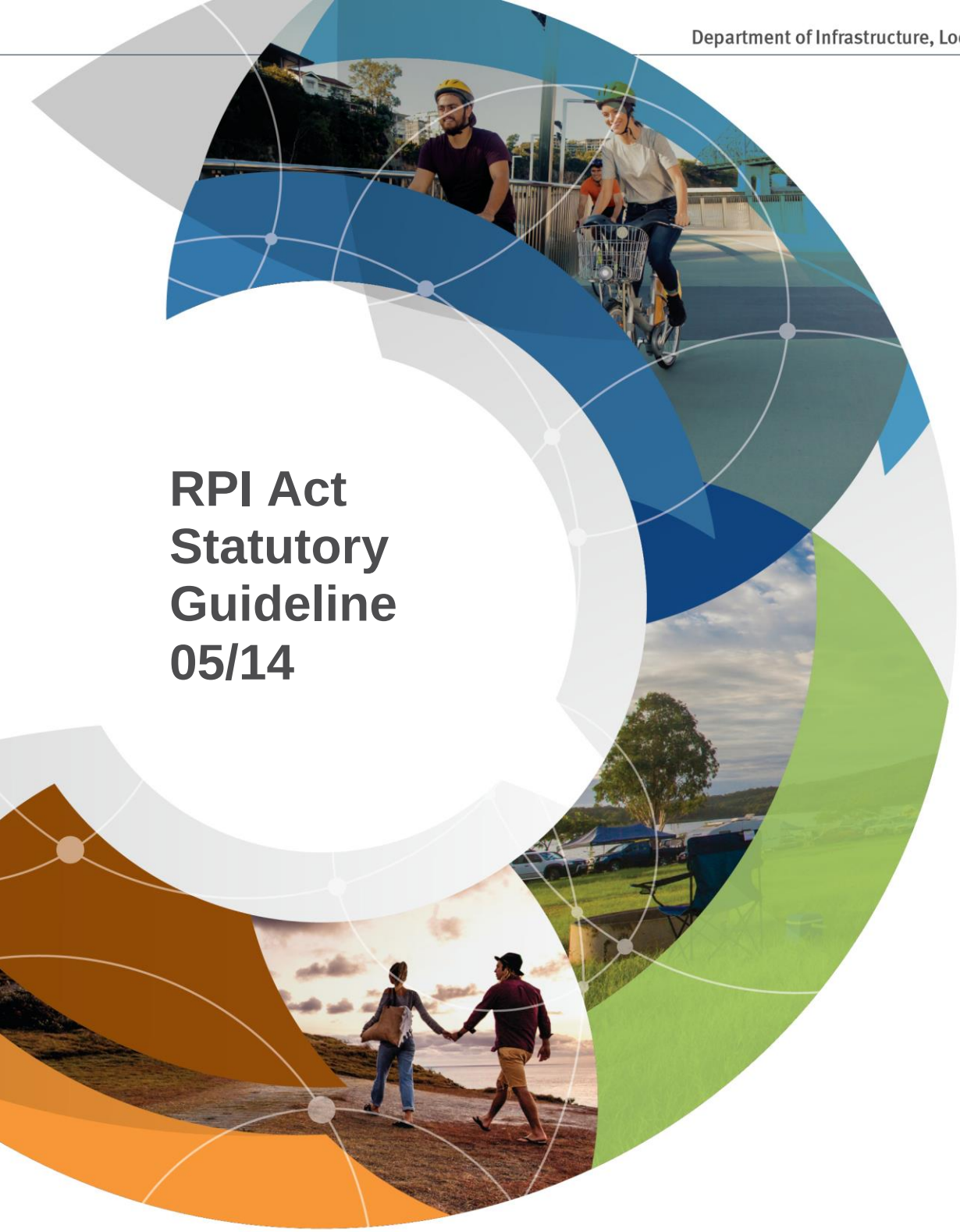

RPI Act Statutory Guideline 05/14

Carrying out resource activities and regulated activities in a Strategic Environmental Area

