State code 11: Removal, destruction or damage of marine plants

Purpose statement

The purpose of this code is to ensure that development which involves the removal, destruction or damage of **marine plants** and **fish habitat**:

- maintains the extent, distribution, diversity and condition of marine plant communities and protects the ecological functions to which they contribute;
- maintains the health and productivity of fisheries resources and fish habitat;
- 3. minimises impacts on the management, use, development and protection of **fisheries resources** and **fish habitat**;
- is designed and located to avoid impacts or, where the matters of state environmental significance cannot be reasonably avoided, impacts are reasonably minimised and mitigated;
- does not result in a significant residual impact on a matter of state environmental significance unless the significant residual impact is acceptable, and an offset is provided.

Using this code

The assessment benchmarks for this code comprise:

- a purpose statement which identifies the overall intent of the code:
- performance outcomes which set benchmarks to achieve the purpose statement of the code;
- acceptable outcomes which identify one way to achieve the relevant performance outcome.

Development complies with the code where:

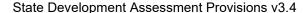
- it complies with the acceptable outcomes for the performance outcome; or
- it complies with all the performance outcomes, where not complying with the acceptable outcomes; or
- development does not meet relevant performance outcome(s) and SARA determines, on balance, that the development complies with the purpose statement.

This code also includes the glossary of terms for definitions relevant to this code and reference documents; including the guideline State Development Assessment Provisions guideline - State Code 11: Removal, destruction or damage of marine plants which provides direction on how to address this code.

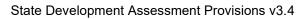
Performance outcomes and acceptable outcomes

Table 11.1 Operational works

Performance outcomes	Acceptable outcomes
All development - Impacts to marine plants	
PO1 The design, construction and maintenance of	No acceptable outcome is prescribed.
the development does not result in adverse impacts	
to marine plants and fish habitat.	
PO2 Development is designed, constructed and	No acceptable outcome is prescribed.
maintained to avoid and minimise impacts	
on matters of state environmental significance.	
PO3 Where development impacts on matters of	No acceptable outcome is prescribed.
state environmental significance, development	
mitigates impacts and provides an offset for	
any acceptable significant residual	
impact on matters of state environmental	
significance.	
Statutory note: For Brisbane core port land, an offset may only be	
applied to development on land identified as E1	
Conservation/Buffer, E2 Open Space or Buffer/Investigation in the Brisbane Port LUP precinct plan.	
All development in general	
PO4 Aspects of development are only permitted on	No acceptable outcome is prescribed.
tidal land where there is a functional requirement	
and the development cannot be feasibly located	
elsewhere. Ancillary elements (such as rest rooms	
and offices) are to be located outside of tidal land .	



Performance outcomes	Acceptable outcomes
PO5 The development does not result in adverse impacts on fish movement or fragmentation of fish habitats .	No acceptable outcome is prescribed.
PO6 The design, construction and maintenance of the development does not result in adverse impacts on fisheries resources .	No acceptable outcome is prescribed.
PO7 The development is designed, constructed and maintained to encourage fish habitats and fisheries resource values to naturally regenerate.	No acceptable outcome is prescribed.
PO8 Development likely to cause drainage or disturbance to acid sulfate soils, prevents the release of contaminants and impacts on fisheries resources and fish habitats.	No acceptable outcome is prescribed.
PO9 The development maintains or restores drainage patterns, the extent and timing of tidal and freshwater inundation.	For bridges:
	AO9.1 Bridges are designed with abutments above the highest astronomical tide.
	AND
	For water, sewer or stormwater infrastructure:
	AO9.2 Infrastructure is placed below the existing natural substrate surface level, and natural substrate, surface levels and habitat condition and values are reinstated.
	For any other development, no acceptable outcome is prescribed.
PO10 The design, construction and maintenence of the development maintains natural erosion and accretion processes.	No acceptable outcome is prescribed.
PO11 The development is designed, constructed and maintained so that it does not increase the risk of scour or erosion of waterway bed or banks.	No acceptable outcome is prescribed.
PO12 The development is designed, constructed and maintained so that it does not increase the risk of shoreline or foreshore erosion.	No acceptable outcome is prescribed.
PO13 Development does not have an adverse impact on public use of or access to tidal land and waterways.	For development for a material change of use or reconfiguration of a lot:
	AO13.1 Tidal land and fish habitats are separated from development and are available for public use.
	For any other development, no acceptable outcome is prescribed.
PO14 Development does not adversely impact on community access to fisheries resources and fish habitats including recreational and indigenous fishing access.	AO14.1 The development does not alter existing infrastructure or existing community access arrangements.
PO15 Development does not adversely impact on commercial fishing access and linkages between a commercial fishery and infrastructure, services and facilities.	No acceptable outcome is prescribed.
Erosion control structures and beach replenishment	



