

## POLICY



**Date adopted:** 30/05/2017  
**File no:** 854921-1  
**Minute number:** 148/2017

**Policy title:** ENVIRONMENTAL PROTECTION ACT 1994 - INCENTIVE ENVIRONMENTAL AUTHORITY FEE SCHEME

**Directorate:** GROWTH, ECONOMY AND SUSTAINABILITY

**Branch:** HEALTH, CLIMATE AND CONSERVATION

**Policy objective:** The object of this policy is to outline the circumstances in which an authorised person may approve a reduced annual fee for an environmental authority.

### Policy scope:

This policy applies to environmental authorities pursuant to the *Environmental Protection Act 1994* for devolved environmentally relevant activities.

### Definitions:

| TERM                           | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Aggregate environmental score  | The aggregate environmental score for a devolved prescribed ERA is stated in schedule 2 of the Environmental Protection Regulation 2008 and is based on the likely environmental impact of the activity (i.e. prescribed ERAs more likely to have an impact on the environment will have a higher aggregate environmental score).                                                                                                                                                                                                                                                       |
| Annual fee                     | The annual fee for an environmental authority for the relevant prescribed ERA as specified in the Logan City Council 'Register of regulatory fees and Schedule of commercial and other charges' for the relevant financial year.                                                                                                                                                                                                                                                                                                                                                        |
| Appropriately qualified person | An appropriately qualified person, for completing a statutory declaration about the devolved ERA/s, means a person, other than the holder of the registration certificate or an employee of the holder, who-<br>(a) has the qualifications and experience appropriate for completing the statutory declaration about the activities<br>(b) is a member of an organisation listed in Schedule 8 of the Environmental Protection Regulation 2008 or is an accredited auditor employed by a certified body which is able to accredit an EMS as being compliant with AS/NZS ISO 14001:2004. |

| TERM                    | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| Compliance action event | <p>A compliance action event means any of the following directly relating to a prescribed ERA-</p> <ul style="list-style-type: none"> <li>(a) the serving of an infringement notice under the <i>State Penalties Enforcement Act 1999</i> on the holder for an offence</li> <li>(b) the issuing of an environmental protection order to the holder</li> <li>(c) the holder- <ul style="list-style-type: none"> <li>(i) has voluntarily submitted a draft transitional environmental program; or</li> <li>(ii) is acting under an approved transitional environmental program; or</li> <li>(iii) is required to prepare a transitional environmental program; or</li> <li>(iv) has, under section 350 of the Act, given the administering authority a program notice.</li> </ul> </li> <li>(d) the issue of a cost recovery notice by the Department of Environment and Heritage Protection to the holder unless- <ul style="list-style-type: none"> <li>(i) the amount claimed under the notice has been fully paid; or</li> <li>(ii) the notice has been withdrawn or has otherwise stopped having effect.</li> </ul> </li> <li>(e) the holder has been issued with a direction notice under section 363B of the Act unless the notice has been withdrawn or has otherwise stopped having effect</li> <li>(f) The cancellation or suspension of- <ul style="list-style-type: none"> <li>(i) an environmental authority; or</li> <li>(ii) an authority, instrument, licence or permit, however called, similar to an environmental authority under a corresponding law.</li> </ul> </li> <li>(g) a proceeding for an environmental offence or an offence under section 363E, 363I or 363L of the Act (a notice offence), is started or continued against the holder and has not finished</li> <li>(h) the holder is convicted of an environmental offence (as defined in the <i>Environmental Protection Act 1994</i>) or a notice offence.</li> </ul> |
| Compliant               | <p>A prescribed ERA is considered to be compliant if:</p> <ul style="list-style-type: none"> <li>(a) the holder meets the fee discount criteria specified below</li> <li>(b) during the most recent inspection by a Council Environmental Health Officer, being an appropriately</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