A guideline to assist in understanding when and how to apply for a regional interests development approval under the *Regional Planning Interests Act 2014*

3 July 2017

Queensland Government

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Abbreviations

DNRM	Department of Natural Resources and Mines
EHP	Department of Environment and Heritage Protection
RIDA	Regional interests development approval
RPI Act	*Regional Planning Interests Act 2014*
RPI Regulation	Regional Planning Interests Regulation 2014
SEA	Strategic environmental area

A strategic environmental area

A strategic environmental area (SEA) is an area of regional interest under the *Regional Planning Interests Act 2014* (RPI Act). Each SEA is identified in the Regional Planning Interests Regulation 2014 (RPI Regulation) or a regional plan.

For a SEA prescribed in the RPI Regulation, the area is shown on the map referenced in the Regulation.

For a SEA identified in the regional plan, the area is shown on a map or maps in a regional plan. Through the Act, the government is seeking to manage:

- the impact of resource activities and regulated activities on strategic environmental areas; and
- the coexistence of potentially competing activities in strategic environmental areas.

To achieve this, the Act provides an assessment process to consider each proposed resource activity or regulated activity on its merits.

Restricted activities in a strategic environmental area

Resource activities

The RPI Act restricts the carrying out of resource and regulated activities in SEAs where the activity is not exempt under the provisions of the Act or a regional interests development approval (RIDA) has not been granted.

Resource activities include any activity for which a resource authority is required. Resource activities do not include the following:

- a prospecting permit under the *Mineral Resources Act 1989*
- a petroleum survey licence, a data acquisition authority, or a water monitoring authority under the *Petroleum and Gas (Production and Safety) Act 2004.*

Regulated activities

The RPI Regulation also prescribes broadacre cropping and water storage dams as regulated activities in strategic environmental areas.

Broadacre cropping is the cultivation of extensive parcels of land under dryland or irrigated management for cropping. The activity includes for example, the production of the following crops at a scale that exceeds the domestic needs of the occupants of the land:

- grains (e.g. wheat, barley, sorghum, maize)
- pulses (e.g. lupins, peas, chickpeas broad beans, mung beans, soy beans)
- oil seeds (e.g. canola, safflower, sunflower)
- sugar cane, hops, cotton, hay.

Water storage (dam) is storing water using a dam, other than storing water on land to be used only for any or all of the following purposes:

- to meet the domestic water needs of the occupants of the land
- to water the stock that is usually grazed on the land
- to water stock that is travelling on a stock route on or near the land.

A water storage dam includes any barrier that may impound water, plus the water storage area created by the barrier, plus any embankment or other structure that is associated with the barrier and controls the flow of water. It does not include water storages in a water tank or rainwater tank constructed of steel, concrete, fibreglass, plastic or similar material.

Exempt activities in a strategic environmental area

Pre-existing activities

The RPI Act provides that pre-existing resource activities and pre-existing regulated activities are exempt from the provisions of the RPI Act where located in a SEA. Exempt activities do not require a RIDA.

A resource activity is considered to be pre-existing if, immediately before the land becomes land in an area of regional interest, the activity may be carried out lawfully on the land.

A resource activity can be carried out lawfully on land if:

- it is carried out under a resource authority or environmental authority; and
- the application for either authority adequately detailed the location, nature and/or extent of the expected surface impacts of the activity; and
- no further authority or approval is required to be obtained in relation to the location, nature or extent of the expected surface impacts of the activity.

A regulated activity is considered to be pre-existing if, immediately before the land becomes land in an area of regional interest, the activity can be lawfully carried out on the land under the *Sustainable Planning Act 2009*.

Environmental authorities given prior to the repeal of the *Wild Rivers Act 2005*

The RPI Act provides an exemption for any resource activity in a SEA (that was also a wild river area) that is carried out under an environmental authority that was given, or applied for, prior to the repeal of the *Wild Rivers Act 2005*.

