

# 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**:

1. maintains the extent, distribution, diversity and condition of **marine plant** communities and protects the ecological functions to which they contribute;
2. 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**;
4. 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;
5. 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
<b>All development - Impacts to marine plants</b>	
<b>PO1</b> The design, construction and maintenance of the development does not result in adverse impacts to <b>marine plants</b> and <b>fish habitat</b> .	No acceptable outcome is prescribed.
<b>PO2</b> Development is designed, constructed and maintained to avoid and minimise impacts on <b>matters of state environmental significance</b> .	No acceptable outcome is prescribed.
<b>PO3</b> Where development impacts on <b>matters of state environmental significance</b> , development mitigates impacts and provides an <b>offset</b> for any acceptable <b>significant residual impact</b> on <b>matters of state environmental significance</b> .  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.	No acceptable outcome is prescribed.
<b>All development in general</b>	
<b>PO4</b> Aspects of development are only permitted on <b>tidal land</b> 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 <b>tidal land</b> .	No acceptable outcome is prescribed.

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

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

## Reference documents

Department of Agriculture and Fisheries, State Development Assessment Provisions guideline - State Code 11: 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, Fish habitat area code of practice: The lawful use of physical, 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, Marine management: Fish habitat area selection, assessment, declaration and review

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

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

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

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

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

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

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

## **Accepted Development**

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

## **Other references**

Department of Agriculture, Fisheries and Forestry 2012, Declared fish habitat area network assessment report 2012

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

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, Declared fish habitat area network strategy 2015-2020: Planning for the future of Queensland's declared fish habitat area network

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

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**:

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

1. a species of **fish**
2. 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
6. a class of person
7. the purpose of an activity
8. the effect of the activity on a **fish habitat**, whether or not the activity involves **fishing**
9. anything else prescribed under a regulation.

**Fishing** see the *Fisheries Act 1994*.

Note: **Fishing** includes:

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

**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:

1. 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
2. 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
3. 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:

1. remains, or will or is likely to remain, (whether temporarily or permanently) despite on-site mitigation measures for the prescribed activity
2. 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.