% is generally considered a major amendment.</p>
Water quality offsets	GPC, CCAA, AMCS, AMEC, QRC, WBBEC, DAF	<p>Issue summary:</p> <p>The application of the Point Source Water Quality Offset Policy and principles within the policy was commented on by seven targeted stakeholders. Although the Australian and Marine Conservation Society and Wide Bay Burnett Environmental Council noted an offsets market can work well, QRC, AMEC and CCAA have significant concerns about the ability of the current market to provide offsets from 1 June for the resource industry.</p> <p>Department response:</p> <p>The guideline has not been updated to reflect these issues as they are out of scope of the guideline. General information regarding the applicability of the department's Point Source Water Quality Policy 2019 has been provided to stakeholders.</p> <p>Please note that the Reef Credit scheme is currently under development, and the Point Source Water Quality Offsets Policy 2019 is not due for review until 2022.</p>
Point source releases	UQ – Sustainable Minerals Institute, QRC	<p>Issue summary:</p> <p>Stakeholders questioned the benefits of regulating point source water emissions and their benefit to achieving the Reef water quality targets.</p> <p>Department response:</p> <p>The guideline has not been updated to reflect these issues as they are out of scope of the guideline.</p> <p>The Reef protection regulations respond to recommendations made by the Great Barrier Reef Water Science Taskforce in 2016. https://www.qld.gov.au/__data/assets/pdf_file/0027/109539/gbrwst-finalreport-2016.pdf</p> <p>The Reef protection regulations commenced in 2019, introducing a staged approach to the different regulatory tools. More information can be found here: https://www.qld.gov.au/environment/agriculture/sustainable-farming/reef/reef-regulations</p> <p>The Reef protection regulations is one component of the Queensland's Reef Water Quality Program. A number of on the ground programs are being delivered to address water quality impacts to the Reef. https://www.qld.gov.au/environment/coasts-waterways/reef/reef-program.</p>
Stormwater management and erosion and sediment control	AMCS, CCAA, UQ – Sustainable Minerals Institute, QRC	<p>Issue summary:</p> <p>CCAA, UQ – Sustainable Minerals Institute and QRC believe that additional conditions on stormwater management or a ponds design storage capacity are overly prescriptive and inconsistent with the current erosion and sediment control (ESC) frameworks for the extraction and mining industry.</p> <p>UQ and QRC do not believe the guideline should apply to the mining sector and suggest that for the mining sector, a more useful addition to the suite of Government guidance documents could be a document that provides practical and technical assistance for the design and implementation of ESCP.</p> <p>AMCS noted that storage pond design capacity should consider more intense and severe high rainfall events as a result of climate change.</p> <p>Department response:</p>

		<p>The guideline has been updated to clarify that stormwater containing sediment only will not be considered under s.41AA, examples have also been included to provide further clarity. This will allow for an exclusion for stormwater proposed to be managed through erosion and sediment control measures.</p> <p>Regardless of this determination, appropriate erosion and sediment control measures will be conditioned through the environmental authority to prevent as much sediment as is practical from entering the GBR catchment waters. The guideline has been amended to remove references to conditioning the pond's design storage capacity and outline that the operators will need to ensure that the storage capacity or stormwater infrastructure and erosion and sediment controls should be easily identified to ensure compliance with conditions, if relevant to s. 41AA.</p>
Uncontrolled, unplanned and/or emergency releases	CCAA, AMCS, QRC, DAF	<p>Issue summary:</p> <p>CCAA and QRC agree that uncontrolled releases are not included in s. 41AA, as this is consistent with the departments stormwater management approach to the extractive and resource industry. QRC also believe that releases aimed at preventing an uncontrolled release should be afforded that same exemption.</p> <p>AMCS requested that the design capacity for sediment ponds be included in the guideline and for the standard to account for more intense and sever high rainfall events.</p> <p>Department response:</p> <p>The guideline has been amended to remove references to conditioning the pond's design storage capacity and outline that the operators will need to ensure that the storage capacity or stormwater infrastructure and erosion and sediment controls should be easily identified to ensure compliance with conditions, if relevant to section 41AA. Examples of a planned/controlled release has been included in the guideline, demonstrating that planned releases should be described in an application and undertaken within the bounds of the EA.</p> <p>The guideline also describes that temporary emissions licences are also available for uncontrolled/unplanned releases and are not triggered under section 41AA of the EP Regulation, see the department's guideline: <i>Temporary Emissions Licence</i> (ESR/2015/1724).</p>
Water quality objectives	CCAA, QRC,	<p>Issue summary:</p> <p>CCAA and QRC raised concerns regarding the impact of the GBR end-of-basin load water quality objectives on existing EAs and the water quality objectives within EPP(Water and Wetland Biodiversity).</p> <p>Department response:</p> <p>The Reef WQO will not change existing EVs and WQOs and will not trigger changes to existing EA conditions (apply retrospectively). The guideline has been amended to clarify that Reef WQOs will not change current protection levels and standards of the receiving environment.</p>