This exemption is provided in acknowledgement that the environmental authority for such activities will continue to include conditions relevant to an area that is a SEA and was a wild river area after the repeal of the *Wild Rivers Act 2005*. The conditions imposed under the repealed *Wild Rivers Act 2005* would address matters to be included in any RIDA for an activity in a SEA.

This exemption does not apply to any part of a SEA that was not a wild river area, such as parts of the Steve Irwin Wildlife Reserve, because any environmental authorities issued in these parts of the SEA would not already have wild rivers conditions imposed on them. Furthermore, the exemption is not valid if:

a. after the repeal of the *Wild Rivers Act 2005*, the authority holder makes an amendment application under the *Environmental Protection Act 1994*, section 224 to amend the environmental authority; and
b. the amendment application is approved; and
c. the amendment involves either of the following:
   - an increase in the area of land subject to expected surface impacts from the activity;
   - a change to the location of the land subject to expected surface impacts from the activity.

No formal written advice will be provided to applicants regarding whether an activity is exempt from the provisions of the RPI Act. If an applicant seeks confirmation that the activity can lawfully proceed, they can either:

- lodge an assessment application to obtain a RIDA or
- seek a declaration from the Planning and Environment Court under section 78(1)(c) of the RPI Act.

Making an assessment application

An assessment application for a RIDA must be made to the chief executive of the Department of Infrastructure Local Government and Planning (DILGP) in the approved form. The RPI Act requires that the assessment application must be accompanied by a report and the applicable fee.

The report must assess the activity's impact on the SEA and identify any constraints on the configuration or operation of the activity. The activity's impact on the SEA will be assessed against the criteria for assessment and decision in schedule 2 of the RPI Regulation.

A single application may seek approval for multiple activities across multiple areas of regional interest. In this instance, the application will need to address each applicable set of criteria prescribed in schedule 2 of the RPI Regulation. If the proposed activity is located in a SEA as well as another area of regional interest, for example, a priority living area, each set of criteria must be addressed and they may lead to different or additional requirements applying to any approval.

For further information refer to RPI Act Statutory Guideline 01/14: How to make an assessment application for a RIDA under the RPI Act.

A pre-application discussion can be arranged with DILGP to discuss a proposed activity where located in an area of regional interest and any requirements to apply for a RIDA.

Please email RPIAct@dilgp.qld.gov.au or visit www.dilgp.qld.gov.au for further information.

Requirement for public notification

Public notification may be required for an application for a resource or regulated activity in a SEA. Where public notification is required, the chief executive will issue a requirement notice under section 44(1)(c) of the Act.

Refer to RPI Act Statutory Guideline 06/14: Public Notification of Assessment Applications for further information.

Referral of application

The RPI Regulation requires all applications for resource or regulated activities in a SEA to be referred to the Department of Environment and Heritage Protection (EHP) and the Department of Natural Resources and Mines (DNRM) as assessing agencies. The RPI Regulation sets out the functions of these agencies in assessing the applications.

Identifying Environmental Attributes

Prior to addressing the SEA assessment criteria, the applicant must first identify the relevant environmental attributes of the land subject to the application. The environmental attributes for each SEA are provided in either part 3 of the RPI Regulation or detailed in the regional plan where relevant. For SEAs prescribed under the RPI Regulation, the attributes broadly relate to:

- riparian processes
- wildlife corridors
- water quality
- hydrologic processes

- geomorphic processes
- beneficial flooding.

The environmental attributes for the five SEAs can be accessed from the following documents.

