# Information Sheet 1

# Risk category allocation


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# Contents

# 1 Introduction

The *Mineral and Energy Resources (Financial Provisioning) Act 2018* (**the Act**) replaces the financial assurance requirements for resource activities under the *Environmental Protection Act 1994* (**the EP Act**). The Act establishes a financial provisioning scheme (**the scheme**) to manage the financial risk to the State if the holder of an environmental authority for a resource activity or a small-scale mining tenure (**SSMT**) does not comply with its environmental management and rehabilitation obligations. The scheme is managed by a scheme manager.

The scheme commenced on 1 April 2019. Changes to the Act have been made since that time and this information sheet explains how the Act will operate from 1 October 2025, when the most recent changes to the Act come into force.

Under the Act, the scheme manager must:

- allocate each eligible environmental authority to one of five risk categories (**allocation decision**); and
- decide whether the holder is required to pay a contribution to the scheme fund and/or give surety equal to the estimated rehabilitation cost (**ERC**) for the authority (i.e. the estimated cost of rehabilitating the land on which the resource activity authorised by the eligible environmental authority is carried out or of preventing or minimising environmental harm, or rehabilitating or restoring the environment, in relation to the resource activity).

For those authorities which are not eligible, the holder must provide surety in an amount equal to the ERC. In the case of SSMTs, the holder must provide surety in an amount equal to the amount prescribed under the EP Act.

## Eligible environmental authority

The expression 'eligible environmental authority' is not a defined term in the Act. It is used in this Guideline, to refer to an authority:

- with an ERC that is at least $10 million (**the prescribed ERC**); or
- with an ERC that is at least $100,000 but not more than the prescribed ERC and in relation to which the scheme manager has given the holder an election notice (refer to part 4 of this information sheet for further information about election notices).

***Note***: The ERC for an authority is a decision made by the administering authority under the Environmental Protection Act and notice of the ERC decision is provided by the administering authority to the scheme manager.

# 2 Purpose of this information sheet

This information sheet provides information to assist authority holders to understand the risk category allocation framework under Part 3 of the Act.

This information sheet is to be used by holders of eligible environmental authorities being assessed under the risk category allocation framework.

This information sheet should be read together with the scheme manager guidelines and the frequently asked questions (**FAQs**). The guidelines set out the basic rules that the scheme manager will have regard to, although the scheme manager retains a discretion as to whether to apply those rules in each individual case. The FAQs provide additional explanation on certain scheme processes. The scheme manager may also have regard to other factors that the scheme manager considers relevant.

# 3 Overview of the allocation decision

In making an allocation decision, the scheme manager must decide:

- **Risk Category:** allocate the eligible environmental authority to one of the following risk categories: very low, low, moderate, moderate-high or high.
- **Annual Review Allocation Day**: allocate the eligible environmental authority an annual review allocation day. This day will replace the existing annual review day (where one already exists).
- **Relevant Holder**: if there is more than one holder, assign the eligible environmental authority to a relevant holder.
- **Assessed Entity**: select the entity to be assessed for financial soundness.

The scheme manager may seek advice to assist in making the allocation decision.

***Note:***

1. Annual Review Allocation Day is the day when all environment authorities for the one assessed entity will be assessed, replacing the annual review day which was the 12-month anniversary of the initial assessment for individual environmental authorities.
2. Assessed Entity is not a term used in the Act however, in this Information Sheet it refers to the entity that represents the point of recourse the State can have regard to and in doing so consider the financial soundness of that entity as it pertains to the risk of the State having to pay for rehabilitation.

## 3.1 Types of allocation decisions

There are four types of allocation decisions for an authority. The first three concern the allocation of eligible environmental authorities into a risk category. The fourth relates to the setting of the 'annual review allocation day'.

1. Initial allocation decision (section 27 of the Act).
    - The initial allocation decision is the first time an eligible environmental authority is classified for the purposes of the scheme. It is made after:
        - the administering authority notifies the scheme manager of the first ERC decision for the authority under section 300 of the EP Act that is above the prescribed ERC amount; or
        - the scheme manager first gives the holder an election notice for the authority.
    - This gives the authority its initial risk category allocation.

***Note:***

1. The first ERC decision by the administering authority is the entry point into the risk category allocation process.
2. The administering authority under the EP Act gives notice of the ERC decision to the scheme manager.
3. Later ERC decisions made by the administering authority are relevant for subsequent allocation decisions made in respect to the authority.
4. An amalgamated or de-amalgamated authority is taken to be a new authority.

2. Changed holder review decision (section 32 of the Act).

- A changed holder review decision is made in relation to an eligible environmental authority:
    - that has a current risk category allocation; but
    - has been subject to a 'changed holder event' under the Act.
- A 'changed holder event' occurs when:
    - the resource tenure for the eligible environmental authority is transferred to a new holder (meaning that the new resource tenure holder becomes the new holder of the eligible environmental authority); or
    - there is a change in corporate control of the relevant holder of the authority.
- The scheme manager may undertake a changed holder review to decide if the existing risk category allocation remains appropriate.

***Note:***

1. The use of the term 'change in corporate control' is used in this information sheet to provide a general meaning. See section 31A(1)(c) and 31A(1)(d) of the Act for what is captured by this term.
2. The scheme manager has a discretion to review the risk category allocation of an authority in these circumstances, it is not a mandatory requirement. In addition, it is open to a holder, or the incoming holder, to ask the scheme manager for an indicative review of the risk category allocation before an application for transfer or change of control occurs.

3. Annual review decision (section 38 of the Act).

- The risk category allocation for each eligible environmental authority is reviewed annually, so that the scheme manager can decide if the existing allocation remains appropriate or should be changed.
- This decision is made annually from the annual review allocation day.
- Annual contribution to the scheme fund is based on the reviewed risk category allocation and the ERC at the time of the annual review. If the ERC amount has changed since the previous review, the contribution is based on this changed ERC amount.

