

## 2. Project Approvals

### 2.1 Overview

This section identifies the relevant legislation applicable to the Project and approval requirements. It discusses the Project's consistency with existing land uses or long term policy framework for the area (e.g. as reflected in local and regional plans) and the legislation, standards, codes or guidelines available to manage the development of the Project.

The purpose of this assessment is to demonstrate how the Project conforms to Commonwealth, State, regional and local plans for the area.

### 2.2 Commonwealth Legislation

#### 2.2.1 Environmental Protection and Biodiversity Conservation Act 1999

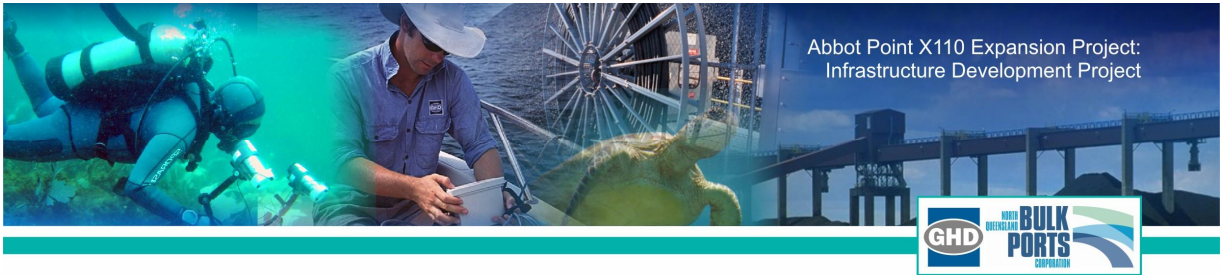
The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the Commonwealth's principle piece of environmental protection legislation. Under Part 3 of the EPBC Act, a person must not take an action that has, or is likely to have, a significant impact on a matter of National Environmental Significance (NES), unless that person can rely on an exemption, or obtain an approval from the Commonwealth Minister.

On 20 October 2008, the X110 Infrastructure Development Project was declared to be a controlled action requiring assessment by Preliminary Documentation.

Following determination of the Project as a controlled action, DEWHA issued ToR to be addressed as part of the development of Preliminary documentation. These ToR address the following key issues regarding the Project and potential impact on matters of NES:

- » Water quality in relation to potential impacts to the Caley Valley wetlands and the Great Barrier Reef;
- » Migratory species in relation to potential impacts from increased activities on avifauna and marine migratory fauna;
- » Commonwealth marine in relation the potential increased risk of introduced marine pests;
- » Sewerage treatment facility in relation to water treatment methods and discharge of the treated effluent;
- » Concept plan indicating areas of clearing, stockpile locations and discharge points for sewerage and stormwater runoff; and
- » Ship quarantine waste facility in relation to the methods of treatments and disposal of the quarantine waste.

A separate report has been prepared to address those issues identified by the DEWHA and is attached as Appendix H.



### 2.2.2 Native Title Act 1993

The *Native Title Act 1993* (NT Act) recognises the rights and interests over land and water possessed by Indigenous people in Australia under their traditional laws and customs. Through the NT Act, the Native Title Tribunal was established, setting out processes for the determination of these native title rights and interests over land and water.

The objects of the NT Act are to:

- » Provide for the recognition and protection of native title;
- » Establish ways in which future dealings affecting native title may proceed, and to set standards for these dealings;
- » Establish a mechanism for determining claims to native title; and
- » Provide for, or permit, the validation of past acts and intermediate acts, invalidated because of the existence of native title.

No native title claims are current over the area.

### 2.2.3 Maritime Transport and Offshore Facilities Security Act 2003

The purpose of this *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA) is to safeguard against unlawful interference with maritime transport.

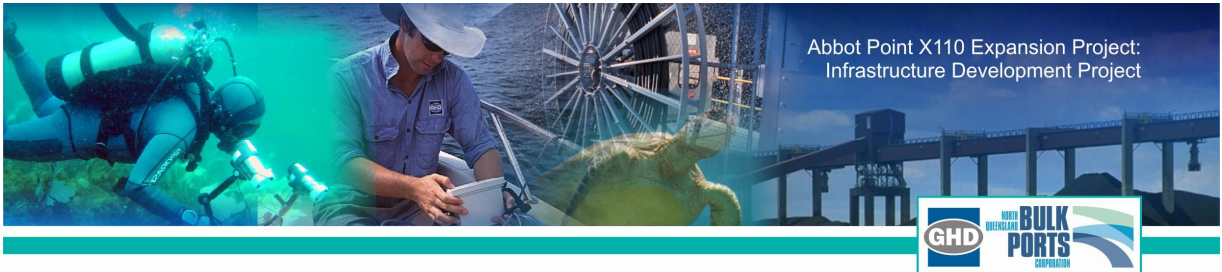
The MTOFSA Act establishes a regulatory framework centred on the development of security plans for ships and other maritime transport operations. Security plans are required to achieve maritime security outcomes. The maritime security outcomes are as follows:

