

RPI Act Statutory Guideline 11/16 Companion Guide

Regional Planning Interests Act 2014 (RPI Act)

A guide for state agencies and proponents on the requirements of the RPI Act in the planning and development process.

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An electronic copy of this report is available on the Department of Infrastructure, Local Government and Planning's website at www.dilgp.qld.gov.au.

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1. About this companion guide

Introduction

The purpose of this document is to provide an overview of legislative requirements for resource activities¹ and regulated activities² that will impact, or are likely to impact, areas of regional interest in Queensland.

Early identification of the state's interest will alert project proponents to state interests and requirements for their projects at an early stage in the planning and approvals process and may reduce demands on state agencies in regard to the *Regional Planning Interests Act 2014* (RPI Act) matters.

This version of the companion guide does not provide exhaustive detail on how to apply the RPI Act. More detailed information can be obtained on the RPI Act website which includes links to the RPI Act and the Regional Planning Interests Regulation 2014 (RPI regulation), guidelines, FAQs, forms, applications and departmental contact details at www.dilgp.qld.gov.au/RPIAct.

A list of the guidelines has been provided in section 3 below.

Abbreviations

| | |
|----------------|---|
| RPI Act | <i>Regional Planning Interests Act 2014</i> |
| RPI regulation | Regional Planning Interests Regulation 2014 |
| FAQs | Frequently asked questions |
| PAA | Priority agricultural area |
| SCA | Strategic cropping area |
| PLA | Priority living area |
| SEA | Strategic environmental area |
| PALU | Priority agricultural land use |
| SCL | Strategic cropping land |
| RIDA | Regional interests development approval |
| DILGP | Department of Infrastructure, Local Government and Planning |
| DNRM | Department of Natural Resources and Mines |
| DAF | Department of Agriculture and Fisheries |
| DEHP | Department of Environment and Heritage Protection |
| ALUM | Australian Land Use and Management classification |
| SPA | <i>Sustainable Planning Act 2009</i> |
| EP Act | <i>Environmental Protection Act 1994</i> |
| SDPWO Act | <i>State Development and Public Works Organisation Act 1971</i> |
| MR Act | <i>Mineral Resources Act 1989</i> |
| SARA | State Assessment and Referral Agency |
| The court | Planning and Environment Court |

¹ 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*.

² Regulated activities include activities that are likely to have a widespread and irreversible impact on the area of regional impact and are prescribed under a regulation for the area. A regulated activity includes the carrying out of the activity.

Definitions—the dictionary

The terms used in this guideline have the meaning given in the RPI Act unless otherwise defined in the RPI regulation or this companion guide.

How to use this companion guide

This companion guide can be used by proponents, commonwealth and state agencies, local governments and assessment managers to prepare:

- initial advice statements
- terms of reference
- environmental impact statements
- environmental authorities
- assessment reports
- resource authorities
- other documents associated with the environmental and land use assessment process in Queensland.

The guide provides a summary of the legislative responsibilities and explains the principles that underpin the provisions of the RPI Act so that these may be considered early in the planning and approvals process.

Project proponents are encouraged to arrange pre-application meetings with the RPI development assessment team Department of Infrastructure, Planning and Local Government (DILGP) at an early stage in the project planning process.

2. The RPI Act and regulation

The purpose of the RPI Act is to manage the impact of certain activities on areas of the state that contribute, or are likely to contribute, to Queensland's economic, social and environmental prosperity.

Outcomes are achieved by:

- identifying and protecting areas of Queensland that are of regional interest ('areas of regional interest')
- applying a land use and development assessment framework for resource activities and regulated activities
- providing an appropriate balance between priority land uses (and other policies).

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

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

The assessment and management process is a stand-alone and separate process to other assessment processes. It is not linked to the processes under the *Sustainable Planning Act 2009* (SPA), the *Environmental Protection Act 1994* (EP Act) or resource tenure applications and is not bound recommendations made by the Coordinator-General under the *State Development and Public Works Organisation Act 1971* (SDPWO Act).

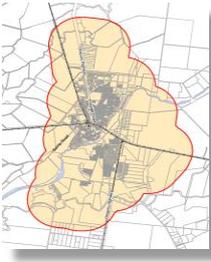
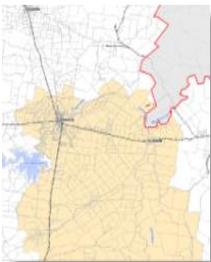
The assessment and management process is administered by DILGP with decisions made by the chief executive (or delegate) using advice provided by assessing agencies (similar to the process followed by State Assessment and Referral Agency (SARA) under the SPA).