***Note:***

1. The ERC amount will change if either: the ERC period expires and a new ERC decision is made by the administering authority; or the administering authority directs the holder to re-apply for an ERC decision; or the holder must re-apply for an ERC decision (sections 302, 303 and 304 of the EP Act).

4. Annual review allocation day (sections 27A(a), 32(9), 98 and 105 of the Act).

- The scheme manager must set an annual review allocation day for each eligible environmental authority in the scheme.

- The annual review allocation day is the day from which the scheme manager reviews an eligible environmental authority's current risk category allocation and decides whether it remains appropriate or needs to be changed.
- Under the Act as in force up until 1 October 2025, each eligible environmental authority has an 'annual review day', which is the day the authority's annual review allocation is decided.
- From 1 October 2025, the scheme manager will progressively replace existing 'annual review days' with an 'annual review allocation day'.
- This is designed to facilitate the review of all authorities with the same Assessed Entity at the same time. This will make the assessment process more efficient, reducing burden on both industry and the State (when requesting/providing information), and allowing for more consistent and robust outcomes including identification and recognition of synergies where applicable.
- Each holder of an environmental authority that is in force on 1 October 2025 will be advised of its annual review allocation day by 2 May 2025. This will also include when the annual review allocation day takes effect for each authority (i.e. following the next annual review).
- An annual review decision must not occur within 9 months of the last risk category allocation decision. Therefore, a pro-rata contribution (of more or less than 12 months) will be required to cover the relevant period until the next annual review decision takes effect:
    - Should an authority's annual review allocation day be set within a nine (9) month period of the initial allocation day, the scheme manager will charge a pro-rata contribution of more than 12 months.
        - E.g. pro-rata contribution = 12 months + number of months between the annual review day and the new annual review allocation day.
    - Should an authority's annual review allocation day be set more than nine (9) months from the initial allocation day, the scheme manager will charge a pro-rata contribution of up to 12 months.

***Note:***

1. The scheme manager will send out a notice on or before 2 May 2025 to advise the holders of the new annual review allocation day for all authorities with an ERC equal to or more than the prescribed ERC.
2. The annual review allocation day for all other eligible authorities will be communicated as part of the election notice.
3. The FAQ *ARAD (Annual Review Allocation Day)* is relevant here.

# 4 Election notice

For an authority to be eligible to be assessed, it must have an ERC equal to or more than the prescribed ERC. However, if the ERC is equal to or more than $100,000 and less than the prescribed ERC, the authority can be eligible to be assessed under an election notice as explained below.

Under the Act, it is usually only authorities with an ERC equal to or greater than the prescribed ERC of $10 million that are the subject of a risk allocation decision.

However, in the following cases, the holder of an authority must be given the option of having the authority go through a risk allocation decision rather than defaulting automatically to having to give surety:

- Where:
  - an authority is not subject to a risk category allocation; and
  - an ERC decision is made for the first time in relation to the authority (whether before or after 1 October 2025), that the ERC is at least $100,000 but less than $10 million; and
  - the holder of the authority holds another authority which is allocated to a risk category other than high and for which the ERC is at least $100,000.
- Where:
  - an authority is allocated to a risk category other than high and has an ERC of at least $10 million; and
  - a new ERC decision is made for the authority and the new ERC is at least $100,000 but less than $10 million; and
  - the holder of the authority holds another authority which is allocated to a risk category other than high and for which the ERC is at least $100,000.
- Where:
  - a changed holder event happens in relation to an authority for which the ERC is at least $100,000 but less than $10 million; and
  - the changed holder for the authority holds another authority which is allocated to a risk category other than high and for which the ERC is at least $100,000.

  (See section 45B of the Act).

In these cases, the scheme manager must give the authority holder notice that the authority holder can, within the election period stated in the notice, choose to have the authority undergo risk category allocation. (See sections 45C, 45D, 45E and 45F of the Act.)

In addition, the holder of an authority must be given notice that the holder can choose to have the authority undergo risk category allocation if:

- immediately before 1 October 2025, an annual review process had not started for an authority with a risk category of very low, low or moderate; and
- on and from 1 October 2025, the ERC for the authority is at least $100,000 but less than $10 million.

(See section 105 of the Act.)

For existing eligible authorities (as defined in section 105 of the Act) with an ERC equal to or more than $100,000 and less than the prescribed ERC amount, the scheme manager is required to send a notice stating that the holder may elect for the authority to be subject to risk category allocation (refer section 105 of the Act). The holder has 20 business days to elect to be subject to a risk category allocation, to which the scheme manager will confirm by giving an election notice and the scheme manager will thereafter undertake a risk category allocation.

Sections 99 to 104 specify what is to occur if a risk assessment is underway immediately before 1 October 2025 and the ERC is equal to or more than $100,000 and less than the prescribed ERC amount.

***Note:*** The FAQ *Prescribed ERC and Election Notice* is relevant here.

# 5 Making the allocation decision

To allocate the authority to one of the five risk categories (very low, low, moderate, moderate-high or high) the scheme manager considers:

- the probability of the State incurring costs and expenses because the holder of the authority has not prevented or minimised environmental harm, or rehabilitated or restored the environment, in relation to a resource activity carried out under, or to ensure compliance with, the authority (***scheme manager's opinion of the financial risk to the State***);
- relevant scheme manager guidelines;

***Note*:** Scheme Manager Guideline 1 '*Forming the Scheme Manager's Opinion – Risk Category Allocation'* is relevant here.

- submissions if any, made by the relevant holder about the indicative risk category allocation; and
- any other matter the scheme manager considers relevant.

## 5.1 Forming an opinion of the financial risk to the State

In forming an opinion of the financial risk to the State, the scheme manager:

- **must** consider:
  - the financial soundness of the holder; and
  - relevant guidelines; and
- **may** consider:
  - the resource characteristics of the resource project to which the authority relates; and
  - any other matter the scheme manager considers relevant.

Financial soundness as a mandatory consideration reflects the importance of financial soundness to the scheme manager in forming his or her opinion.

To assist the scheme manager to form an opinion, the scheme manager may engage the services of a risk advisor with expertise relevant to the risk category allocation process.

