A message from the
Construction Occupations Registrar

Construction Note: 2026-11

Erosion and Sediment Control Plans (ESCP)

Why are erosion and sediment controls required?

Construction activities can disturb soil and generate sediment and dust. If not properly controlled, sediment can leave a site and enter the stormwater system, waterways and surrounding areas.

Sediment pollution can:

- create dust that impacts other properties and nearby residents;
- block drains and contribute to localised flooding;
- obstruct roads, footpaths and cycleways and create safety hazards;
- degrade water quality and aquatic habitats;
- harm aquatic plants and animals;
- reduce reservoir storage capacity; and
- increase water treatment and infrastructure maintenance costs.

Erosion and sediment controls are measures used to prevent these impacts. Erosion controls keep soil in place, while sediment controls capture and filter sediment before it leaves the site.

When is an Erosion and Sediment Control Plan required?

Erosion and sediment controls are required for construction and land development activities in the ACT. The level of documentation required depends on the type and scale of the development.

Development sites 0.3 ha or greater

Under section 66B of the *Environment Protection Regulation 2005*, the person in charge of the development must install and maintain the erosion and sediment control measures required under the builder's environmental protection agreement.

ESCPs for these developments should be prepared in accordance with the Environment Protection Guidelines for Construction and Land Development in the ACT.

Development sites less than 0.3 ha

Under section 66C of the *Environment Protection Regulation 2005*, the person in charge of development must install and maintain erosion and sediment control measures where they are required by a development approval, or otherwise as approved by a building certifier for building work.

For small-scale residential building work, the Builders Booklet: Preventing Pollution from Residential Building Sites sets out the minimum measures required.

For some minor residential works, such as small alterations and additions, garages, decks and pergolas, a site-plan note confirming that erosion and sediment controls will be installed and maintained in accordance with the Builders Booklet may be sufficient.

Development applications and DA-exempt work

Where a development application (DA) is required, the ESCP may be referred to relevant entities, including the Environment Protection Authority (EPA), for comment during the assessment process. Any requirements identified through the assessment process must be addressed.

DA-exempt development is **not exempt from environmental protection requirements**. Under the *Planning (Exempt Development) Regulation 2023*, exempt development must continue to comply with other applicable legislation, including the *Environment Protection Act 1997* and *Environment Protection Regulation 2005*.

What must industry do?

The person in charge of development is responsible for ensuring that required erosion and sediment controls are:

1. planned and documented before construction and ground disturbance;
2. installed before they are needed, particularly before soil is disturbed;
3. maintained throughout construction;
4. inspected regularly, including following rainfall and other events that may compromise their effectiveness; and
5. kept in place until disturbed areas have been stabilised and the risk of sediment leaving the site has been addressed.

An ESCP is not simply a document prepared for approval. The controls specified in the ESCP must be implemented and maintained throughout construction.

Legislative obligations

Building Act 2004

Section 42(1)(c) of the *Building Act 2004* requires building work to be carried out in a proper and skilful way. Compliance with other Territory laws is relevant to determining whether this requirement has been met.

Failure to implement required erosion and sediment controls may therefore constitute a contravention of the Building Act. This may result in enforcement action, including a **Stop Notice** under section 53, preventing further building work until the requirements are met.

Planning Act 2023

Where an ESCP or erosion and sediment controls are required as a condition of a DA, the development must comply with that condition.

Section 406 of the *Planning Act 2023* makes it an offence to undertake development other than in accordance with a DA. Non-compliance with an ESCP condition may therefore result in enforcement action, including a **Prohibition Notice** under Part 12.5 of the Planning Act.

Environment Protection Act 1997 and Environment Protection Regulation 2005

Section 141 of the *Environment Protection Act 1997*makes causing an environmental nuisance an offence.

Sections 66B and 66C of the *Environment Protection Regulation 2005* establish requirements for erosion and sediment controls on development sites. Allowing sediment or other pollutants from a building site to enter the stormwater system or failing to comply with required erosion and sediment controls, may constitute an offence.

Sections 44 to 47 stipulate offences for pollution to waterways from construction and development activities such as placing soil, sand or building material where it can enter the stormwater system, areas near development to be kept clear and requiring stabilised access points.

Penalties can range from infringement notices of up to **$200 for individuals and $1,000 for corporations** to more serious penalties, including significant fines, imprisonment and a criminal record.

Preparing an ESCP

The ESCP should be appropriate to the scale, nature and risks of the proposed works and should clearly identify the measures required to prevent sediment leaving the site.

Relevant ACT guidance includes:

- Builders Booklet: Preventing Pollution from Residential Building Sites;
- Environment Protection Guidelines for Construction and Land Development in the ACT;
- Minimum Standards for submission of Pollution Control Plans; and
- relevant EPA fact sheets, policies and guidelines.

The current guidance is available on the ACT Government's Environment Protection Policies and Guidelines webpage.

Key message for industry

Plan it. Install it. Maintain it.

Before commencing construction, removing existing structures or disturbing soil, ensure the appropriate erosion and sediment controls are identified and installed. Maintain them throughout the works and ensure sediment does not leave the site or enter the stormwater system.

Compliance with ESCP requirements is an ongoing responsibility throughout construction—not just a requirement at the approval stage.

Construction notes have been developed to raise awareness and educate the building and construction industry about common issues identified on building sites and best practice approaches to address them. The issues outlined in these notes have been identified through compliance assessment by Access Canberra or following a complaint from owners. Importantly, we welcome your input, if you have come across an issue that needs clarification or to provide feedback **contact us:** environment.protection@act.gov.au