- » Australia's obligations under Chapter XI-2 of the Safety of Life at Sea (SOLAS) Convention and the International Ship and Port Facility Security Code (ISPS Code), including those with regard to the rights, freedoms and welfare of seafarers are met;
- » the vulnerability to terrorist attack of Australian ships, ports and other ships within Australia is reduced without undue disruption to trade;
- » the risk that maritime transport is used to facilitate terrorist or other unlawful activities is reduced; and
- » security information is communicated effectively among maritime industry participants and government agencies, with maritime transport security responsibilities.

Because international shipping uses the port, operational requirements will need to comply with this legislation. The Abbot Point Coal Terminal has a Maritime Security Plan approved under the Act to cover existing operations and this will need to be amended to address expanded facilities before their operation.

### 2.2.4 Historic Shipwrecks Act 1976

The *Historic Shipwrecks Act 1976* (HS Act) provides for the protection of historic shipwrecks and relics in waters under Commonwealth responsibility. All wrecks that have been sunk for more than 75 years are deemed to be historic shipwrecks. Waters under Commonwealth responsibility extend from the mean low water mark, to the outer edge of the continental shelf. Wrecks above the mean low water mark or



within particular gulfs, bays, or estuaries fall within the responsibility of the individual States and Territories.

The objective of the HS Act is to ensure the protection and conservation of maritime archaeological sites, while encouraging responsible public access. The Act prohibits damage, interference, removal or destruction of a historic shipwreck or associated relics. The Act is administered by the Australian Government in conjunction with the States, the Northern Territory and Norfolk Island. All States and the Northern Territory have complementary legislation in place to protect wrecks and relics in State waters.

There is no evidence of historic shipwrecks within the X110 Infrastructure Development Project study area.

### **2.2.5 Great Barrier Reef Marine Park Act 1975**

The *Great Barrier Reef Marine Park Act 1975* (GBRMP Act) establishes a framework for the establishment, control, management and development of the Great Barrier Reef Marine Park (GBRMP). The Act is administered by the Great Barrier Reef Marine Park Authority (GBRMPA). Regulation 61 of the *Great Barrier Reef Marine Park Regulations 1983* states that the GBRMPA must assess any project that has the potential to impact on the Marine Park.

The proposed off-shore infrastructure is located outside the GBRMP. Therefore, a permit for the off-shore component of this Project will not be required. However, GBRMPA will be consulted as part of this Project.

## **2.3 State Legislation**

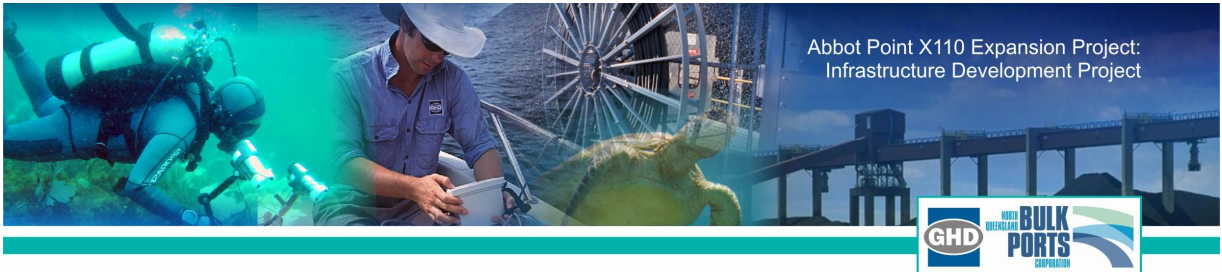
### **2.3.1 State Development and Public Works Organisation Act 1971**

As previously discussed, the Project has been declared to be a significant project not requiring an EIS. The *State Development and Public Works Organisation Act* (SDPWO Act) also establishes the framework for assessment of development within a State Development Area.

