

# State code 9: Great Barrier Reef wetland protection areas

## 9.1 Purpose statement

The purpose of this code is to ensure that development involving **high impact earthworks** in a **wetland protection area** is located outside of a **wetland** and:

1. is designed, constructed and operated to enhance or protect **wetland environmental values**; or
2. is designed, constructed and operated to avoid or mitigate adverse impacts on **wetland environmental values**; or
3. demonstrates that after all reasonable impact avoidance measures have been, or will be, undertaken, the development constitutes an acceptable impact on **wetland environmental values**; or
4. avoids impacts on **matters of state environmental significance**, and where avoidance is not reasonably possible, minimises and mitigates impacts, and provides an **offset** for **significant residual impacts** where appropriate.

Note: Guidance on achieving compliance with the performance outcomes in the code is provided in the Guideline - State Code 9: Great Barrier Reef wetland protection areas. Guidance for determining if development 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.

## 9.2 Performance outcomes and acceptable outcomes

Development that is operational works, a material change of use or reconfiguration of a lot involving **high impact earthworks** in a **wetland protection area** should demonstrate compliance with the relevant provisions in table 9.2.1.

Table 9.2.1: All development

Performance outcomes	Acceptable outcomes
<b>General</b>	
<b>PO1</b> Development is not carried out in a <b>wetland</b> in a <b>wetland protection area</b> .	No acceptable outcome is prescribed.
<b>PO2</b> Development provides an adequate <b>buffer</b> surrounding a <b>wetland</b> to: maintain and protect <b>wetland environmental values</b> ; and avoid adverse impacts on native vegetation within the <b>wetland</b> and the <b>buffer</b> .	<b>AO2.1</b> The <b>buffer</b> surrounding a wetland has a minimum width of: <ol style="list-style-type: none"> <li>1. 200 metres, where the <b>wetland</b> is located outside a <b>prescribed urban area</b>; or</li> <li>2. 50 metres, where the <b>wetland</b> is located within a <b>prescribed urban area</b>.</li> </ol>
<b>Hydrology</b>	
<b>PO3</b> Development enhances or avoids adverse impacts on the existing surface and groundwater hydrology in a <b>wetland protection area</b> , and, where adverse impacts cannot be reasonably avoided, impacts are mitigated.	No acceptable outcome is prescribed.
<b>Water quality</b>	
<b>PO4</b> Development avoids adverse impacts to the water quality of the <b>wetland</b> in the <b>wetland protection area</b> and in the <b>wetland buffer</b> and	No acceptable outcome is prescribed.

Performance outcomes	Acceptable outcomes
where adverse impacts cannot be reasonably avoided, impacts are mitigated.	
<b>PO5</b> Development does not use the <b>wetland</b> in the <b>wetland protection area</b> for stormwater treatment.	No acceptable outcome is prescribed.
<b>Land degradation</b>	
<b>PO6</b> Development avoids <b>land degradation</b> in the <b>wetland protection area</b> and, where <b>land degradation</b> cannot be reasonably avoided, it is mitigated.	No acceptable outcome is prescribed.
<b>Vegetation</b>	
<b>PO7</b> Development outside the <b>wetland</b> and its <b>buffer</b> : <ol style="list-style-type: none"> <li>1. avoids impacts on <b>category C areas</b> of <b>vegetation</b> and <b>category R areas</b> of <b>vegetation</b>; or</li> <li>2. minimises and mitigates impacts on <b>category C areas</b> of <b>vegetation</b> and <b>category R areas</b> of <b>vegetation</b> after demonstrating avoidance is not reasonably possible.</li> </ol>	No acceptable outcome is prescribed.
<b>Fauna management</b>	
<b>PO8</b> Development: <ol style="list-style-type: none"> <li>1. protects <b>wetland fauna</b> from any impacts associated with noise, light or <b>visual disturbance</b></li> <li>2. protects the movement of <b>wetland fauna</b> within and through a <b>wetland protection area</b>; and</li> <li>3. does not introduce pest plants, pest animals or exotic species into a <b>wetland</b> and its <b>buffer</b>.</li> </ol>	No acceptable outcome is prescribed.
<b>Matters of state environmental significance</b>	
<b>PO9</b> Development outside the <b>wetland</b> : <ol style="list-style-type: none"> <li>1. avoids impacts on <b>matters of state environmental significance</b>; or</li> <li>2. minimises and mitigates impacts on <b>matters of state environmental significance</b> after demonstrating avoidance is not reasonably possible; and</li> <li>3. provides an <b>offset</b> if, after demonstrating all reasonable avoidance minimisation and mitigation measures are undertaken, the development results in an acceptable <b>significant residual impact</b> on a <b>matter of state environmental significance</b>.</li> </ol> <p>Note: Guidance for determining if the development will have a <b>significant residual impact</b> on the <b>matter of state environmental significance</b> is provided in the Significant Residual Impact Guideline, Department of State Development, Infrastructure and Planning, 2014. Where <b>the significant residual impact</b> is considered an acceptable impact on the <b>matter of state environmental significance</b> and an offset it considered appropriate, the <b>offset</b> should be delivered in accordance with the <i>Environmental Offsets Act 2004</i>.</p>	No acceptable outcome is prescribed.

## 9.3 Reference documents

Department of Environment and Heritage Protection 2017, State Development Assessment Provisions Guideline: State code 9: Wetland protection areas

Department of Environment and Heritage Protection 2016, Environmental offsets framework documents

Department of State Development, Infrastructure and Planning 2017, State Planning Policy

Department of State Development, Infrastructure and Planning 2014, Significant Residual Impact Guideline

## 9.4 Glossary of terms

**Buffer** means the transition zone between a **wetland** and any surrounding land use that supports the values and processes of the **wetland** and protects it from external threats.