## 5.2 Assessments pathways

The scheme manager will conduct an initial comprehensive assessment of each eligible authority to form an opinion of risk to the State and allocate a risk category. Following this, the scheme manager will consider various factors to decide the assessment pathway that will be used for annual review decisions.

### 5.2.1 Initial comprehensive assessment

An initial comprehensive assessment will be undertaken on new eligible authorities for which an ERC is made for the first time on or after 1 October 2025 (including amalgamated and de-amalgamated) and those undergoing a changed holder event. The comprehensive assessment will be comprised of both a financial soundness assessment and a resource project characteristics assessment.

### 5.2.2 Assessment pathways for annual review decisions

Each eligible authority will be allocated by the scheme manager to one of two pathways for annual reviews aimed at reducing the impost of annual reviews where possible. The two pathways are **streamline assessment** and **comprehensive assessment**.

- A **streamline assessment** comprises a financial soundness assessment only and is used where the authority sits comfortably within its risk category. This will be for those assessments with a resource that is unchanged year-on-year with a stable operational and financial profile.
- A **comprehensive assessment** comprises a financial soundness assessment and a resource project characteristics assessment and is used where the authority does not sit comfortably within its risk category and/or is more complex in nature, requiring a more regular and detailed analysis to determine the appropriate risk category allocation.

Regardless of the allocated pathway, a comprehensive assessment will be carried out at least once every three years for all eligible authorities. Further, the scheme manager may use their discretion to apply the different type of assessment pathways, outside of the minimum requirement of performing a comprehensive assessment at least once every three years, dependant on any changes to the authority's risk profile.

## 5.3 Considering the financial soundness of the holder

Assessing the financial soundness of the holder seeks to manage the risk to the State of making a financial outlay due to the financial capacity of the holder, including the risk of the holder becoming insolvent.

Scheme Manager Guideline 1 '*Forming the Scheme Manager's Opinion – Risk Category Allocation*' provides guidance to the scheme manager in exercising their discretion on which holder to consider (where there is more than one holder for the authority), whether to consider the financial soundness of a parent of the holder, and other financial soundness considerations.

***Note:***
The scheme manager is required to have regard to Scheme Manager Guideline 1 but retains a discretion as to the extent to which it guides the scheme manager's decision.

It is mandatory for the scheme manager to consider the financial soundness of the holder. If there is more than one holder, the scheme manager may consider the financial soundness of any or all the holders but must at least consider the financial soundness of one of them.

### 5.3.1 The relevant holder

If there is more than one holder for the authority, the scheme manager must assign the authority to one holder (**the relevant holder**).

The scheme manager may select the operator of the resource tenure.

Otherwise, the scheme manager could select a holder that holds the largest share in the tenure or tenures relating to the authority.

Alternatively, the scheme manager could select a holder having regard to the ownership structure for the authority and the roles of the holders.

***Notes**:*

1. Scheme Manager Guideline 2 *Assigning an Authority to a Relevant Holder* gives guidance to the scheme manager on assigning the authority to the relevant holder.
2. The assigning of a relevant holder does not affect the joint and several obligations of each holder to pay a contribution to the scheme fund or give a surety to the scheme manager.

### 5.3.2 The Assessed Entity

The scheme manager must select the Assessed Entity, which may be a holder of an authority or a parent corporation of a holder.

If there is a single holder of an eligible environmental authority, the scheme manager must consider the financial soundness of the holder or a parent corporation of that holder. Where there are multiple holders of an authority, the scheme manager may consider the financial soundness of any or all of the holders or a parent corporation of any or all of the holders.

#### 5.3.2.1 Choosing a parent corporation to assess for financial soundness

The scheme manager has discretion to consider the financial soundness of a parent corporation of the holder or, if there is more than one, any of the holders.

In deciding whether to consider the parent corporation of a holder, the scheme manager's primary consideration is whether there may be an increased risk to the State. Factors which the scheme manager may consider include:

- the parent corporation's country of domicile (where enforcing obligations in a foreign jurisdiction may be more difficult);
- whether the parent corporation indemnifies or guarantees the obligations of the holder to the State;
- whether the accounts of the holder are consolidated into the parent's accounts;
- whether the parent corporation has an acceptable credit rating (see below); or
- the composition of the scheme fund, including the level of the parent corporation's participation.

If the scheme manager chooses to consider the financial soundness of the parent corporation of the holder, that assessment is taken to be the assessment of the holder.

The scheme manager may also consider a nomination from the relevant holder for a different entity to be the Assessed Entity.

#### 5.3.2.2 What is a 'parent corporation' of a holder?

A parent corporation of a holder is either of the following:

- a corporation of which the holder is a 'subsidiary' within the meaning of section 46 of the *Corporations Act 2001*.

  *A holder will be a subsidiary of a company if:*

  - *the company controls the composition of the holder's board;*
  - *the company can cast or control the casting of more than 50% of the maximum number of votes that may be cast at a general meeting of the holder;*
  - *the company holds more than 50% of the issued share capital of the holder; or*
  - *the holder is a subsidiary of another company which is a subsidiary of the company;* or
- a corporation that 'controls' the holder within the meaning of section 50AA of the *Corporations Act 2001*.

  An entity controls the holder if it can determine the outcome of decisions of the holder's *financial and operating policies. Regard is had to the entity's practical influence over the holder.*

Whether a company is a parent corporation is a question of fact. Documents which may assist to determine whether a company is a parent corporation include shareholders agreements, joint venture agreements, partnership agreements etc. **Appendix A** contains examples of parent corporations in common corporate structures.

Having selected the Assessed Entity, the next step is for the scheme manager to undertake the assessment of financial soundness.

### 5.3.3 Assessing the Financial Soundness of the Assessed Entity

The scheme manager assesses the financial soundness of the Assessed Entity by either:

- considering an acceptable credit rating; or
- undertaking a financial soundness assessment.

