## State code 12: Development in a declared fish habitat area

Table 12.2.2: Building work or operational works

| **Performance outcomes** | **Acceptable outcomes** | **Response** |
| --- | --- | --- |
| Prescribed development purposes |
| PO1 Development is only undertaken for a prescribed development purpose in a declared fish habitat area, which are:1. for management A areas and management B areas:
2. restoring the fish habitat or natural processes
3. managing fisheries resources or fish habitat
4. researching, including monitoring or educating
5. ensuring public health or safety
6. providing public infrastructure to facilitate fishing
7. providing subterranean public infrastructure if the surface of the area can be restored, after the completion of the works or activity, to its condition, before the performance of the works or activity
8. constructing a temporary structure
9. maintaining a structure that was constructed before the area was declared to be a fish habitat area
10. maintaining a structure, other than a structure mentioned in paragraph h that has been lawfully constructed
11. for management B areas only:
12. constructing a permanent structure on tidal land or within the management area; or
13. depositing material for beach replenishment in the management area.

Note: Prescribed development purposes is defined in section 214 of the Fisheries Regulation 2008. Additional guidance about development in a declared fish habitat area is defined provided in the policy provisions of Marine resource management: management of declared fish habitat areas, Department of National Parks, Sport and Racing, 2015. | No acceptable outcome is prescribed.  | *Complies with PO# / AO#**Use this column to indicate whether compliance is achieved with the relevant PO or AO (or if they do not apply), and explain why* |
| Prescribed development purposes |
| PO2 When development is proposed for any of the purposes mentioned in PO1, there is a demonstrated need for the development, and for the following types of development, alternative locations outside the declared fish habitat area have been assessed and are not viable:1. for management A areas and management B areas:
	1. researching, including monitoring or educating
	2. ensuring public health or safety
	3. providing public infrastructure to facilitate fishing
	4. providing subterranean public infrastructure if the surface of the area can be restored, after the completion of the works or activity, to its condition before the performance of the works or activity
	5. constructing a temporary structure
2. for management B areas only:
	1. constructing a permanent structure on tidal land or within the management area; or
	2. depositing material for beach replenishment in the management area.
 | *For development to ensure public health and safety:*AO2.1 Development is:1. for a public health purpose and has been formally endorsed as being necessary by Queensland Health or the relevant government authority; or
2. for mosquito control and is required to be carried out under a mosquito management plan developed in accordance with the Mosquito management code of practice for Queensland, Local Government Association of Queensland, 2014 and do not include works for the control of other nuisance pest insect species (for example, midges); or
3. for an aid to navigation and is endorsed in writing by Department of Transport and Main Roads or Gold Coast Waterways Authority; or
4. is for a cyclone buoy mooring and:
5. is identified under the relevant port cyclone contingency plan by the controlling authority (for example, a port authority)
6. is located in accordance with any cyclone mooring plan prepared by the controlling authority
7. is only used during a cyclone event or other genuine emergency situation.

*For any other development, no acceptable outcome is prescribed*. |  |
| PO3 Only those aspects of a development that have a physical or functional requirement to be located within the declared fish habitat area occur within the area. Ancillary elements (for example, car and trailer parks, rest rooms, offices) occur outside the declared fish habitat area. | No acceptable outcome is prescribed.  |  |
| PO4 The spatial extent of development within the declared fish habitat area is minimised to the greatest extent practical. | *For development involving bridge infrastructure:*AO4.1 Bridge abutments are sited outside the declared fish habitat area.AND |  |
| AO4.2 Bridges are supported on piles only (not culverts, pipes or causeways) and the number of bridge piles within the declared fish habitat area is minimised.AND |  |
| *For development involving overhead electricity and communication cables:*AO4.3 Development uses the maximum cable span length possible.AND |  |
| *For development involving private structures:*AO4.4 Development that is for private jetties, pontoons, boat ramps and fishing platforms has a maximum total permanent footprint of 40 square metres.AND |  |
| AO4.5 Development that is for private jetties, fishing platforms and pontoons has an access walkway, if required, that is less than 2 metres wide.AND |  |
| AO4.6 Development that is for private buoy mooring is an environmentally friendly mooring design. *For any other development, no acceptable outcome is prescribed.* |  |
| PO5 Development impacting communities’ fisheries resources:1. directly abuts land that has full riparian access rights, or
2. is in a location within the declared fish habitat area with planning arrangements that support the structure e.g. designated or agreed mooring areas.