| TERM                                              | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                                   | <p>appointed authorised person under the <i>Environmental Protection Act 1994</i>, it was found that the prescribed ERA was being conducted in accordance with the relevant environmental authority and the environmental protection legislation; with either no, or a maximum of two (2) minor non-compliances being detected for which no previous directions have been issued.</p>                                                                                                                                                                                                                                                                                                                                                    |
| <p>Devolved environmentally relevant activity</p> | <p>A prescribed environmentally relevant activity (ERA) listed in schedule 2 of the Environmental Protection Regulation 2008 for which the administration and enforcement of the <i>Environmental Protection Act 1994</i> has been devolved to local government under s.101 of the Regulation.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>Direction</p>                                  | <p>A written or verbal direction is a requirement for the holder of the environmental authority to undertake specific work or ensure compliance with a specific requirement.</p> <p>A verbal direction will only be given for minor non-compliances and appropriate notation(s) will be made to ensure an accurate record of the verbal direction given. A written direction will be given for all other non-compliances.</p>                                                                                                                                                                                                                                                                                                            |
| <p>Disqualifying event</p>                        | <p>A disqualifying event for a holder of an environmental authority means there is a compliance action event for the holder.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>Minor non-compliance</p>                       | <p>A minor non-compliance is determined by the Council Environmental Health Officer, being an appropriately appointed authorised person under the <i>Environmental Protection Act 1994</i>, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the extent and nature of environmental harm (including potential environmental harm) to the environment</li> <li>(b) actual and potential monetary costs to rectify the issue</li> <li>(c) time required to rectify the issue</li> <li>(d) any other matters considered relevant to the determination.</li> </ul> <p>Examples of minor non-compliances include updating staff training records, discharging stormwater from a bund compound in an approved manner, etc.</p> |
| <p>Prescribed environmental management system</p> | <p>A prescribed Environmental Management System (EMS) is an EMS that is certified by a conformity assessment body to conform to AS/NZS ISO 14001:2004. A prescribed EMS must include all ERAs carried out under the certificate of registration.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>Reduced annual fee</p>                         | <p>The reduced annual fee is the annual fee minus the fee discount approved in accordance with this policy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

**Policy statement:**

In accordance with the *Environmental Protection Act 1994* and the Environmental Protection Regulation 2008, Logan City Council may set fees and discounts for devolved prescribed Environmentally Relevant Activities (ERAs).

As an incentive to the holders of environmental authorities for devolved prescribed ERAs, Council will offer discounted annual fees to encourage ongoing compliance and best environmental practice.

The eligibility for a holder of environmental authorities to receive a discounted annual fee will primarily be assessed during the annual inspection of the ERA. However, other factors (e.g. subsequent complaints) as detailed below may affect the discount received.

Fee discount criteria:

1. The holder of an environmental authority is eligible to pay a reduced annual fee if:
  - (a) the holder is complying with the development conditions for the prescribed ERA covered by the environmental authority
  - (b) the holder is registered as a 'suitable operator'
  - (c) the holder has carried out the prescribed ERA under the environmental authority for at least one (1) year
  - (d) in the three (3) years immediately before the annual fee for the environmental authority is due, no compliance action event has happened for the holder
  - (e) in the one (1) year immediately before the annual fee for the environmental authority is due, none of the following has happened for the holder:
    - (i) a written or verbal direction given by a Council Environmental Health Officer to the holder of the environmental authority has not been fully complied with
    - (ii) complaint/s have been received about the prescribed ERA and a Council Environmental Health Officer, being an appropriately appointed authorised person under the *Environmental Protection Act 1994*, has not determined that such complaint/s are frivolous, vexatious or based on mistaken belief.
2. The following fee discounts will be applied:

| Years compliant | Applicable discount              |
|-----------------|----------------------------------|
| 1 year          | Compliant<br>10% discount        |
| 2 years         | Above compliance<br>35% discount |
| 3 or more years | Low risk<br>45% discount         |

3. The holder of the environmental authority stops being eligible to pay a reduced annual fee if:
- (a) the holder does not pay the fee within the period stated in the annual notice; or
  - (b) the holder knows, or reasonably ought to know, there has been a disqualifying event for the holder.

**Related policies/legislation/other documents:**

| <b>DOC ID</b> | <b>DOCUMENT TYPE</b> | <b>DOCUMENT NAME</b>                                                     |
|---------------|----------------------|--------------------------------------------------------------------------|
| -             | Legislation          | <i>Environmental Protection Act 1994</i>                                 |
| -             | Legislation          | Environmental Protection Regulation 2008                                 |
| -             | Administration       | Register of Regulatory Fees and Schedule of Commercial and Other Charges |