The RPI Act provides for the issuing of a RIDA. The RIDA attaches to the land despite any changes to the land's ownership or occupation.

Appeals may be made to the Planning and Environment Court (the court).

Areas of regional interest

There are four areas of regional interest in Queensland. Within each area of regional interest ‘attributes’ have been identified.

| | Area of regional interest | RPI regulation |
|---|---|--|
|  | <p>Priority living areas (PLA) – mapped areas in a regional plan to assist in providing certainty for the future of towns.</p> | <p>Provides the ability for local government to have a say in the assessment of resource activities within a PLA in their local government area.</p> |
|  | <p>Priority agricultural areas (PAA) – mapped areas in a regional plan or regulation to assist in protecting strategic clusters of a region’s priority agricultural land uses.</p> | <p>Criteria to protect priority agricultural land uses (PALUs) within a PAA from the impacts of incompatible resource activities.</p> |
|  | <p>Strategic cropping area (SCA) – the area shown on the SCL trigger map as strategic cropping lands (mapped by DNRM).</p> | <p>Criteria to protect the strategic cropping land soils of the SCA from the impacts of resource activities.</p> |
|  | <p>Strategic environmental areas (SEA) – mapped areas in a regional plan or regulation to assist in protecting regionally specific environmental attributes.</p> | <p>Criteria to protect identified environment attributes of an SEA from the impacts of resource and other regulated activities.</p> |

An indicative map of the current areas of regional interest has been provided in section 4 below.

The potential impact on the area of regional interest and the attributes of that area is assessed against assessment criteria which are contained in the RPI regulation. The assessment criteria assess potential impact on either a property scale, or the property and the regional scale. Examples of attributes and impacts are provided below:

| Area of regional interest | Attribute | Property scale impacts (e.g.) | Regional scale impacts (e.g.) |
|-------------------------------------|--|--|---|
| Priority agricultural area (PAA). | Priority agricultural land use (PALU). | Disruption to the conduct of a PALU including: inputs such as water or fertiliser or outputs such as the quantity or quality of a crop, or the supply chain network (roads, rail, port facilities) to fresh or export markets. | Changes to the levels of production from a proven highly productive agricultural area, such as a reduction in the processing of a raw product. |
| Strategic cropping area (SCA). | Strategic cropping land soils (SCL). | SCL used or disturbed during construction or operation. | Impact on an area as a result of the activity but outside the disturbance footprint: such as erosion, changes to overland flows or contamination. |
| Priority living area (PLA). | The settled area of a town and a buffer area for expansion. | Negative impact or damage to existing infrastructure. | Loss of land available for urban development as identified in a planning scheme. |
| Strategic environmental area (SEA). | Specific to each SEA, for example: natural hydrologic processes, wildlife corridors. | Linear infrastructure corridors that do not maximise co-location and minimise the width to the smallest extent possible. | Impact on the natural contours of the floodplain. |

Matters to consider about proposed activities and impacts on areas of regional interest:

- Can the proposed activity comply with the exemption provisions in the RPI Act?
- Is the proposed activity likely to impact the area of regional interest and the attribute/s identified?
- Can it be demonstrated that all reasonable steps have been taken to avoid the impact, or at worst, the impact has been minimised?
- Can the land be restored to its pre-development condition?
- What will the impact be on surrounding land uses?
- Will the activity be of consequence to the region?
- Have all reasonable steps been taken to consult and negotiate with the owner/s of the land about the expected impact of carrying out the activity?
- Will the timing and duration of the activity be of consequence to the attribute of the area of regional interest (for example: agriculture, the town, identified environmental attributes)?
- Does the application demonstrate that the assessment criteria contained in the RPI regulation can be met?

Exemptions from obtaining a RIDA

| Exemptions in the RPI Act | Areas of regional interest |
|--|--|
| Agreement of land owner and no significant impact. | Applies to SCA and PAA only. |
| Activity carried out for less than one year. | Applies to SCA and PAA only. |
| Pre-existing resource activity. | Applies to all areas of regional interest. |
| Pre-existing regulated activity. | Applies to all areas of regional interest. |

Activities carried out with the agreement of the land owner (refer to section 22 of RPI Act) provides for resource activities where:

- the applicant is not the owner of the land; and
- the applicant has entered into a voluntary agreement with the land owner about the resource activity; and
- the resource activity is not likely to have a significant impact on the PAA or SCA in which it is located; and
- the resource activity is not likely to have an impact on land owned by a person other than the land owner.

