

# Information sheet

## Small scale mining

### **Environmental requirements for small scale mining activities**

*This information sheet applies to small scale mining activities as defined in Schedule 4 of the Environmental Protection Act 1994, and associated requirements set out in Schedules 6 and 16 of the Environmental Protection Regulation 2019.*

Activities that are consistent with the definition of small scale mining activities in the *Environmental Protection Act 1994* (EP Act) do not require an environmental authority.

Only activities carried out under prospecting permits, mining claims and exploration permits (minerals) are included in the definition of small scale mining activity (refer to Attachment A). If an activity does not meet the definition of small scale mining activity, the operator is still required to hold an environmental authority.

All small scale mining activities are subject to the conditions prescribed in Schedules 6 and 16 of the Environmental Protection Regulation 2019 (the Regulation). Currently there are no prescribed conditions for prospecting permits. Prescribed conditions relate to rehabilitation and surety requirements.

#### **Rehabilitation requirements**

The prescribed conditions for small scale mining activities (other than a prospecting permit) are set out in section 21A(2) of the EP Act and Schedule 6 of the Regulation. Schedule 6 is divided into three parts: Part 1 – Definitions, Part 2 – Conditions for mining claims and exploration permits and Part 3 – Additional conditions for exploration permits. An extract from the EP Act and Regulation is provided below.

These extracts are provided for your information and do not replace the legislation (including the EP Act and Regulation). If there is a difference between the legislation and this information sheet, the legislation applies. You should refer to the legislation to confirm the conditions you must comply with.

#### **Extract from section 21A(2) of the EP Act**

The holder of the mining tenure (a small scale mining tenure) for the activity must not carry out, or allow the carrying out of, the activity unless the holder has given a surety—

- (a) of the amount prescribed by regulation; and
- (b) in the form approved by the scheme manager under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 56.



## Extract from the Regulation

### Part 1 – Definitions

For the conditions, the following terms are defined<sup>1</sup>:

Term	Definition
Australian water quality management guidelines <sup>2</sup>	the document called 'Australian & New Zealand guidelines for fresh and marine water quality', published by the Australian Government Department of Agriculture Note— See the Water Quality Australia website for access to the Australian water quality management guidelines.
Dam	a man-made structure or hollow prepared for the retention of aqueous substances used in or produced by the operation of a mining activity.
Density of cover	of vegetation in a particular area, means: (a) if the plant species are trees or shrubs—the number of trees or shrubs in the area; or (b) if the plant species are understorey species, including, for example, grasses and forbs—the percentage of surface area covered by a particular species in the area.
Water bore	an artesian bore or a sub-artesian bore under the <i>Water Act 2000</i> .

### Part 2 – Conditions for mining claims and exploration permits

Rehabilitation conditions for mining claims and exploration permits
(1) This part applies to a small scale mining tenure if the mining activity for the tenure is carried out under a mining claim or exploration permit.
(2) The holder of the small scale mining tenure must rehabilitate all areas disturbed by mining activities on the mining tenure before: (a) the tenure expires; or (b) the tenure is surrendered.
(3) For an area that has been mined on the tenure, the holder must finish progressive rehabilitation of the area within 1 year of finishing the mining activity in the area.
(4) The holder must carry out and finish rehabilitation works to establish a landform: (a) that is safe, stable and self-sustaining; and (b) with vegetation of a species and density of cover similar to surrounding undisturbed areas or the landform that existed before mining activities.
(5) However section 4 <sup>3</sup> does not apply to infrastructure of the mine that remains on the land under section 6 <sup>4</sup> .
(6) For infrastructure of the mine that remains on the land after the mining activity stops, the holder must enter into a written agreement with the owner of the land providing for the owner to take over responsibility for the infrastructure. Examples of infrastructure of a mine: a dam or a road

<sup>1</sup> Some definitions have been provided. You should refer to the EP Act and Regulation for definitions of other relevant terms.

<sup>2</sup> Definition from Schedule 19, Part 2 of the Regulation.

<sup>3</sup> This reference to section 4 in Schedule 6, Part 2 of the Regulation is effectively a reference to condition 4.

<sup>4</sup> This reference to section 6 in Schedule 6, Part 2 of the Regulation is effectively a reference to condition 6.

