

# Frequently Asked Questions

## Environmental Protection (Transshipping Activities) Amendment Regulation 2020

### Transshipping FAQs

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#### **What activities are not affected by the new transshipping ERA?**

The transshipping ERA does not include loading or unloading minerals or bulk materials in relation to:

- dredging under ERA 16(1)
- an emergency response
- refuelling of ships
- transferring minerals or bulk materials between ships that are docked within a port area
- transporting bulk materials to a remote area of the State.

The transshipping ERA also includes an exemption for loading or unloading minerals or bulk materials if a Commonwealth law permits the activity or requires a permit or other authority for the activity. There is currently no circumstance known where this exemption would apply. The exemption was included to ensure there can be no inconsistency if a relevant Commonwealth approval is introduced in the future.

The transshipping ERA does not include loading or unloading minerals or bulk materials in association with carrying out dredging activities under ERA 16(1). In some dredging operations, material can be pumped directly from a pump on one barge onto a second barge for transportation to another area. The transfer of dredged material between vessels is not considered transshipping for the purposes of ERA 50.

The transshipping ERA also does not include activities for an emergency response, ship refuelling (i.e. supplying fuel to a ship to power its engines), transfer of minerals or bulk materials between ships docked (i.e. tied up at a wharf berth) within port limits, and transport of bulk materials to remote areas. The transportation of bulk materials to remote areas of the State is generally for the purposes of development or basic human needs. Examples include the transport of fuel, gravel, sand and other road or building construction materials to remote areas. As transport options for remote areas can be limited, the exclusion for remote areas ensures no adverse impacts on the ongoing development and functioning of these areas.

#### **Can I carry out transshipping activities within the Great Barrier Reef Marine Park?**

No, the administering authority must refuse to grant an application for a transshipping activity if the activity is to be carried out in an area partly or wholly within the Great Barrier Reef Marine Park. This refusal requirement applies regardless of whether the area is within defined port limits under the *Transport Infrastructure Act 1994*.

This is the case even if part of the transshipping activity is in part of the Great Barrier Reef Marine Park that is outside of State waters.



**Can I carry out transshipping activities within the Great Barrier Reef World Heritage Area?**

Transshipping activities outside the Great Barrier Reef Marine Park but within the Great Barrier Reef World Heritage Area are not prohibited, but can only be conducted if the transshipping activity is within a port area. If the transshipping activity is carried out within the Great Barrier Reef World Heritage Area outside a port area, the administering authority must refuse to grant an application for a transshipping activity.

**Does the transshipping ERA apply outside Queensland waters?**

Activities undertaken beyond state waters are not subject to ERA 50 unless they are in the Great Barrier Reef Marine Park and conducted partly within and partly beyond state waters. While the ERA applies to areas of the Great Barrier Reef Marine Park outside state waters, the administering authority must refuse to grant an application for a transshipping activity if it is in the Great Barrier Reef Marine Park.

**Will a development permit be required to undertake transshipping?**

The transshipping ERA is not a concurrence ERA and will not trigger a material change of use for an ERA. This is because the ERA is about the act of transferring minerals or bulk materials from one ship to another. This does not involve any actual development, as it happens in a body of water.

The transshipping ERA (ERA 50 threshold 3) only applies to transferring minerals or bulk material from one ship to another. The land based loading/unloading activity is ERA 50 threshold 1 or 2. These are concurrence ERAs and will likely require a development permit. Operators will need to contact the relevant assessment manager to determine if their activity/development is covered by an existing development permit or if it is assessable development that will require a development application.

If there is to be dredging of a channel or the installation of moorings and aids to navigation, these may be considered development in their own right, and would therefore be likely to require a development approval. If a development permit is required, the environmental authority will not take effect until the development permit takes effect.

**Who will need to hold an environmental authority for ERA 50 for the complete transshipping operation (i.e. the land and sea-based operation)?**

The person (whether an individual or a corporation) who is undertaking the activity is the person who will need to have an environmental authority, unless the person is operating under someone else's environmental authority (e.g. as an employee or contractor of the holder of the environmental authority). The environmental authority holder is responsible for ensuring everyone operating under their environmental authority complies with the conditions of the environmental authority.

The complete transshipping operation is ERA 50(1) or ERA 50(2) for the land-based operation and ERA 50(3) for the sea-based operation of transferring material from one ship to another. The land-based operation may be undertaken by the same person.

If a person is proposing to both load from land to barge and then from barge to ship, then they will need to have an environmental authority which covers all the relevant thresholds. That is:

- both ERA 50(1) and ERA 50(3) for minerals
- both ERA 50(2) and ERA 50(3) for bulk materials
- ERA 50(1), ERA 50(2) and ERA 50(3) for minerals and bulk materials.

If there are two entities/persons (e.g. stevedores handling the storage/loading and a shipping company handling the ship to ship transfer), then both entities/persons will need an environmental authority for the relevant threshold for the activity they are conducting. The exception is where one entity holds the environmental authority for both the land and sea based operation and the other entity operates under that environmental authority.

**What updates were made to the definitions of bulk material and mineral?**

The definition of 'bulk material' has been updated to clarify that ERA 50 applies to solid materials that consist of separate particles or granules. This is designed to capture materials that would, when loaded into the hull of a ship or other container, conform to the shape of the ship or container.

Liquids and gases were included in the regulation of bulk material previously, but this was not specifically stated. The definition of 'bulk material' has been amended to specifically state that liquids and gases are included.

The definitions of 'bulk material' and 'mineral' have been updated to exclude material contained or wrapped in a way that prevents the material from escaping the container or wrapper. This is a rewording for bulk material and a new exclusion for minerals.

For this exclusion to apply the material needs to be securely stored in a container or other packaging for the duration of the storage and loading and/or unloading process.

The following are included in the definition of 'bulk material' or 'mineral' and are subject to regulation under ERA 50:

- minerals or bulk material loaded directly onto a train, truck or ship etc. without packaging (e.g. coal loaded directly into a train wagon, tip truck or the hold of a ship)
- liquids, gases or other materials that are loaded onto a ship via a pipeline as they would not be considered to be securely stored or packaged. In this instance the materials are not in the container or other packaging for the duration of the storage and loading and/or unloading process
- minerals or bulk material loaded onto a train, truck or ship etc. by emptying the contents of a Container Retainer System (rotainer) onto a train, truck or ship etc. In this circumstance the minerals and bulk materials are not secure for the duration of the loading and would be included in the definition of 'bulk material' or 'mineral'. In this instance the materials are not in the container or other packaging for the duration of the storage and loading and/or unloading process.

If an activity consisted of minerals or material storage only and the minerals or materials are stored in retainers with the lids so that the contents cannot escape, the storage activity would not be subject to regulation under ERA 50.

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**Version history**

<b>Version</b>	<b>Date</b>	<b>Description of changes</b>
1.00	28 March 2022	FAQ guidance document published online retrospectively.
1.01	22 February 2024	Document rebranded to align with machinery of government changes.