#### 5.3.3.1 Credit Rating

As a basic rule, where the Assessed Entity has a credit rating, the scheme manager would typically assess the financial soundness of this entity based on this rating, if:

- the rating is from an acceptable credit rating agency (refer Guideline 1); and
- the rating is a long-term public credit rating, or a long-term private credit rating not more than 12 months old.

Where multiple acceptable credit ratings exist, the scheme manager should use the lowest rating.

#### 5.3.3.2 Undertaking a Financial Soundness Assessment

Where the Assessed Entity does not have an acceptable credit rating, the scheme manager would typically assess the financial soundness of this entity by undertaking a financial soundness assessment.

A financial soundness assessment uses fundamentals of credit risk to evaluate the likelihood that a holder will become insolvent and default on its financial commitments, which can help the scheme manager understand the probability of the State incurring costs and expenses relating to an authority's rehabilitation obligations should the holder become insolvent.

The assessment comprises of quantitative and qualitative components and typically has regard to:

- the most recent three years of audited financial statements (if more than 9 months old, an assessment of management accounts will also be required);
- financial and production forecasts over the next two to three years;
- financial metrics including, but not limited to, debt serviceability, balance sheet position, gearing / leverage, profitability;
- the Assessed Entity's business profile and range of activities undertaken, relevant industry sector, business strategy, competitive advantages, asset quality and major supply and sales contracts;
- the ownership structure, quality of management and the domicile of the entity; and
- a management meeting with the risk advisor may also be required.

Other factors may also be considered by the scheme manager where relevant to ensure appropriate understanding of the risk for each authority (e.g. a holder or the holder's parent corporation with a track record of not fully supporting unsuccessful resource projects).

The scheme manager will assign a financial soundness within the categories of strong, moderate, limited or poor.

***Note:***

The financial soundness assessed by the scheme manager is limited to the purpose of allocating an authority to a risk category for the scheme under the Act and is not intended to be as detailed as an assessment normally undertaken by a credit rating agency, nor is it meant to represent a formal credit rating assessment.

## 5.4 Considering the resource project characteristics

The scheme manager may consider resource project characteristics for all eligible authorities at least once every three years, by giving weighted consideration to the saleability and progressive rehabilitation performance of the project.

The resource project characteristics assessment is typically weighted as follows:

- saleability component—70%; and

- rehabilitation performance component—30%.

The scheme manager will assign each component of the resource project characteristics assessment a rating of very strong, strong, moderate or poor, and an overall resource project characteristics assessment rating of very strong, strong, moderate or poor.

### 5.4.1 Saleability component

Whether or not a project can be sold if the holder becomes insolvent is relevant to the potential level of risk a resource project poses to the State. Under the saleability assessment, the remaining economic life of a resource project is a major factor considered as a measure of the likely saleability. Key matters which impact the remaining economic life of a resource project are its reserves and average annual rate of production. Other factors which have the potential to impact the remaining economic life include market trends and site-specific factors impacting product demand outlook and operational status.

Other factors considered in a saleability assessment will vary depending on commodity type and complexity of the project. The assessment may consider any of the following:

- a standardised approach to calculation of the remaining economic life of the project - derived from proved and probable reserves and an estimated average annual production rate, based on the authority's production outlook;
- consideration of multiple factors including:
  - commodity outlook and industry changes and trends;
  - site specific factors such as expansion plans, regulatory approval constraints, long term supply agreements and access to domestic and/or export markets;
- remaining reserves and resources, and opportunity for expansion;
- extraction or mining method and processing requirements;
- transport of product to market or port for export;
- product type and quality;
- product demand and strength of offtake position;
- potential synergies (e.g. resulting from neighbouring sites within an owner's portfolio);
- overarching compliance, environmental or social risk considerations;
- size of rehabilitation obligation/liability - relative to reserves; and
- outstanding rehabilitation and site management obligations for the project.

### 5.4.2 Rehabilitation performance component

The scheme manager's assessment methodology also seeks to promote good environmental outcomes through incentivisation of rehabilitation activity.

The rehabilitation performance assessment will typically consider the change to an operation's net disturbance and land or areas available for rehabilitation when compared to its last assessment. Regard will be given to operations which have achieved a substantial amount of rehabilitation to date or exhibit, at a minimum, no net increase in disturbed land that is available for rehabilitation (i.e. backlog rehabilitation).

Specifically, the rehabilitation performance assessment outcome for a particular resource project will typically (but see part 5.4.3 below) be determined by looking at the highest score produced by one of two measures:

- the year-on-year change in rehabilitation completed relative to changes in backlog rehabilitation (i.e. disturbed land or areas available for rehabilitation) over the same period; or
- the total amount of rehabilitation completed to date, relative to the total backlog rehabilitation to date.

The score for each of these measures will be derived using the two scales outlined by figures 1 and 2.

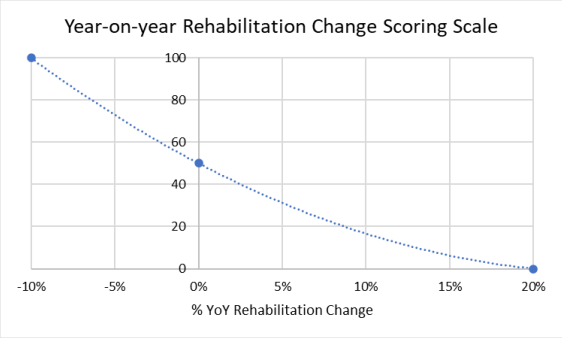



*Figure 1: % Rehabilitation Completed to Date Scoring Scale*

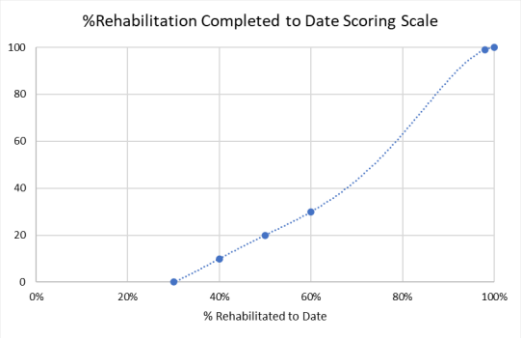



*Figure 2: % Rehabilitation Completed to Date Scoring Scale*

The first graph on the left-hand side (figure 1) looks at the year-on-year rehabilitation completed. It disproportionately rewards increased rehabilitation completion in any year, relative to any increasing backlog rehabilitation.