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**Rehabilitation conditions for mining claims and exploration permits**

- (7) If a dam remains on the land after the small scale mining activity stops and is used for livestock drinking supplies, the holder must ensure that:
- (a) the dam is safe; and
  - (b) its water quality complies with the Australian water quality management guidelines when the agreement with the landowner takes effect; and
  - (c) safe access is provided for livestock and native animals.

**Conditions 8 to 11 are provided under 'Surety requirements' below.**

**Part 3 – Additional conditions for exploration permits****Rehabilitation conditions for exploration permits (minerals)**

- (1) This part applies to a small scale mining tenure if the mining activity for the tenure is carried out under an exploration permit.
- (2) The holder must rehabilitate drill pads and excavations as soon practicable after sampling is finished, and within 3 months of starting the drilling or excavating.
- (3) The holder must, within 30 business days of drilling commencing, ensure that any drill hole is:
- (a) decommissioned; or
  - (b) converted to a water bore.
- (4) If a drill hole is to be used for ongoing groundwater production or monitoring purposes, the holder must convert the drill hole to a water bore under the *Water Act 2000*.
- (5) The holder may transfer a functional water bore to an owner of land only if the holder and the owner enter into a written agreement for the transfer.
- (6) Any drill hole or water bore that is not transferred to the owner or the State must be decommissioned by cementing the hole, including the annular space around casing, from top to bottom.

**Surety requirements**

Surety is necessary to protect the environment if rehabilitation of disturbed areas is not carried out by the miner. Surety needs to be enough to cover the cost of a third party undertaking rehabilitation, including mobilising equipment to the site, rehabilitating pits and overburden, rehabilitating dams and removal of infrastructure.

**Conditions**

- (8) The holder of a small scale mining tenure, other than if the holder is a holder to which section 10<sup>5</sup> applies, must give the scheme manager a surety of an amount prescribed under schedule 16 for:
- (a) the holder's tenure type; and
  - (b) the holder's environmental risk of the activity under the tenure; and
  - (c) the proposed area of disturbance as stated in:
    - (i) if the tenure is a current mining claim under the *Mineral Resources Act 1989*, sections 61(1)(j)(iv) and 81(1)(c)— the holder's work program for the current mining claim; or
    - (ii) if the tenure is a exploration permit under the *Mineral Resources Act 1989*, section 133(f)(i)— the holder's program of work for the permit.

<sup>5</sup> This reference to section 10 in Schedule 6, Part 2 of the Regulation is effectively a reference to condition 10.

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<b>Conditions</b>
<p>(9) The surety must be paid –</p> <ul style="list-style-type: none"> <li>(a) before the day the mining activity is carried out under the mining tenure; and</li> <li>(b) as security for – <ul style="list-style-type: none"> <li>(i) compliance with other prescribed conditions for carrying out the mining activity; and</li> <li>(ii) costs or expenses, or likely costs or expenses, mentioned in section 316C of the Act.</li> </ul> </li> </ul>
<p>(10) Section 11 applies if a holder of a small scale mining tenure:</p> <ul style="list-style-type: none"> <li>(a) held, on 31 March 2013, an environmental authority for the activity carried out under the tenure; and</li> <li>(b) an amount of financial assurance for the environmental authority is held by the administering authority.</li> </ul>
<p>(11) The holder must give the administering authority financial assurance of an amount that is equal to the amount held.</p> <p><b>Notes –</b></p> <ul style="list-style-type: none"> <li>(a) Under the Act, section 712(2), the amount of financial assurance for an environmental authority held by the administering authority is taken to be the financial assurance required under this condition.</li> <li>(b) Under the <i>Mineral and Energy Resources (Financial Provisioning) Act 2018</i>, section 90, the financial assurance required under this condition is taken to be a surety given under part 3 of that Act for the small scale mining tenure.</li> </ul>

The table below displays Schedule 16 of the Regulation and provides the rates of financial assurance per tenure type and level of environmental risk.