Note: Further guidance on rights in context of fisheries resources and fish habitats is provided in the operational policy provisions of Management and protection of marine plants and other tidal fish habitats (FHMOP 001)*,* Department of Primary Industries and Fisheries, 2007.The provision of owners consent to lodge the development application does not confer rights.  | No acceptable outcome is prescribed.  |  |
| PO6 Development which is for restoration, management activities or temporary works (such as research, monitoring or educational activities), ensures fisheries resources and fish habitats return to pre-existing or improved condition when the activity has ceased. | No acceptable outcome is prescribed.  |  |
| PO7 Development does not increase the risk of mortality, disease or injury, or compromise the health, productivity, marketability or suitability for human consumption of fisheries resources, having regard to (but not limited to): 1. biotic and abiotic conditions, such as water and sediment quality
2. substances that are toxic to plants or toxic to or cumulative within fish
3. design of structures
4. whether fish may be trapped or stranded
5. fish passage and access to habitat generally; and
6. the impacts of pest fish and other relevant pest species.
 | No acceptable outcome is prescribed.  |  |
| PO8 Development maintains or improves water quality.  | *For development involving bridge infrastructure:*AO8.1 Bridges are designed to direct water run-off outside the declared fish habitat area.*For any other development, no acceptable outcome is nominated.* |  |
| PO9 Development maintains tidal or stream hydrology and retains natural drainage and inundation patterns. | *For works for mosquito control:*AO9.1 Development for runnelling works complies with the policy guidelines in Departmental procedures for permit applications assessment and approvals for insect pest control in coastal wetlands (FHMOP 003*)*, Department of Primary Industries, 1996 and:1. increases tidal flushing
2. follows lines of natural water flow
3. is no deeper than 30 centimetres
4. has a 3:1 width:depth ratio; and
5. a spoon shape with gently sloping concave sides.

*For any other development, no acceptable outcome is nominated.* |  |
| PO10 Development likely to cause disturbance to potential or actual acid sulfate soil, prevents the release of contaminants.Note: Management of acid sulfate soil is consistent with the current Queensland acid sulfate soil technical manual: Soil management guidelines v4.0, Department of Science, Information Technology, Innovation and the Arts, 2014. | No acceptable outcome is prescribed.  |  |
| PO11 Where benthic disturbance is necessary, it is undertaken in a manner that enables the area to be restored to the pre-disturbance condition and profile, having regard to (amongst other things):1. surface sediment type and profile
2. bank profile and potential for erosion; and
3. amount of surface area disturbed.

Note: Such disturbances include but are not limited to those associated with provisions of subterranean infrastructure, or temporary structures.  | No acceptable outcome is prescribed.  |  |
| PO12 Excess sediment arising from development is managed to avoid further disturbance within the declared fish habitat area. | AO12.1 Excess sediment is disposed of outside of the boundaries of a declared fish habitat area. |  |
| PO13 The design and siting of development maximises light penetration under the structure where feasible, through measures such as:1. increasing the height of the structure above the substrate
2. decreasing the width of the structure
3. using a north-south orientation
4. using pedestrian decking surfaces that maximise light penetration to the substrate.
 | No acceptable outcome is prescribed.  |  |
| PO14 Development is designed, sited and constructed such that the potential for additional works to ensure long term operability is minimised, having regard to (amongst other things) the need for future:1. dredging to maintain access
2. trimming of marine plants; or
3. warning signs or protective structures.
 | No acceptable outcome is prescribed.  |  |
| PO15 Public boat ramps have vessel staging areas that are appropriate for the size of the boat ramp.Note: Vessel staging areas include land based staging areas and staging areas in water. | No acceptable outcome is prescribed.  |  |
| PO16 Development minimises disturbance to marine plants. | *For private structures or works:*AO16.1 Private fishing platforms, private jetties and pontoons extend through a marine plant fringe that is no more than 15 metres wide (measured perpendicular to the shore).AND |  |
| AO16.2 Private boat ramps have a total area of marine plant disturbance for construction that is less than 45 square metres and extends through a marine plant fringe that is no more than three metres wide (measured perpendicular to the shore).AND |  |
| *For signs:*AO16.3 Signs do not involve disturbance of marine plants unless this would compromise the purpose of a warning sign.*For any other development, no acceptable outcome is prescribed.* |  |
| PO17 To the greatest extent practical, development occurs in a way that allows for the fish habitat to quickly recover through natural processes.Note: A condition of approval for any restoration proposed in a declared fish habitat area is likely to require a post-works monitoring and maintenance program appropriate for the scale of the restoration works. | No acceptable outcome is nominated. |  |
| PO18 Marine plants to be used for revegetation purposes have local provenance and are obtained from within a declared fish habitat area only if:1. no alternative source of marine plants is feasible; or
2. the removal of marine plants will have minimal impact on the declared fish habitat area.