The Project development area overlaps the boundary of the APSDA. A development scheme has been prepared to manage land use in the APSDA. The development scheme plans for the establishment of industrial development, infrastructure corridors and essential services in a coordinated manner, recognising the environmental, cultural heritage and community values.

Any proponent who wants to establish a new land use within the APSDA must seek prior approval from the Coordinator General (CG). A proponent can do this through the application, referral and assessment process set out in Section 9 of the Development Scheme. An application made to the CG must be accompanied by either a planning report, or an Environmental Impact Statement (EIS). The CG decides on the level of assessment required for a project. If an EIS is required, this will be prepared by the proponents in accordance with the terms of reference provided by the CG. In this instance, it is expected that this VEA will meet the requirement of an EIS or planning report.

The State Development Area Development Scheme only regulates the Material Change of Use (MCU) component of development and therefore any other approvals (unless the Project is otherwise exempt) will still be required under Schedule 8 of the IPA or other legislation. A brief outline and flowchart of the application process is set out below in Figure 2-1.



### **Application Stage (s9.1)**

A person may make an application to the CG for a MCU of premises as set out in Schedule 1 of the development scheme, in the APSDA. An application must be accompanied by:

- a planning report; or
- an EIS (in this instance a VEA).

Under s9 (5) of the Development Scheme, the CG must, within 20 business days after receiving the application, advise the proponent that the proposed use has been declared a significant project, pursuant to section 26 of the Act and provide a timeframe for providing an EIS (in this instance an VEA). As previously indicated, the project was declared a significant project under section 26 (b) of the SDPWO Act.

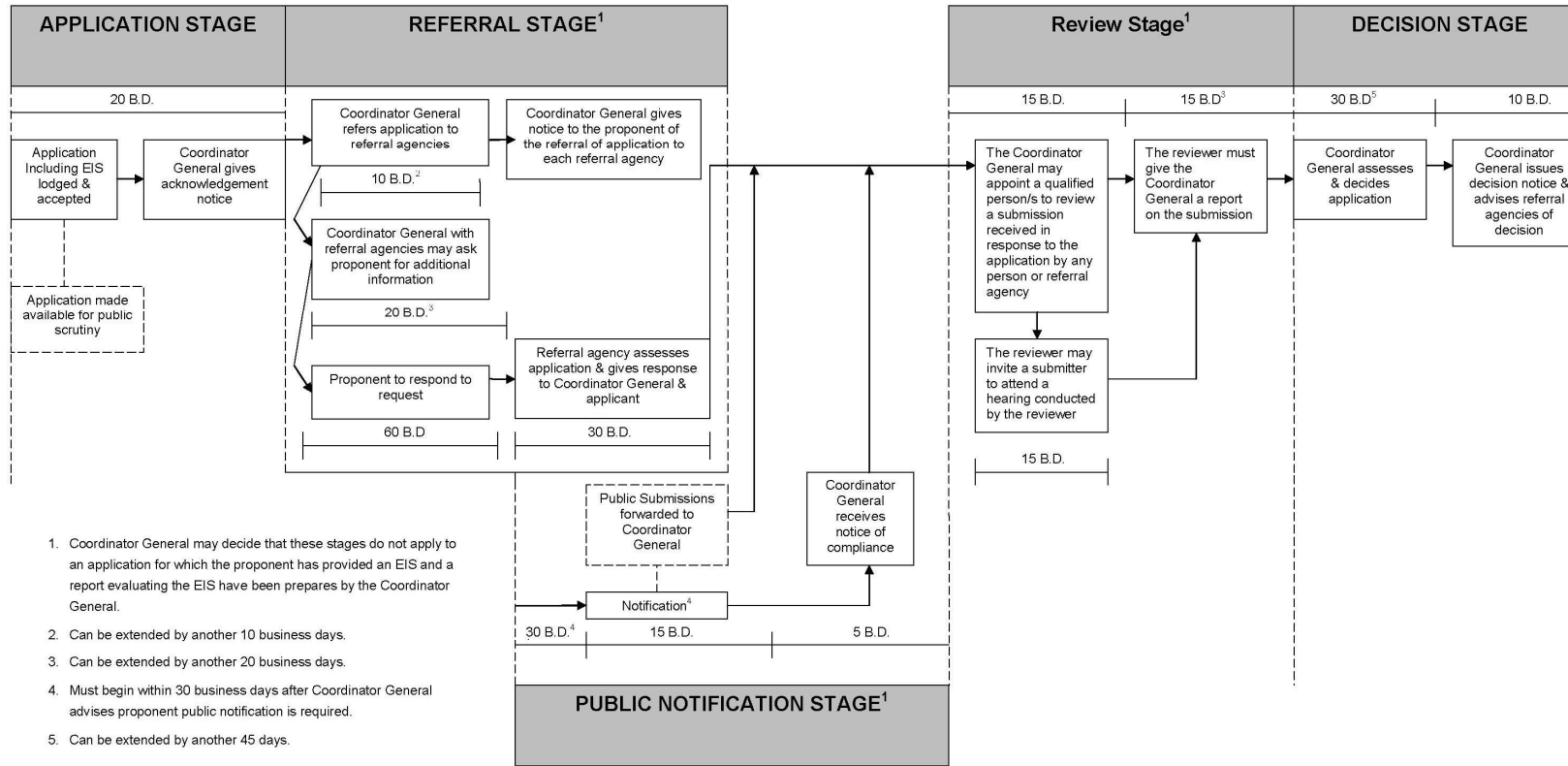
Under s9 (10) of the development scheme, the CG may decide that the referral, notification and review stages of the development scheme do not apply in whole or in part to an application for which the proponent has provided an EIS (in this instance a VEA) and a report evaluating the EIS (in this instance a VEA) has been prepared by the CG.