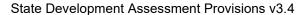
Performance outcomes	Acceptable outcomes
PO16 Removal, destruction or damage to marine	No acceptable outcome is prescribed.
plants as a result of erosion control structures or	· ·
beach replenishment only occurs where there is an	
immediate and significant threat of erosion to:	
1. the use of the land for its existing or approved	
purpose;	
2. infrastructure, structures or buildings are not	
expendable or not able to be relocated.	
PO17 The area that the beach replenishment is to	No acceptable outcome is prescribed.
be carried out on is a high-energy, sandy sediment	
shoreline with biological communities adapted to	
mobile sediments.	
PO18 Erosion control structures including beach	No acceptable outcome is prescribed.
replenishment does not create terrestrial land,	
unless they form an integral part of the erosion	
control design.	
PO19 The beach replenishment work is undertaken	AO19.1 Beach replenishment will not require
in a way that minimises the frequency of any	maintenance more often than every two years.
ongoing replenishment requirements.	AND
	AND
	AO19.2 A source of replenishment material for
	future maintenance is identified and secured.
PO20 Erosion control structures are located as far	No acceptable outcome is prescribed.
landward as possible to reduce adverse impacts to	The acceptable catedine is prescribed.
tidal land and marine plants.	
Dredging	
PO21 Disposal of dredge spoil does not cause	No acceptable outcome is prescribed.
adverse impacts on marine plants.	' '
Temporary works	
PO22 Temporary works are designed, constructed	No acceptable outcome is prescribed.
and maintained to be in place for the shortest	·
possible time or are undertaken for a specified	
period.	
PO23 A temporary structure is in place for a	No acceptable outcome is prescribed.
specified period and is designed to be completely	
removed and fish habitat is restored to pre-existing	
or improved condition on completion.	
Restoration	
PO24 Restoration works do not result in:	No acceptable outcome is prescribed.
substitution of fish habitats ;	
2. adverse impacts to the condition of fish	
habitats or fisheries productivity.	
PO25 Marine plants to be used for revegetation	No acceptable outcome is prescribed.
purposes have local provenance.	

Reference documents

Department of Agriculture and Fisheries, <u>State Development Assessment Provisions guideline - State Code 11:</u> Removal, destruction or damage of marine plants

Department of Environment and Heritage Protection, Environmental offsets framework

Department of Primary Industries 1998, Restoration of fish habitats: Fisheries guidelines for marine areas FHG 002



Department of National Parks, Sport and Racing 2015, <u>Fish habitat area code of practice: The lawful use of physical</u>, pesticide and biological controls in a declared fish habitat area

Department of Primary Industries 2000, Fisheries guidelines for fish habitat buffer zones FHG 003

Department of Primary Industries and Fisheries 2006, Fisheries guidelines for fish-friendly structures FHG 006

Department of State Development, Infrastructure and Planning 2014, Significant residual impact guideline

Local Government Association of Queensland 2014, Mosquito management code of practice

Policies

Department of National Parks, Sport and Racing 2015, <u>Marine management: Fish habitat area selection</u>, assessment, declaration and review

Department of National Parks, Sport and Racing 2015, <u>Marine management: Management of declared fish habitat</u> areas

Department of Primary Industries 1998, <u>Departmental procedures for provision of fisheries comments: Dredging, Extraction and Spoil Disposal Activities (FHMOP 004)</u>

Department of Primary Industries and Fisheries 2007, <u>Management and protection of marine plants and other tidal fish habitats (FHMOP001)</u>

Department of Primary Industries and Fisheries 2007, <u>Tidal fish habitats</u>, <u>erosion control and beach replenishment</u> (FHMOP010)

Department of Agriculture and Fisheries 2015, Oyster Industry Management Plan for Moreton Bay Marine Park

Ministerial Council on Forestry, Fisheries and Aquaculture 1999, <u>National Policy for the Translocation of Live Aquatic Organisms – Issues</u>, <u>Principles and Guidelines for Implementation</u>

Queensland Department of Primary Industries 1996, <u>Departmental Procedures for Permit Applications Assessment</u> and Approvals for Insect Pest Control in Coastal Wetlands (FHMOP 003)

Accepted Development

Department of Agriculture and Fisheries 2017, <u>Accepted development requirements for operational work that is the</u> removal, destruction or damage of marine plants

Other references

Department of Agriculture, Fisheries and Forestry 2012, <u>Declared fish habitat area network assessment report</u> 2012

Department of Agriculture, Fisheries and Forestry 2013, <u>Guideline on fisheries adjustment as a result of development (available on request from DAF)</u>

Department of Agriculture and Fisheries website What is a waterway?