Note: Vegetation to be used in a restoration project should comply with any relevant provisions of the National policy for the translocation of live aquatic organisms. See Management and protection of marine plants and other tidal fish habitats ([FHMOP 001](http://www.daff.qld.gov.au/documents/Fisheries_Habitats/FHMOP001-Fish-Hab-Manage.pdf)), Department of Primary Industries and Fisheries, 2007 for specific guidance on marine plant translocation. | No acceptable outcome is prescribed.  |  |
| PO19 Development for a public or educational purpose is located to optimise public use, benefit or awareness of the declared fish habitat area. | No acceptable outcome is prescribed.  |  |
| PO20 Development does not adversely impact on community access to fisheries resources and fish habitats including recreational and indigenous fishing access.Note: In some cases, compensation for impact on fisheries access may be necessary. The Guideline on fisheries adjustment provides advice for proponents on relevant fisheries adjustment processes and is available by request from the Department of Agriculture and Fisheries. | No acceptable outcome is prescribed.  |  |
| PO21 Development does not adversely impact on commercial fishing access and linkages between a commercial fishery and infrastructure, services and facilities. Note: In some cases, compensation for impact on fisheries access may be necessary. The Guideline on fisheries adjustment provides advice for proponents on relevant fisheries adjustment processes and is available by request from the Department of Agriculture and Fisheries. | No acceptable outcome is prescribed.  |  |
| Research including monitoring or education |
| PO22 Development that is for researching, including monitoring, surveying and investigating or educating, is directly related to one or more of the following:1. fish, fisheries or fish habitat; or
2. general biological or ecosystem values or processes within the area; or
3. protected area management; or
4. investigation of impacts of development on the declared fish habitat area.