**Category C areas** means areas of high value regrowth **vegetation** classed as 'endangered' or 'of concern' under the *Vegetation Management Act 1999* that are shown on the regulated **vegetation** management map as category C areas.

**Category R areas** means regrowth watercourse and drainage feature areas under the *Vegetation Management Act 1999* that are shown on the regulated **vegetation** management map as **category R areas**.

**Environmental values, for wetlands**, means values declared under section 81A of the Environmental Protection Regulation 2019 to be the environmental values for **wetlands**.

Note: From the *Environmental Protection Act 1994*, **environmental value** means:

1. a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or
2. another quality of the environment identified and declared to be an **environmental value** under an environmental protection policy or regulation.

**Exotic species** means all non-native and non-endemic flora and fauna, including domestic pets.

**High impact earthworks** see schedule 24 of the Planning Regulation 2017.

Note: **High impact earthworks** means operational work that:

1. changes the form of land, or involves placing a structure on land, in a way that diverts water to or from a **wetland** in a **wetland protection area**; and
2. involves excavating or filling:
  - a. if the work is carried out in the **wetland** or within 200 metres of the **wetland** – more than 100m<sup>3</sup>; or
  - b. otherwise – more than 1000m<sup>3</sup>.

However, **high impact earthworks** does not include operational work that is:

1. excavating to establish underground infrastructure, other than infrastructure for drainage or stormwater flows, if the excavated land is to be restored, as far as practicable, to its original contours after the infrastructure is established; or
2. carried out for the maintenance of dams, fences, helipads, roads, stockyards, vehicular tracks or watering facilities; or
3. carried out for any of the following in relation to government supported transport infrastructure:
  - a. the maintenance, servicing or repair of the infrastructure
  - b. the replacement, rehabilitation, removal or alteration of the infrastructure
  - c. the taking of preventative or remedial action
  - d. the maintenance of systems and services associated with the infrastructure; or
4. carried out:
  - a. in tidal water; or
  - b. for a forest practice; or
  - c. to reinstate earthworks destroyed by floods or landslides; or
  - d. to restore or conserve the ecological processes or hydrological functions of a **wetland protection area**; or
  - e. to laser level land without change to the previously levelled contours or slopes; or
  - f. for government supported transport infrastructure for which the funding and construction arrangements were approved by the state or Commonwealth before 31 October 2011; or
5. carried out under:
  - a. the *Electricity Act 1994*, section 101 or 112A; or
  - b. the Fire and Emergency Services Act 1990, section 53, 68 or 69; or
  - c. a geothermal exploration permit under the *Geothermal Energy Act 2010*; or

6. assessable development under schedule 12 [Operational work that is assessable development] if the work is:
  - a. carried out completely or partly in a declared fish habitat area; or
  - b. constructing or raising waterway barrier works.

**Land degradation** means:

1. soil erosion; or
2. rising water tables; or
3. the expression of salinity; or
4. stream bank instability; or
5. a process that results in declining water quality, including acid sulfate soil disturbance.

**Map of referable wetlands** see schedule 12 of the Environmental Protection Regulation 2019.

Note: **Map of referable wetlands** means a document approved by the chief executive [Environment] on 4 November 2011 and published by the Department of Environment and Heritage Protection, as amended from time to time by the chief executive [Environment] under section 144D of the Environmental Protection Regulation 2019.

**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. 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 referable wetlands** under the Environmental Protection Regulation 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 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 will limit the passage of fish along the waterway
10. marine plants under the *Fisheries Act 1994*; or
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 matter** see the Environmental Offsets Regulation 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.

**Prescribed urban area**

Note: **Prescribed urban area** for clearing native **vegetation** means:

1. an area identified in a gazette notice by the chief executive as an urban area; or
2. if no gazette notice has been published – an area identified as an area intended specifically for urban purposes, including future urban purposes (but not rural residential or future rural residential purposes) on a map in a planning scheme that:
  - a. identifies the areas using cadastral boundaries
  - b. is used exclusively or primarily to assess development applications.

**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.

**Vegetation** includes all native vegetation, including:

1. **vegetation** as defined under the *Vegetation Management Act 1999*; or
2. grass and non-woody herbage; or
3. a plant within a grassland regional ecosystem prescribed under a regulation; or
4. a mangrove.

**Visual disturbance** means the disturbance of fauna by visual intrusions that could lead to a loss or diminishment of key life cycle functions or changes to usage patterns of a **wetland** by mobile fauna (such as birds). This term include disturbance by people, pets or vehicles.

Note: Loss or diminishment of key life cycle may include, but is not limited to, nest abandonment or modified feeding patterns.

**Wetland** means an area shown as a wetland on the **map of referable wetlands** as defined within the Environmental Protection Regulation 2008.

**Wetland environmental values** means **environmental values for wetlands** described under section 81A of the Environmental Protection Regulation 2019. For section 9(b) of the *Environmental Protection Act 1994*, the qualities of a **wetland** that support and maintain the following are **environmental values**:

1. the health and biodiversity of the **wetland's** ecosystems
2. the **wetland's** natural state and biological integrity
3. the presence of distinct or unique features, plants or animals and their habitats, including threatened wildlife, near threatened wildlife and rare wildlife under the *Nature Conservation Act 1992*
4. the **wetland's** natural hydrological cycle
5. the natural interaction of the **wetland** with other ecosystems, including other **wetlands**.

**Wetland fauna** means species that have adapted to living in **wetlands** and are dependent on them for:

1. all of their life cycle; or
2. a major part of their life; or
3. critical stages of their life cycle, such as breeding and larval development.

**Wetland protection area** means an area shown as a **wetland** protection area on the **map of referable wetlands** as defined within the Environmental Protection Regulation 2019.