The second graph on the right-hand side (figure 2) looks at the percentage of total rehabilitation completed to date, relative to the total backlog rehabilitation to date. It also disproportionately rewards an increased overall rehabilitation performance. The incentivised scale begins at the rate of progressive rehabilitation for all mines required to prepare a PRCP Plan as published in the Queensland Mine Rehabilitation Commissioner Annual Report (currently ~30% as per the 2024 Annual Report). This is subject to change over time based on reports published by the Rehabilitation Commissioner.

The introduction of the two measures aims to avoid overly penalising for short term or temporary instances of poor year-on-year rehabilitation performance, where historic performance was generally good (i.e. where the percentage of total rehabilitation of land or areas available for rehabilitation completed to date is relatively high).

The rehabilitation performance assessment will also consider different disturbance types - including land, waste rock, subsidence, drillholes, wells, dams and ponds - resulting from the different mining/extraction methods and commodity types. Key disturbance types and the focus of assessment for each disturbance type are set out below:

- open-cut strip operations will focus on land disturbance;
- open-cut hardrock and non-strip operations will focus on disturbance related to land and waste rock;
- underground operations will focus on disturbance related to land, subsidence and drillholes;

- petroleum and gas operations will focus on disturbance related to land and wells; or
- tailing storage facilities (dams and ponds) and infrastructure sites will focus on land disturbance.

The rehabilitation performance assessment will be based on information provided by the authorities. Each authority is requested to provide any supplementary information available that can be used to substantiate rehabilitation activities undertaken - for example, PRCP Annual Return information (for Authorities that have a PRCP in place), progressive certification reports, applications for rehabilitation certification and rehabilitation monitoring reports.

Where an authority has more than one mining / resource type, each is assessed, with an overall rehabilitation result determined as an average of the two. Where there is a significant weighting of ERC to one method over the other, then a weighting factor is applied.

For example, a site with both above ground and below ground activities with greater ERC above ground, would be assessed against both above ground and underground criteria, but a higher weighting would be applied to the above ground performance result.

### 5.4.3 Fixed infrastructure

Fixed infrastructure-based authorities (for example pipeline only authorities, manufacturing/processing facilities) will not have a separate rehabilitation assessment. Instead, 100% of the resource project characteristics assessment outcome will be derived from the assessment of saleability. This will allow the authority, where relevant, to be considered as a part of any broader 'economic' entity to which it serves. It is noted that within the resource project characteristics assessment of infrastructure sites, the saleability assessment will consider the remaining economic life of sites utilising the facility and the rehabilitation liability of the site.

### 5.4.4 Other considerations of the scheme manager

In making a risk category allocation decision, the scheme manager may consider any other matter the scheme manager considers relevant to forming an opinion on the authority.

## 5.5 Allocating the authority to a risk category

The scheme manager having considered his or her opinion of the financial risk to the State, any applicable guidelines and any other matters the scheme manager considers relevant, will allocate the authority to one of the following risk categories:

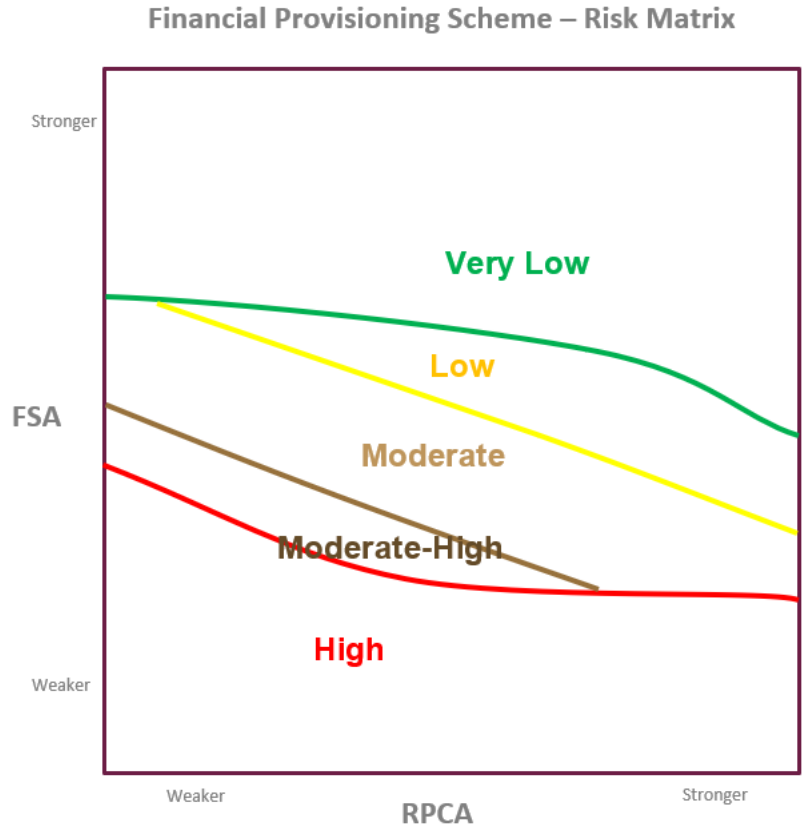
- very low;
- low;
- moderate;
- moderate-high; or
- high.

If there are multiple holders, the scheme manager will also assign the authority to a relevant holder.

### 5.5.1 Risk Allocation Matrix

The financial soundness assessment and the resource project characteristics assessment outcomes are combined to derive the risk category allocation. If the entity does not provide the additional information, then, for the purposes of forming an opinion, the scheme manager may draw an adverse inference in relation to the authority's risk to the State. Notwithstanding this, whilst providing all the information required under the new methodologies will result in a more robust outcome, this does not necessarily mean a better outcome for the holder.