Note: Researching, including monitoring, surveying and investigating or educating should be undertaken by a public sector entity; primary, secondary or tertiary education institution, research institution, registered surveyor, registered research company or appropriately qualified and experienced consultant. | No acceptable outcome is prescribed.  |  |
| Constructing a temporary structure |
| **PO23** A temporary structure is in place for a limited period and is designed to be completely removed. | AO23.1 The structure is able to be removed in its entirety.  |  |
| AND one of the following acceptable outcomes applyAO23.2 A temporary waterway barrier that prevents tidal flow is in place for no more than 21 business days.OR  |  |
| AO23.3 A temporary structure, that is not a waterway barrier that prevents tidal flow, is in place for the shortest possible time, but no more than six months. |  |
| PO24 The temporary structure minimises impacts on fish migration. | No acceptable outcome is prescribed.  |  |
| Structures in a management A area that were constructed before the area was declared as a fish habitat area |
| PO25 Relocation or exchange of an existing structure: 1. results in a footprint that is less than or equal to the footprint of the existing structure
2. improves the condition of fisheries resources and fish habitats, including through water quality outcomes.
 | No acceptable outcome is prescribed.  |  |
| PO26 Upgrading or replacement of public sewerage, water treatment and stormwater infrastructure minimises the disturbance footprint within the declared fish habitat area and improves the condition of fisheries resources and fish habitats, including through improved water quality outcomes. | AO26.1 Development that is for an upgrade to existing stormwater, sewer or water treatment infrastructure results in an increase in the size of the structure by no more than 20 square metres and water is treated to a higher standard than the existing situation, before entering the declared fish habitat area. |  |
| Structures in a management B area |
| PO27 For private development that is for the purposes offacilitating fishing or boat access (e.g. installation of a private jetty, pontoon, boat ramp or fishing platform)only one structure or facility is provided per adjoining property and is located entirely within the extension of the side boundaries of that property. | No acceptable outcome is prescribed.  |  |
| PO28 For private development that is for the purposes of a private boat mooring (e.g. installation of a private buoy mooring):1. only one mooring is provided per adjoining property and is located entirely within the extension of the side boundaries of that property; or
2. the mooring is installed within a government approved designated mooring area or within a location that is supported by the Department of Transport and Main Roads.
 | No acceptable outcome is prescribed.  |  |
| PO29 The establishment of structures or infrastructure does not involve filling of tidal land. | No acceptable outcome is prescribed.  |  |
| PO30 Development for erosion control purposes (including revetments, groynes and gabions) only occurs where erosion is resulting in an immediate threat to: 1. the ability to use the land for its existing or approved purpose; or
2. infrastructure, structures or buildings that are not expendable or not able to be relocated; or
3. a cultural heritage site.
 | No acceptable outcome is prescribed.  |  |
| PO31 Development for erosion control purposes (including revetments, groynes and gabions) represents the best available erosion management solution from both an erosion management and a fish habitat management perspective. | No acceptable outcome is prescribed.  |  |
| PO32 Development for erosion control purposes (including revetments, groynes and gabions) does not result in permanent loss of fish habitat beyond the footprint of the structure, other than where caused by minimal regularisation of the foreshore boundary required to maintain a consistent alignment with adjacent properties as part of a co-ordinated erosion control strategy for the location. | No acceptable outcome is prescribed.  |  |
| Beach replenishment in a management B area |
| PO33 Beach replenishment only occurs where erosion is resulting in an immediate threat to: 1. the ability to use the land for its existing or approved purpose; or
2. infrastructure, structures or buildings that are not expendable or not able to be relocated; or
3. a significant cultural heritage site.
 | No acceptable outcome is prescribed.  |  |
| PO34 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.  |  |
| PO35 Beach replenishment does not create terrestrial land, unless a sacrificial dune or beach which forms an integral part of the erosion control design.  | No acceptable outcome is prescribed.  |  |
| PO36 The beach replenishment work is undertaken in a way that minimises the need for other erosion control activities or works. | No acceptable outcome is prescribed.  |  |
| PO37 The beach replenishment work is undertaken in a way that minimises the frequency of any ongoing replenishment requirements. | AO37.1 Beach replenishment will not require maintenance more often than every two years. |  |
| PO38 A source of replenishment material for future maintenance is identified and secured. | AO38.1 Beach replenishment material is sourced from:1. a distance of greater than 100 metres from a declared fish habitat area; or
2. from works within a declared fish habitat area that have been authorised for another purpose; or
3. from a navigational channel.
 |  |
| Dredging or extracting sediment |
| PO39 Dredging or extracting sediment is only undertaken for the purposes of:1. restoring fish habitats or natural processes; or
2. as part of the construction of a structure (e.g. excavating the footings for a boat ramp or revetment wall).
 | No acceptable outcome is prescribed.  |  |
| Aquaculture |
| PO40 Development for aquaculture is only for tidal works associated with oyster production within licensed oyster areas in compliance with the Oyster industry plan for Moreton Bay Marine Park, Department of Agriculture and Fisheries, 2015. Note: Water intake and discharge structures associated with land based aquaculture developments (e.g. prawn farms) are considered as structures within a declared fish habitat area rather than aquaculture. | No acceptable outcome is prescribed.  |  |
| Matters of state environmental significance |
| PO41 Development:1. avoids impacts on matters of state environmental significance; or
2. minimises and mitigates impacts on matters of state environmental significance after demonstrating avoidance is not reasonably possible; and
3. provides an offset if, after demonstrating all reasonable avoidance, minimisation and mitigation measures are undertaken, the development results in an acceptable significant residual impact on a matter 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. For the Brisbane Port LUP, see [www.portbris.com.au](https://apac01.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttp-3A__www.portbris.com.au%26d%3DDwMFAg%26c%3DtpTxelpKGw9ZbZ5Dlo0lybSxHDHIiYjksG4icXfalgk%26r%3Dj8d4Zfp2C-A5Ercrdvg5iPCyh7dpRoRj6feYer9UrEw%26m%3D1xhbQenzSj-ciNoYi2MCvXAHk8zpAEWoyMMaHGnZz5s%26s%3Dpr51eu27YBAwu5wExmAWPQAqM3-OHQFcVls3qPZYV9I%26e%3D&data=01%7C01%7CKaren.Kenny%40dilgp.qld.gov.au%7C42c843c42f3f4e766bfd08d4c28a9b58%7C7db2bee6535c4748bf78c30733511bcd%7C0&sdata=maUhKUTczEQLl0csTIgKhJv1BE%2F5iNrJLG%2FvaBX%2B0v8%3D&reserved=0). Note: For the purpose of this code, the matters of state environmental significance assessed are marine plants, waterways that provide for fish passage and declared fish habitat areas.Guidance for determining if the development will have a significant residual impact on the matter of state environmental significance is provided in the Significant residual impact guideline, Department of State Development, Infrastructure and Planning, 2014. Where the significant residual impact is considered an acceptable impact on the matter of state environmental significance and an offset is considered appropriate under the Environmental offsets framework, the offset should be delivered in accordance with the *Environmental Offsets Act 2014*. | No acceptable outcome is prescribed. |  |