Department of Agriculture and Fisheries website What is a waterway barrier work?

Department of Agriculture and Fisheries website What is not a waterway barrier work?

Department of National Parks, Sport and Racing 2015, <u>Declared fish habitat area network strategy 2015-2020:</u> <u>Planning for the future of Queensland's declared fish habitat area network</u>

Department of Environment and Resource Management 2011, Queensland Wetland Buffer Planning Guideline

Department of Environment and Science 2018, Declared fish habitat area network assessment report – 2017

State Development Assessment Provisions v3.4

State code 11: Removal, destruction or damage of marine plants

Department of National Parks, Recreation, Sport and Racing website Fish habitat area summaries

Department of Science, Information Technology, Innovation and the Arts 2014, Queensland Acid Sulfate Soil Technical Manual: Soil Management Guidelines v4.0

International Ecohydraulics Symposium 2012, From Sea to Source: International guidance for the restoration of fish migration highways

International Erosion Control Association Australasia 2008, Best practice erosion and sediment control document

SEQ Catchments website

Glossary of terms

Declared fish habitat area see the Fisheries Act 1994.

Note: Declared fish habitat area means an area that is declared under the Fisheries Act 1994 to be a fish habitat area. Section 120 of the Fisheries Act 1994 deals with declaration of fish habitat areas.

Fish see section 5 of the Fisheries Act 1994.

Note: Fish:

- means an animal (whether living or dead) of a species that throughout its life cycle usually lives:
 - in water (whether freshwater or saltwater): or
 - in or on foreshores: or b
 - in or on land under water
- includes:
 - prawns, crayfish, rock lobsters, crabs and other crustaceans
 - scallops, oysters, pearl oysters and other molluscs
 - sponges, annelid worms, bêche-de-mer and other holothurians
 - trochus and green snails
- does not include:
 - crocodiles, or
 - protected animals under the Nature Conservation Act 1992; or
 - pests under the Pest Management Act 2001; or
 - animals prescribed under a regulation not to be fish
- also includes:
 - the spat, spawn and eggs of fish
 - any part of fish or spat, spawn or eggs of fish
 - treated fish, including treated spat, spawn and eggs of fish
 - coral, coral limestone, shell grit or star sand
 - freshwater or saltwater products declared under a regulation to be fish.

Fish habitat see the Fisheries Act 1994.

Note: Fish habitat includes land, waters and plants associated with the life cycle of fish, and includes land and waters not presently occupied by fisheries resources.

Fisheries resources see the *Fisheries Act* 1994.

Note: Fisheries resources includes fish and marine plants.

Fishery see section 7 of the Fisheries Act 1994.

Note: Fishery means activity by way of fishing, for example, activities specified by reference to all or any of the following:

- a species of fish 1.
- a type of fish by reference to sex, size or age or another characteristic
- 3. an area
- 4. a way of fishing
- 5. a type of boat
- a class of person 6.
- the purpose of an activity
- the effect of the activity on a fish habitat, whether or not the activity involves fishing
- anything else prescribed under a regulation.

Fishing see the Fisheries Act 1994.

Note: Fishing includes:

- searching for, or taking, fish 1.
- attempting to search for, or take, fish
- engaging in other activities that can reasonably be expected to result in the locating, or taking, of fish
- landing fish (from a boat or in another way), bringing fish ashore or transhipping fish.

State Development Assessment Provisions v3.4

Foreshore see the Fisheries Act 1994.

Note: Foreshore means parts of the banks, beds, reefs, shoals, shore and other land between high water and low water.

Highest astronomical tide means the highest level of the tides that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions.

Land includes **foreshores** and tidal and non-tidal land.

Legally secured offset area see the Environmental Offsets Act 2014.

Note: An area of land is a legally secured offset area if:

- the area is:
 - a. an environmental offset protection area; or
 - b. an area declared as an area of high nature conservation value under section 19F of the Vegetation Management Act 1999; or
 - c. another area prescribed under a regulation; and
- under the Environmental Offsets Act 2014 or another Act, the area is subject to a delivery or management plan or agreement (however described in this Act or the other Act) to achieve a conservation outcome for a prescribed environmental matter.

Marine plant see section 8 of the Fisheries Act 1994.

Note: Marine plant includes the following:

- 1. a plant (a tidal plant) that usually grows on, or adjacent to, **tidal land**, whether it is living, dead, standing or fallen
- 2. material of a tidal plant, or other plant material on tidal land
- 3. a plant, or material of a plant, prescribed under a regulation or management plan to be a marine plant.