Activity carried out for less than one year must include the restoration to a pre-activity condition (refer to section 23 of the RPI Act).

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 lawfully³ on the land (refer to section 24 and 24A of the RPI Act).

A regulated 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 (refer to section 25 of RPI Act).

³ 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.

No formal written advice will be provided regarding whether an activity qualifies for an exemption under 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 court under section 78(1)(c) of the RPI Act.

Priority agricultural areas (PAA)

PALUs are classes of land use under the Australian Land Use and Management (ALUM) classification and are identified in the relevant regional plan (e.g. cropping and irrigated land classifications in the Darling Downs and Central Queensland regional plans).

There are two required outcomes for the PAA

1. No material impact on the use of a 'property'⁴ for a priority agricultural land use.
2. No material impact on a region because of activity's impact on the use of land (two or more properties) in a PAA for priority agricultural land uses.

Prescribed solutions encourage

- Locating the resource activity on land not used for priority agricultural land use.
- Minimising the construction and operation footprint of the resource activity.
- Voluntary agreement with land owners.
- The continuation of priority agricultural land uses (this means that the activity does not constrain or restrict farm practices or essential infrastructure use).

Strategic cropping areas (SCA)

The SCA covers the area mapped as SCL on the DNRM SCL trigger map. The SCL trigger map is updated by DNRM (available online) and shows 'potential strategic cropping land.'

There are three required outcomes for the SCA

- No impact on SCL in the SCA.
- No material impact on SCL on the property (SCL).⁵
- No material impact on SCL in an area in the SCA.

Prescribed solutions encourage:

- voluntary agreement with land owners
- locating the resource activity on land not used for SCL
- minimising the construction and operation footprint of a resource activity
- no permanent impact on more than 2 per cent of the SCL on the property.

⁴ Refer to the definition of 'Property' in the RPI Act.

⁵ Refer to the definition of 'Property (SCL)' in the RPI Regulation.

Priority living areas (PLA)

PLAs are urban centres and towns generally with a population of greater than 200 and are identified in a regional plan. PLAs generally include a settlement area and a two-kilometre buffer to urban and rural residential areas.

In many instances, PLAs have replaced restrictions that applied to centres/towns under RA384 (declared under the Mineral Resources Act 1989 (MR Act) prior to the relevant regional plans being prepared.

Required outcome

The location, nature and conduct of the activity is compatible with the planned future for the PLA, stated in the planning instrument under SPA.

Prescribed solutions encourage

- The activity is unlikely to adversely impact on development certainty for land in the immediate vicinity of activity and the PLA generally.
- The carrying out of the activity in the PLA is likely to result in community benefits and opportunities (financial and social).

Strategic environmental areas (SEA)

The former Wild River Areas (under the now repealed *Wild Rivers Act 2005*) with some amendments have been converted to SEAs as follows:

- Channel Country
- Gulf Rivers
- Cape York
- Fraser Island
- Hinchinbrook Island.

The *RPI Act* does not, however, restrict the use of SEAs to just river systems such as the former Wild River Areas. SEAs can be identified for other environmental areas where mapped in a regional plan or a regulation.

Regulated activities⁶ for a SEA are broadacre cropping and water storage (dam).

Required outcome

The activity will not result in a widespread or irreversible impact on an environmental attribute of a SEA.

⁶ Refer to part 4 of the RPI regulation for 'regulated activities'.

Prescribed solutions encourage:

- the environmental attributes⁷ of each SEA are to be protected
- no 'unacceptable land uses'⁸ can be approved in designated areas
- minimising the construction and operation footprint of a resource activity or regulated activity
- no widespread or irreversible impact on an environmental attribute.

⁷ Refer to part 3 of the RPI regulation for environmental attributes of the SEAs.

⁸ Refer to part 5 schedule 2 of the RPI regulation for 'unacceptable uses'.