The risk allocation matrix (as shown below) is used by the scheme manager as a guide when deriving the risk category allocation. The combined model is a measure of financial soundness assessment and resource project characteristics assessment outcomes on an average weighting of 50:50 respectively. In addition, quantitative results are reviewed and qualitative and/or overriding factors are applied where warranted to ensure all relevant matters are taken into account and the recommended risk category allocation is considered appropriate. The distribution of risk categories in the combined model have been actuarially determined on a range of qualitative and quantitative factors.



## 5.6 Holder input into the allocation decision

### 5.6.1 Providing information to the scheme manager

The scheme manager may, before making an allocation decision, require the holder to give the scheme manager further information or a document the scheme manager reasonably requires to make the decision.

For an initial risk category allocation, the scheme manager may require the holder to give information or a document at any time after the holder has applied for an ERC decision under the EP Act in relation to its authority.

Information the scheme manager will have access to, and use for undertaking the risk category allocation assessment includes, but is not limited to:

- relevant information that the holder has provided to the scheme manager, as well as any relevant information provided under its regulatory obligations to the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development (**DNRMMRRD**) and the Department of Environment, Tourism, Science and Innovation (**DETSI**); and
- relevant available information, for example, financial information, public credit ratings, websites, public announcements.

In practice, when an ERC decision for an authority is made, notice of the ERC decision is given to the holder and the scheme manager. The scheme manager will send a notice to the holder stating that the scheme manager intends to start the process to make an indicative risk category allocation decision for the authority and make an initial request for information from the holder.

If the holder would like to bring to the attention of the scheme manager information which the holder knows will not be in the possession of the scheme manger (i.e. it has not been requested, is not held by DETSI/DNRMMRRD and is not publicly available) the holder may provide this information voluntarily to the scheme manager.

If there is more than one holder of an authority, the letter will be sent to all the holders. When responding to the scheme manager's initial request for information, the holders may nominate one holder to be the relevant holder for the purposes of forming an opinion about the probability, mentioned in section 27(2)(a)(i) of the Act.

### 5.6.2 Making submissions on an indicative allocation decision

The Act provides a two-step process for making an allocation decision. The scheme manager must, before deciding the risk category allocation, give the holder a notice of indicative decision which states the following:

- the risk category the scheme manager intends to allocate the eligible environmental authority;
- reasons for the indicative risk category allocation;
- the relevant holder if there are multiple holders;
- the intended annual review allocation day; and

- the requirement to pay a contribution to the scheme fund or give a surety to the scheme manager.

*The holder may make a submission to the scheme manager about the above matters (before a final decision is made) or give notice accepting the indicative risk category allocation.*

# 6 Liability for contribution or surety

An allocation decision by the scheme manager allocates the authority to one of the five risk categories (very low, low, moderate, moderate-high or high) and determines whether the holder of the authority will be required to pay a contribution to the scheme fund or give a surety to the scheme manager.

The holder of an authority allocated to the very low, low, moderate or moderate-high risk category will be required to pay a contribution to the scheme fund in an amount calculated by multiplying the ERC for the authority and the prescribed percentage for the allocated risk category.

The holder of an authority allocated to the high-risk category will be required to give a surety to the scheme manager in an amount equal to the value of the ERC for the authority.

Parts 6.1 and 6.2 below outline some limited exceptions which will require the holder of the authority to give surety (despite being allocated a risk category other than high) in order to preserve the financial viability of the scheme fund, or alternatively, the holder of the authority to pay contribution (despite a risk category allocation of high).

## 6.1 When a holder of an authority that is allocated to very low, low, moderate and moderate-high risk category is required to give surety

### 6.1.1 Exception 1: To preserve the financial viability of the scheme fund

Under section 53(c)(ii) of the Act, the scheme manager has a discretion to require a surety for an eligible environmental authority allocated to the very low, low, moderate or moderate-high risk category to preserve the financial viability of the scheme fund. This is necessary to protect the scheme fund from overexposure to one particular entity or corporate group of entities.

To protect from single points of exposure, there is a **prescribed fund threshold** (see section 11 of the Act) which represents a determined level of acceptable risk. The prescribed fund threshold is currently $600 million for Assessed Entities with a minimum BBB+ (or equivalent) acceptable credit rating, and $450 million for all other Assessed Entities.

***Note:***

1. Should the credit rating of an Assessed Entity change at the time of an annual review, the relevant threshold will apply from this review.
2. The FAQ "*Fund Threshold*" is relevant here.

For calculating the potential exposure to the scheme fund, the ERC for an eligible environmental authority is recorded against its Assessed Entity. The total ERC for an Assessed Entity is therefore the sum of the ERC for each authority assessed under the Assessed Entity for which a contribution to the scheme fund is payable. (see section 9 of the Act)

Where the total ERC for the Assessed Entity is likely to exceed the prescribed fund threshold, to preserve the financial viability of the scheme fund, the scheme manager may require the holder to give a surety for the ERC exceeding the fund threshold.

For example, the scheme manager may require a surety for an authority (Authority C) where the Assessed Entity (and its corporate group of entities) already hold authorities for which a contribution to the scheme fund is payable (Authorities A and B), where the total ERC for Authorities (A, B and C) is likely to be more than the fund threshold of $600 million, for minimum BBB+ (or equivalent) credit rated entities, or $450 million for all other entities. In such a case, surety is to be provided in respect of the whole ERC of Authority C. If the scheme manager exercises this discretion, the scheme manager may aggregate the total ERC of the entities in relation to the holder or relevant holder as set out in section 54.

The entities mentioned in section 54(2) are:

- the holder of the authority, or if there is more than one holder, the relevant holder;
- any parent corporation of the holder or the relevant holder of the authority;
- any subsidiary corporation of a parent corporation; and
- a corporation controlled by a parent corporation.

The approach the scheme manager could take in exercising a discretion is as follows:

- a surety should be required if the sum of the total ERC of the entities exceeds the fund threshold (see above example); or
- a surety should be required if the scheme manager considers that the sum of the total ERC of the entities is likely to exceed the fund threshold before the next annual review of the authority. The scheme manager could take account of factors such as – any likely change to the authorities held by a group entity; any likely change to the ERC for any authority held by a group entity; and any likely change to a group entity.