Channel Country SEA	RPI Regulation
Gulf Rivers SEA	RPI Regulation
Fraser Island SEA	RPI Regulation
Hinchinbrook Island SEA	RPI Regulation
Cape York SEA	Cape York Regional Plan

In addition to information identified in the RPI Act Statutory Guideline 01/14: How to make an assessment application for a RIDA under the RPI Act, the application should provide, in sufficient detail for the chief executive to decide whether an approval should be granted, a description of environmental attributes relevant to the site (including maps of suitable scale where relevant). This may include:

- the chemical and physical characteristics of waters (including watercourses, wetlands, overland flows and groundwater) within the area of regional interest that may be affected by the activity
- any quantitative standards and indicators which could be used to describe the ecological values and health of surface water environments
- hydrological conditions including the inputs, movements, exchanges and outputs of surface water and groundwater that may be affected by the activity
- the geomorphic characteristics of watercourses, wetlands, overland flow areas and groundwater systems within the area of regional interest that may be affected by the activity
- terrestrial and aquatic ecosystems (including groundwater-dependent ecosystems) and their interaction
- biological diversity including listed flora and fauna species, regional ecosystems and habitats of threatened, near-threatened or special least-concern species
- the existing integrity of ecological processes within the area
- the integrity of landscapes, including intactness and interconnectivity of places.

Addressing the SEA assessment criteria

The SEA assessment criteria are made up of one required outcome and a prescribed solution to meet the required outcome. The required outcome is:

> *The activity will not result in a widespread or irreversible impact on an environmental attribute of a strategic environmental area.*

To achieve the required outcome, the applicant must demonstrate how the prescribed solution is met. The prescribed solution is the only way to meet the required outcome.

The following table provides guidance on how an applicant may address the prescribed solution.

Table 1: Guidance on how to meet the prescribed solution for the required outcome

PRESCRIBED SOLUTION
The application demonstrates: the activity will not, and is not likely to, have a direct or indirect impact on an environmental attribute of the SEA
To demonstrate compliance, the application may provide evidence that: • the activity is not located on land or a property that has the listed environmental attributes (e.g. such as a wetland, watercourse, regional ecosystems etc.) or is located a sufficient distance away from such environmental attributes that there will be no direct or indirect impact to those attributes from the activities being undertaken on the land, or • if the activity is of a temporary nature, undertaking the activity will not have any direct or indirect impact on the listed environmental attributes either at the time of undertaking the activity, or in the future (due to seasonal variations). **Examples of how activities would meet part (a) of the Prescribed Solution in relation to water quality and riparian processes** The activity will be carried out with an appropriate buffer area around all watercourses, lakes, wetlands or springs AND defined riparian vegetation zones for example in a designated precinct of the: • Channel Country SEA: 500-metre buffer • Gulf Rivers SEA: 300-metre buffer • Cape York SEA, Fraser Island or Hinchinbrook Island SEA: 200-metre buffer, or for example in any other area of the: – Cape York SEA or Gulf Rivers SEA: 100-metre buffer – Fraser Island or Hinchinbrook Island SEAs: 50m from stream order 5 or greater; 25m from stream order 3 or 4; 10m from stream order 1 or 2. • The activity will not have any direct or indirect release of contaminants to waters including groundwater from the operation of the activity. • The activity will not result in any potential or actual adverse effect on a wetland, lake, watercourse or spring. • Water storage dams are located off stream or not in major watercourses. **Examples of how activities would meet part (a) of the Prescribed Solution in relation to hydrologic and geomorphic processes** • Undertaking construction activities in times when there is no water present. • The activity will not inhibit the overflow or flow of surface water in or out of the wetland or watercourse (e.g. wells on stilts) post-construction. • Operation of the activity will not result in actual or potential adverse effects on groundwater. • The activity will not: – result in the clearing of native vegetation within or adjoining watercourses, lakes, wetlands or springs – cause disruption to soil profiles through earthworks or excavation – result in disturbance to land which cannot be rehabilitated immediately after the activity is completed. • Water storage dams are located off stream or not in major watercourses.

Example of how activities would meet part (a) of the Prescribed Solution in relation to wildlife corridors

- The activity is separated from wildlife corridors by an appropriate buffer (e.g. 200 metres) and will not result in actual or potential adverse effects onto the integrity or functioning of the corridor.