A marine plant does not include a plant that is a prohibited matter or restricted matter under the Biosecurity Act 2014...

Matters of state environmental significance see schedule 2 of the Environmental Offsets Regulation 2014.

Note: Matters of state environmental significance are prescribed environmental matters under the Environmental Offsets Regulation 2014 that require an offset when a prescribed activity will have a significant residual impact on the matter. A matter of state environmental significance is any of the following matters:

- 1. regional ecosystems under the Vegetation Management Act 1999 that:
 - a. are endangered regional ecosystems
 - b. are of concern regional ecosystems
 - c. intersect with a wetland shown on the vegetation management wetlands map
 - d. contain areas of essential habitat shown on the essential habitat map for an animal that is endangered wildlife or vulnerable wildlife or a plant that is endangered wildlife or vulnerable wildlife
 - e. are located within the defined distances stated in the Environmental Offsets Policy 2014 from the defining banks of a relevant watercourse or drainage feature as shown on the vegetation management watercourse and drainage feature map
 - f. contain remnant vegetation and are areas of land determined to be required for ecosystem functioning ('connectivity areas')
- 2. wetlands in a wetland protection area or wetlands of high ecological significance shown on the Map of Queensland Wetland Environmental Values under the Environmental Protection Policy 2019
- 3. wetlands and watercourses in high ecological value waters as defined in schedule 2 of the Environmental Protection (Water and Wetland Biodiversity) Policy 2019
- 4. designated precincts in strategic environmental areas under the Regional Planning Interests Regulation 2014
- 5. threatened wildlife (plants and animals) under the *Nature Conservation Act 1992* and special least concern animals under the *Nature Conservation* (Wildlife) Regulation 2006
- 6. protected areas under the Nature Conservation Act 1992 excluding coordinated conservation areas
- 7. highly protected zones of state marine parks under the Marine Parks Act 2004
- 8. declared fish habitat areas under the *Fisheries Act 1994*
- 9. waterways that provide for fish passage under the *Fisheries Act 1994* if the construction, installation or modification of waterway barrier works carried out under an authority will limit the passage of fish along the waterway
- 10. marine plants under the Fisheries Act 1994
- 11. legally secured **offset** areas.

Offset means environmental offset under the Environmental Offsets Act 2014.

Note: Environmental **offset** means an activity undertaken to counterbalance a **significant residual impact** of a prescribed activity on a **prescribed environmental matter**, delivered in accordance with the Environmental offsets framework. The **prescribed environmental matters** assessed under the State Development Assessment Provisions are **matters of state environmental significance**.

Prescribed environmental matters see the Environmental Offsets Act 2014.

Note: A **prescribed environmental matter** is any species, ecosystem or other similar matter protected under Queensland legislation for which an **offset** may be provided. A **prescribed environmental matter** may be a matter of national, state or local environmental significance, however, assessment criteria in the State Development Assessment Provisions only relate to **matters of state environmental significance**. Each of the **prescribed environmental matters** are listed under the Environmental Offsets Regulation 2014.

Public infrastructure means infrastructure constructed, owned and maintained by or on behalf of a **public sector entity**.

Public sector entity see the Planning Act 2016.

Note: A public sector entity means:

- 1. a department or part of a department; or
- 2. other than in chapter 4 (of the Planning Act 2016) a distributor-retailer; or
- an agency, authority, commission, committee, corporation (including a government owned corporation), instrumentality, office, or other entity, established under an Act for a public or state purpose (for example: a local government, a government owned corporation or a rail government entity under the *Transport Infrastructure Act 1994*).

Public use means available for free use by any member of the public without prior permission.

Significant residual impact see the Environmental Offsets Act 2014.

Note: Significant residual impact is an impact, whether direct or indirect, of a prescribed activity on all or part of a prescribed environmental matter that:

remains, or will or is likely to remain, (whether temporarily or permanently) despite on-site mitigation measures for the prescribed activity
is, or will, or is likely to be, significant.

Guidance for determining if a prescribed activity will have a **significant residual impact** on a **matter of state environmental significance** is provided in the Significant Residual Impact Guideline, Department of State Development, Infrastructure and Planning, 2014.

Tidal land see the Fisheries Act 1994.

Note: Tidal land includes reefs, shoals and other land permanently or periodically submerged by waters subject to tidal influence.

Waterway see the Fisheries Act 1994.

Note: **Waterway** includes a river, creek, stream, watercourse or inlet of the sea. For further guidance see fact sheet Maintaining Fish Passage in Queensland: What is a waterway?, Department of Agriculture, Fisheries and Forestry, 2014.