Section 54 does not limit the scheme manager's discretion to require surety. There may be other circumstances where the scheme manager considers it necessary to require surety to maintain the financial viability of the scheme fund.

***Note:*** The Scheme Manager Guideline 3 *Requiring Surety to Preserve the Financial Viability of the Scheme Fund* is relevant for this component of the scheme manager's allocation decision.

### 6.1.2 Exception 2: For a single authority with an ERC more than the scheme fund threshold

The holder of a single authority with an ERC more than the fund threshold will be required to pay both a contribution to the scheme fund (calculated based on the ERC equivalent to the fund threshold) and give a surety to the scheme manager for the amount of ERC that exceeds the fund threshold.

## 6.2 When a holder of an authority that is allocated to high-risk category is required to pay contribution

### 6.2.1 Exception 1: Authority previously allocated to very low, low, moderate or moderate-high risk category

The scheme manager has a discretion to require contribution for an authority allocated to the high-risk category if:

- prior to an authority being allocated to the high-risk category, the authority was previously allocated to a very low, low, moderate or moderate-high risk category for the year immediately preceding the decision;
- before making the allocation, the scheme manager is reasonably satisfied that allowing the holder to contribute to the scheme fund is unlikely to result in a claim on the scheme fund; and
- before making the allocation, the scheme manager is reasonably satisfied that the holder is not able to obtain a surety within the necessary timeframe.

In these circumstances, the holder will be required to pay a contribution as if the authority is allocated to the risk category of moderate-high for determining the amount of contribution payable.

This exception allows for a holder of an authority allocated to the high-risk category to continue to pay contribution, for that year.

# 7 Amount of contribution or surety and assessment fees

## 7.1 Amount of contribution payable to the scheme fund

The amount of contribution payable to the scheme fund is calculated by reference to the prescribed percentage and the ERC for the eligible environmental authority.

The prescribed percentage is set out in the regulation under the Act and refers to a specific percentage for an eligible environmental authority allocated to the very low, low, moderate or moderate-high risk category.

The prescribed percentages are as follows:

| Risk Category Allocation | Prescribed Percentage |
|---|---|
| An authority allocated to risk category of very low | 0.50% |
| An authority allocated to risk category of low | 1.00% |
| An authority allocated to risk category of moderate | 2.25% |
| An authority allocated to risk category of moderate-high | 6.50% |

For example, if an eligible environmental authority has an ERC of $10 million and the relevant holder is allocated to the low category the prescribed percentage would be 1.0% and the contribution amount would be 1.0% x $10 million = $100,000.

## 7.2 Amount of surety required to be given to the scheme manager

The amount of surety required to be given to the scheme manager is an amount equal to the ERC for the authority.

## 7.3 Assessment fees

In addition to the contribution paid or the surety amount provided, the holder will also need to pay an assessment fee. The assessment fee will be based on the ERC for the authority and type of assessment being conducted as determined by the scheme manager:

| ERC | Comprehensive Assessment *(Including the Initial Comprehensive Assessment)* | Streamlined Assessment |
|---|---|---|
| $0.1m - <$1m | $250 | |
| $1m - <$10m | $1,250 | |
| $10m - <$50m | $5,000 | $5,000 |
| $50m - <$100m | $22,500 | $11,250 |
| $100m + | $45,000 | $22,500 |

# 8 Providing surety

Surety must be given in the one or more of the approved forms under section 56 of the Act – a bank guarantee, an insurance bond or payment of a cash amount.

The holder may decide which form of surety will be provided. A combination of any of the approved forms of surety can be provided to achieve the total surety amount.

Typically, the scheme manager will only accept surety in the form of a bank guarantee or insurance bond if the guarantee or bond is in the form approved by the scheme manager. Appendix 1 of the Scheme Manager Guideline 4 *Forms of Surety* is a template of the approved form for a bank guarantee or insurance bond.

The scheme manager may, however, accept bank guarantees and insurance bonds that are not in the approved form, provided the guarantee or bond complies with the terms and conditions decided by the scheme manager.

The scheme manager also determines the terms and conditions for cash surety, known as the cash surety deed. Appendix 2 Scheme Manager Guideline 4 *Forms of Surety* is a template of the approved terms and conditions for a cash surety deed.

For cash surety less than $100,000 the scheme manager does not require the payment to meet the terms and conditions of the cash surety deed. However, when the total of the cash sureties given by that holder exceeds $100,000, the scheme manager may require the individual cash sureties to satisfy the terms and conditions of the cash surety deed.

***Note:*** The Scheme Manager Guideline 4 *Forms of Surety* is relevant for this decision of the scheme manager.

## 8.1 Consequences of not paying assessment fee or contribution to the scheme fund or not giving a surety to the scheme manager

### 8.1.2 Assessment fees

Unpaid assessment fees may be recovered as a debt payable to the State (section 62 of the Act).

### 8.2.2 Scheme contributions and sureties

Unpaid contribution fees may be recovered as a debt payable to the State (section 51 of the Act).

The holder of an eligible environmental authority cannot lawfully carry out resource activities under the authority unless payment of a contribution to the scheme fund has been made or a surety has been given as required under the Act. This requirement is a condition of an authority (section 297 of the EPA).

Section 430 of the EP Act imposes penalties for contravention of a condition of an authority.

# 9 Date of effect

This information sheet takes effect from 1 October 2025.