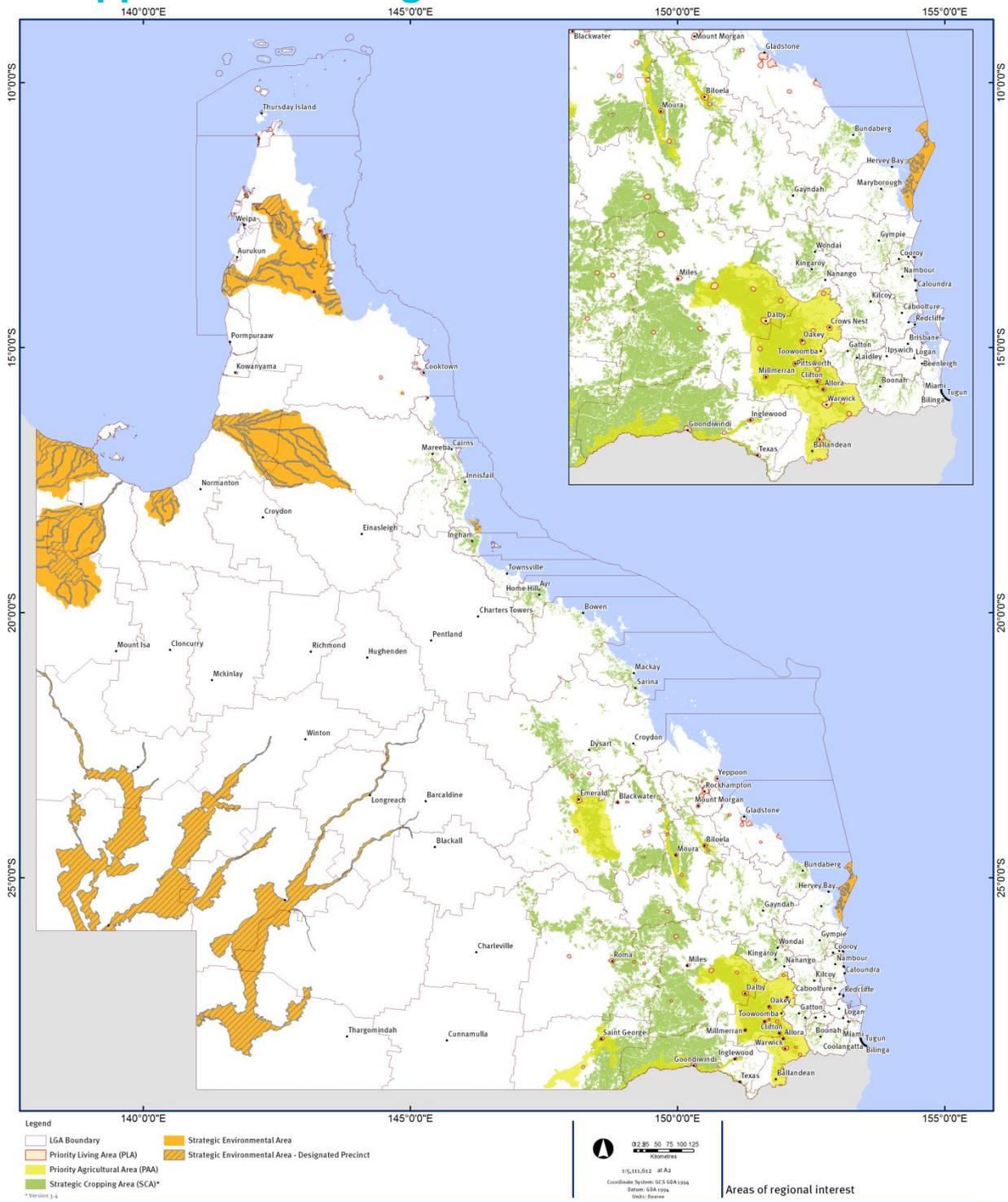
3. List of statutory guidelines on the RPI Act website

The following guidelines are provided for information and to assist proponents to understand how to prepare their applications.⁹

| RPI Act statutory guideline | Guideline number |
|--|------------------|
| How to make an assessment application under the <i>RPI Act</i> | 01/14 |
| Carrying out activities in a priority agricultural area | 02/14 |
| Carrying out activities in the strategic cropping area | 03/14 |
| Carrying out activities in a priority living area | 04/14 |
| Carrying out resource and regulated activities in a strategic environmental area | 05/14 |
| Notification requirements under the RPI Act | 06/14 |
| How to identify a priority agricultural land use | 07/14 |
| How to demonstrate that land in the strategic cropping area does not meet the criteria for strategic cropping land | 08/14 |
| How to determine if an activity has a permanent impact on strategic cropping land | 09/14 |
| Changes to the SCL Trigger Map: Implications for activities in the strategic cropping area | 10/14 |

⁹ This list is current at 3 July 2017.

4. Mapped areas of regional interest¹⁰



¹⁰ Data layers are provided by the Queensland Government. Map is current at 10 June 2016.

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