OR

PRESCRIBED SOLUTION

The application demonstrates:

a) all of the following:
   (i) If the activity is being carried out in a designated precinct in the SEA, the activity is not an unacceptable use for the precinct

To identify whether the activity is located in a designated precinct, refer to the relevant SEA map.

The following are unacceptable uses in a designated precinct:

- open cut mining (i.e. a mining operation in which an ore seam close to the surface is exposed and mined)
- broadacre cropping
- water storage (dam)
- if the designated precinct is in the Cape York SEA, a
- mining resource activity (defined by section 13 (c) and (g) of the RPI Act).

PRESCRIBED SOLUTION

The application demonstrates:

(ii) the construction and operation footprint of the activity on the environmental attribute is minimised to the greatest extent possible

To demonstrate compliance, the application may provide an explanation of, or otherwise demonstrate, how the construction and operational footprint of each resource or regulated activity on the impacted environmental attribute has been minimised.

Footprint is defined as the portion of the land to which the development relates that is covered by:

a. buildings or structures measured to their outermost projection; and
b. any of the following relating to the buildings or structures or the development
   (i) asphalt, concrete or another hard built surface;
   (ii) a carpark;
   (iii) a road or access track;
   (iv) an area used for vehicle movement or parking;
   (v) an area used or that may be used for storage.

Example of how activities could meet the prescribed solution:
The application demonstrates that the proposed activity maximises the use of pre-existing areas of disturbance; avoids, minimises and mitigates impacts on areas of native vegetation; minimises areas of disturbance with regard to land degradation; avoids then minimises isolation, fragmentation, edge effects or dissection of tracts of native vegetation; and avoids then minimises clearing of native mature trees.

For example:
- activities that are not site dependant (e.g. processing infrastructure) are adequately set back from areas that contain or influence the environmental attributes.
- linear infrastructure corridors maximise co-location and minimise the width to the smallest extent possible.

For example, in the context of petroleum and gas activities, disturbance areas being restricted to the following:
- CSG well sites do not exceed
  - single well sites: 1 hectare disturbance
  - multi-well sites: 1.5 hectare disturbance
- CSG well sites with monitoring equipment (including monitoring bores) do not exceed:
  - single well sites: 1.25 hectares disturbance
  - multi-well sites: 1.75 hectares disturbance
- CSG well sites with monitoring equipment (including monitoring bores) and tanks for above ground fluid storage (greater than 1 ML) do not exceed:
  - single well sites: 1.5 hectares disturbance
  - multi-well sites: 2.0 hectares disturbance
- Shale exploration or production minimises the footprint of well pads by maximising the number of wells in one pad.

PRESCRIBED SOLUTION

The application demonstrates:

(iii) the activity does not compromise the preservation of the environmental attribute within the SEA

To meet the prescribed solution, the application should:
1. identify the environmental attributes relevant to the land that is the subject of the application
2. identify impacts on the environmental attributes as a result of the proposed activity
3. provide evidence that the impacts of the activity will not compromise the preservation of the environmental attributes for the SEA.

Refer to **table 2** for further information and guidance relating to environmental attributes:
- hydrologic processes
- geomorphic processes
- riparian processes
- wildlife corridors
- water quality
- beneficial flooding.

The application should cover both the short and long terms impacts on environmental attributes, describe any potential or actual impacts, and their likelihood of being widespread or irreversible. The application should also discuss scenarios of: unknown, unpredictable impacts, where activities may result in beneficial impacts and improve the preservation of environmental attributes (e.g. new works to improve or mitigate impacts from a pre-existing activity).

PRESCRIBED SOLUTION
The application demonstrates: (iv) if the activity is to be carried out in a SEA identified in a regional plan, the activity will contribute to the regional outcomes, and be consistent with the regional policies, stated in the regional plan
This part of the prescribed solution is dependent on the regional outcomes being sought through the relevant regional plan. Guidance on how to address the regional policies is provided with the regional plan.