Tenure type	Mining Claim				Exploration permit (minerals)	
	Hand mining (previously mined)	Hand mining (not previously mined)	Machinery used for mining with no dam	Machinery used for mining with a dam	Low risk	High risk
0 to 0.1	\$200	\$400	\$400	\$3400	\$2500	\$5000
more than 0.1 to 0.5	\$400	\$800	\$2000	\$5000	Not applicable – small scale mining activities on exploration permits (minerals) may only cause up to 0.1 hectares of disturbance	
more than 0.5 to 1	\$1000	\$2000	\$4000	\$7000		
more than 1 to 2	\$2000	\$4000	\$8000	\$11,000		
more than 2 to 3	\$3000	\$6000	\$12,000	\$15,000		
more than 3 to 4	\$4000	\$8000	\$16,000	\$19,000		
more than 4 to 5	\$5000	\$1,0000	\$20,000	\$23,000		

**Attachment A – Definition of a small scale mining activity (EP Act Schedule 4)**

A **small scale mining activity** means a mining activity that:

<b>(a) is carried out under a mining claim, for corundum, gemstones or other precious stones, the area of which is not more than 20ha, and that—</b>
(i) does not, or will not, at any time cause more than 5ha of land to be significantly disturbed; and
(ii) is not, or will not be, carried out in a designated precinct of a strategic environmental area <sup>6</sup> ; and
(iii) is not, or will not be, carried out in a watercourse or riverine area; and
(iv) is not, or will not be, carried out in or within 1km of an area that, under a regulation, is a category A environmentally sensitive area <sup>7</sup> ; and
(v) is not, or will not be, carried out in or within 500m of an area that, under a regulation, is a category B environmentally sensitive area <sup>7</sup> ; and
(vi) is not, or will not be, carried out in an area prescribed under a regulation as a designated environmental area <sup>8</sup> for this definition; and
(vii) is not, or will not be, carried out as part of a petroleum activity or a prescribed ERA for which there is an aggregate environmental score prescribed under a regulation; and
(viii) is not, or will not be, carried out by more than 20 persons at any one time; and
(ix) does not, or will not, at any time cause more than 5000m <sup>2</sup> of land to be disturbed at a camp site; or
<b>(b) is carried out under an exploration permit, for minerals other than coal, the area of which is not more than 4 sub-blocks and that:</b>
(i) is not, or will not be, carried out in a designated precinct of a strategic environmental area <sup>6</sup> ; and
(ii) is not, or will not be, carried out in a watercourse or riverine area; and
(iii) is not, or will not be, carried out in or within 1km of an area that, under a regulation, is a category A environmentally sensitive area <sup>7</sup> ; and
(iv) is not, or will not be, carried out in or within 500m of an area that, under a regulation, is a category B environmentally sensitive area <sup>7</sup> ; and
(v) is not, or will not be, carried out in an area prescribed under a regulation as a designated environmental area <sup>8</sup> for this definition; and
(vi) is not, or will not be, carried out as part of a petroleum activity or a prescribed ERA for which there is an aggregate environmental score prescribed under a regulation; and
(vii) does not, or will not, at any time cause more than 1000m <sup>2</sup> of land to be disturbed; or
<b>(c) is carried out under a prospecting permit.</b>

<sup>6</sup> Schedule 4 of the EP Act defines “strategic environmental area” as “a strategic environmental area under the *Regional Planning Interests Act 2014*.”

<sup>7</sup> Defined in Schedule 19, Part 1 of the Environmental Protection Regulation 2019.

<sup>8</sup> Prescribed in section 26 of the Environmental Protection Regulation 2019.

**Version History**

<b>Version</b>	<b>Effective date</b>	<b>Description of changes</b>
1.00	6 December 2013	First published version of the guideline.
2.00	22 December 2015	Update to reflect the repeal of the Strategic Cropping Land Act 2011 and the commencement of the Regional Planning Interests Act 2014. Other general updates.
2.01	18 June 2018	The document template, header and footer have been updated to reflect current Queensland Government corporate identity requirements and comply with the Policy Register.
3.00	1 April 2019	Updated for commencement of the financial provisioning scheme for resource activities, to reflect changes introduced by the <i>Mineral and Energy Resources (Financial Provisioning) Act 2018</i> and Environmental Protection (Financial Provisioning) and Other Legislation Amendment Regulation 2019.
4.00	16 April 2021	Updated to reflect changes from the Environmental Protection Regulation 2008 to the Environmental Protection Regulation 2019.
4.01	16 February 2024	Updated to align with the MOG