Tim Michael
Scheme Manager

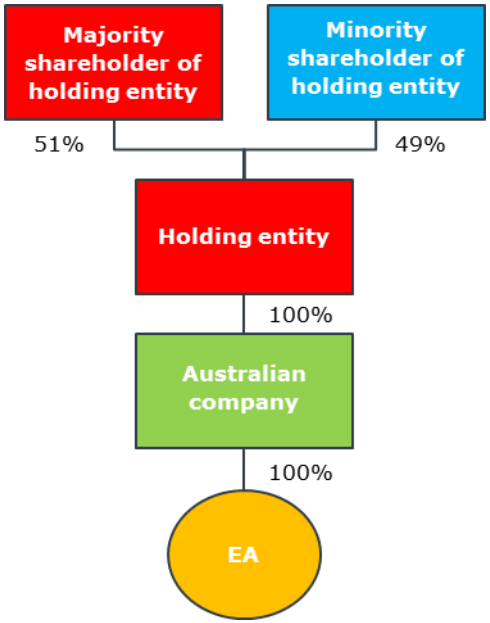
**Information sheet updated**

| Version | Description | Date |
|---|---|---|
| V1 | Initial information released | 1 April 2019 |
| V2 | Update for clarification | 20 September 2023 |
| V3 | Updated for legislative changes | 1 October 2025 |

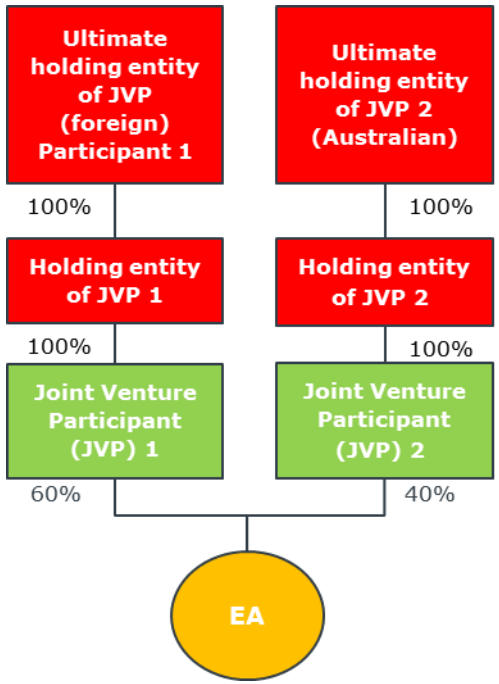
# Appendix A – Corporate structures

Examples of parent corporations in common corporate structures

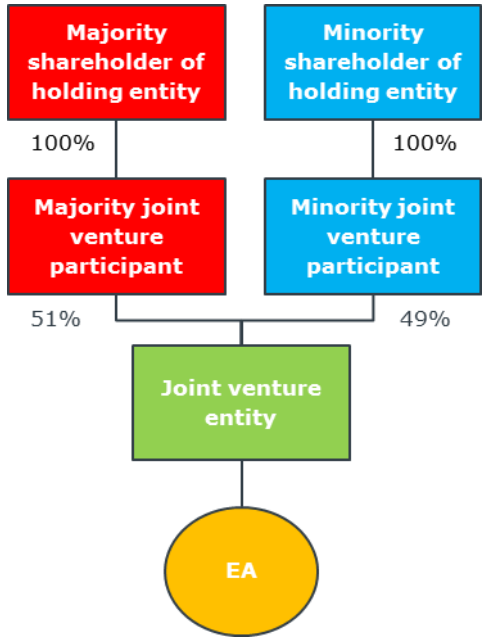
SOLE DIRECT OWNER/MULTIPLE ULTIMATE OWNERS




UNINCORPORATED JOINT VENTURE



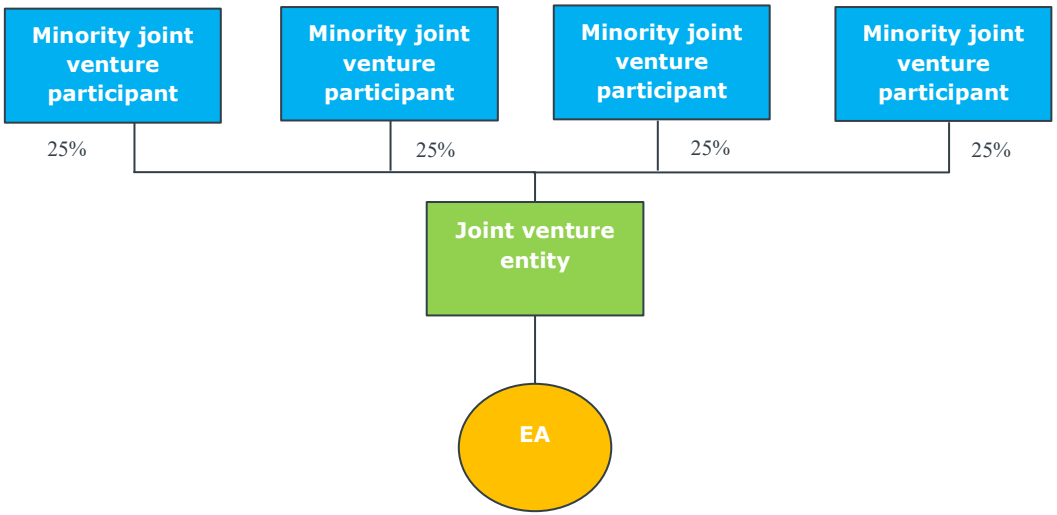

MAJORITY HOLDING INCORPORATED JOINT VENTURE



**KEY**

**Green = Holder** **Red = Parent** **Blue = Not a Parent**

MINORITY HOLDING INCORPORATED JOINT VENTURE




**Note**

The Holder is the JV entity. Following the basic rule, the scheme manager will consider the financial soundness of the JV entity.

In considering the financial soundness of the JV entity, the scheme manager may consider the financial soundness of a parent corporation of the JV entity.

Based on shareholdings, none of the JV participants are parent corporations as none have more than a 50% shareholding.

In this scenario, a JV participant will only be a parent if it meets the definition of 'parent corporation' as set out in paragraph 4.1.1 of this Information Sheet (e.g. controls the board of the JV entity, controls the voting of the JV entity, can determine the outcome of decisions of the JV entities financial and operating policies). It will be up to the corporation to satisfy the scheme manager that it is a parent corporation of the holder.

**KEY**

Green = Holder Red = Parent Blue = Not a Parent