Table 2: Considerations when determining whether an activity may compromise the preservation of the environmental attributes in a SEA

Hydrologic processes: the natural flow of water in the SEA catchments and river systems
The construction and operation of the activity does not alter the natural flow of water in the SEA catchments and river systems where the activity does not alter the natural patterns and levels of runoff, stream flow and connectivity with other elements of the river and flood plain system to the extent of causing significant adverse outcomes. Reference should be made to: • the flow objectives of an applicable water resource plan for the area • where there is no water resource plan,– there being no, or minimal change to the frequency, duration and variability of high, medium and low flows and periods of no flow • connectivity of stream flow both along the watercourse and laterally with the floodplain being maintained. The application should include: • details of any proposed impoundment, extraction, discharge, injection, use or loss of water (surface or groundwater) or diversion or interception of overland flow • modelling of hydrological conditions including the inputs, movements, exchanges and outputs of surface water and groundwater that may be affected by the activity. The modelling should address the range of climatic conditions that may be experienced at the site including a description of the activity's impacts at the local scale and in a regional context including proposed: • changes in flow regimes from diversions, water take and discharges • direct and indirect impacts arising from the activity. Depending on the specific location of the activity and the impact of the activity on the environmental attribute, the application may detail how the following measures are addressed to ensure that the activity does not compromise the preservation of the environmental attribute: • runoff volume and flow rates • runoff capture and storage • maintenance of natural flow paths • stream flow impacts from works • water extraction and storage • riparian clearing impacts.

Geomorphic processes: the natural erosion, transport and deposition of sediments by water throughout the SEA

An construction are operation of the activity activity does not compromise the preservation of the natural erosion, transport and deposition of sediments by water throughout the catchment where the activity does not alter the delivery of sediment to the river system from adjacent lands and the erosion of the bed, banks and floodplains to the extent of causing significant adverse outcomes.

The application should include details of:

- any proposed disturbance to the beds and banks of watercourses or lakes, such as excavation, clearing, realignment
- land based disturbances such as cultivating soil or excavating on floodplains, which may occur where runoff and flood flows may interact with the area of disturbance
- any structures which are proposed to be placed in a watercourse, lake or spring or on floodplains, for example a weir or road crossing which can impact on the natural movement of sediments.

Depending on the specific location of the activity and the impact of the activity on the environmental attribute, the application may detail how the following measures are addressed to ensure that the activity does not compromise the preservation of the environmental attribute:

- surface covers including vegetative covers and natural vegetation
- changes to the flow of material (i.e. sediment, gravel etc.)
- soil disturbance, extent and intensity (particularly erosion prone soils)
- concentrations or diversions of runoff, drainage or overland flows
- physical and chemical disturbance of bed and banks
- vegetation clearing.

Riparian function: the range of processes that occur in, or as a result of, the vegetation associated with streams, lakes, floodplains and wetlands

The construction and operation of the activity does not compromise the riparian function where potential impacts from disturbance are avoided or effectively mitigated to ensure there are no significant adverse outcomes.

The application should include details:

- on the location of riparian corridors
- of any proposed disturbance or change to riparian corridors along streams and lakes and within floodplains and wetlands
- of land based disturbances such as clearing vegetation in or near streams, lakes, floodplains or wetlands.

Depending on the specific location of the activity and the impact of the activity on the environmental attribute, the application may detail how the following measures are addressed to ensure that the activity does not compromise the preservation of the environmental attribute:

- practicable minimisation of clearing during construction, maintenance, operation works of:
  - native riparian vegetation

  - other native vegetation including aquatic or marine plants
- stabilisation of disturbed areas
- encroachment of activities
- natural species composition, structure and density
- weed infestation and control, particularly exotic/problem/high risk species
- rehabilitation.

Wildlife corridor function: the wildlife corridor function of the riparian vegetation that is necessary to allow safe migration of aquatic and terrestrial fauna

The construction and operation of the activity does not compromise the preservation of the wildlife corridor function of the riparian vegetation if the activity:

- maintains the connection between native terrestrial vegetation along and across the watercourse system to a level sufficient for migration, shelter and habitat
- does not impede passage for aquatic/marine fauna along the watercourse system.

The application should include details of:

- the location of all wildlife corridors in the study area
- any proposed disturbance or change to wildlife corridors
- land based disturbances to aquatic and terrestrial fauna.

Depending on the specific location of the activity and the impact of the activity on the environmental attribute, the application may detail how the following measures are addressed to ensure that the activity does not compromise the preservation of the environmental attribute:

- spatial extent and species diversity, structure and density of:
  - native marine or aquatic plants
  - native terrestrial vegetation
- aquatic and terrestrial habitat and shelter connectivity (including passage for wildlife into and along watercourses)
- edge effects of the activity (including infrastructure) on the use of adjacent areas for habitat, feeding, roosting or nesting
- rehabilitation.

Water quality: the physical, chemical and biological quality of water in the watercourse channels, aquifers and on floodplains that supports and maintains the natural aquatic and terrestrial ecosystems

During both construction and operation of the activity, the physical, chemical and biological water quality immediately downstream of the activity will be consistent with water quality immediately upstream of the activity.

The application should include:

- the quantity, quality, release characteristics and location of all potential discharges of water associated with the activity, whether as point sources (such as controlled discharges from structures) or diffuse sources (such as seepage from waste rock dumps or irrigation to land of treated sewage effluent)
- the impact of any discharges on the quality and quantity of receiving waters taking into consideration the assimilative capacity of the receiving environment and the practices and procedures that would be used to avoid or minimise impacts
- details of any possible chronic, low-level exposure to contaminants or the bio-accumulation of contaminants.

Depending on the specific location of the activity and the impact of the activity on the environmental attribute, the application may detail how the following measures are addressed to ensure that the activity does not compromise the preservation of the environmental attribute:

- suitable buffer distance (e.g. 200 metres from the outermost high bank) from wetland and watercourses of ecological significance, Great Artesian Basin springs and subterranean groundwater dependent ecosystems
- the storage, handling and use of chemicals, or generation of contaminants and the risk of pollution
- storing, treating, recycling or disposing of contaminated water
- locations of infrastructure (e.g. tailings dams) and land inundated by flood events
- contingency measures for unplanned releases or discharges of contaminants to water are to be employed
- discharges to water, watercourse or wetland and resultant changes to existing flow regimes for the water, watercourse or wetland
- physical changes to waters that may affect the natural chemical characteristics of waters, e.g.
  - ingress of saline water into freshwater aquifers
  - draining/filling of wetlands
  - surface water flows in or out of a wetland
  - lower or raise the water table and hydrostatic pressure outside the bounds of natural variability.

Beneficial flooding – rejuvenation of vegetation (including native pastures upon which grazing operations rely), waterholes and wetlands associated with natural flood events that inundate floodplain areas

The construction and operation of the activity does not compromise beneficial flooding where the activity (including infrastructure) does alter the natural flow paths and the natural extent of flooding across floodplains.

The application should:

- include details of proposed infrastructure to be placed or operated on land in the SEA
- identify any impacts of the activity on natural flow paths and the ability of floodwaters to move unimpeded across floodplains
- identify ways that the activity will be carried out in a way that avoids or minimises impacts to natural flow paths and the natural extent of flooding.

Depending on the specific location of the activity and the impact of the activity on the environmental attribute, the application may detail how the following measures are addressed to ensure that the activity does not compromise the preservation of the environmental attribute:

- seasonal timing of activities (e.g. construction activities such as excavating trenches, grading a new access road being carried out during the dry season)
- alignment of linear infrastructure such as road and pipelines in the context of floodplain flows, for example:
  - road construction height and the level of the floodplain
  - pipelines either buried or raised on stilts across floodplain
- alignment of activities in the context of natural contours of the floodplain (e.g. any laser levelling or excavations to level the land).

Further information

Visit: www.dilgp.qld.gov.au/RPIAct
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