### **Referral Stage (s9.2)**

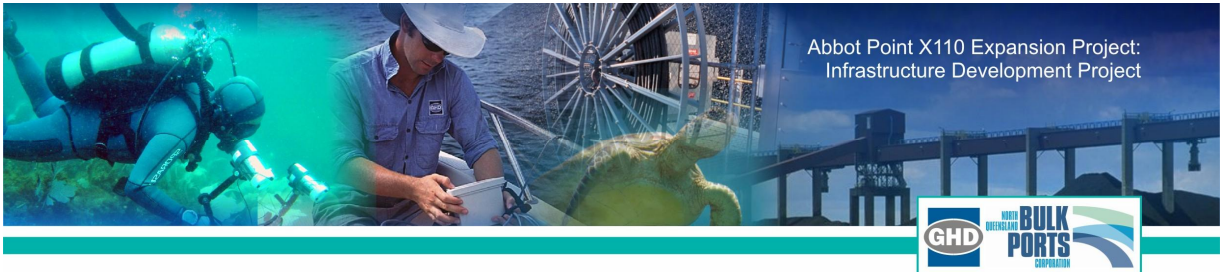
If the CG determines the referral stage is still applicable to the Project, the following process is required:

1. The CG shall refer the application to all referral agencies within the 10 business days (can be extended a further 10 business days) after the completion of the receipt of an application, accompanied by either an EIS (in this instance an VEA) or a planning report requiring no further information.
2. The CG shall give written notification to the proponent of the referral of the application to each referral agency.
3. The CG may, within 20 business days (can be extended a further 20 business days) after completing 1 and 2 above and after consultation with each referral agency, by written request, ask the proponent to give additional information to a referral agency which is needed to assess the application.
4. If the proponent receives a request for additional information, the proponent must, within a period of not more than 60 business days, give each requesting referral agency and the CG a written response. An application lapses if the proponent does not respond within the time specified by the CG as identified above.
5. If the proponent is not required to give further information to a referral agency, each referral agency must within 30 business days after receiving the application, assess the application and give the CG a written submission including any recommendations.
6. If the proponent is required to give further information to a referral agency, each referral agency must within 30 business days after receiving a written response from the proponent, assess the application and give the CG a written submission including any recommendations.
7. If a referral agency does not respond within the required time, the CG may proceed to the next stage of the assessment process as if the agency had assessed the application and had no requirements for the application.

**Figure 2-1 APSDA Application process flowchart**



Note: The term EIS has been used in this flowchart. The Proponent has undertaken a Voluntary Environmental Assessment for the Project, which is similar in nature to an EIS.



### **Public Notification Stage (s9.3)**

If the CG determines the notification stage is still applicable to the Project, the following process is required:

1. The CG must give written notice to the proponent advising if the application requires public notification and a time period for which submissions can be made (not less than 15 business days starting on the day after the last action of the public notification is carried out);
2. The proponent must undertake public notification of an application within 30 business days after receiving notification from the CG; and
3. Within 5 business days after the last date for the receipt of submissions, the proponent is to provide the CG with a statutory declaration in a form approved by the CG, which establishes that the proponent has complied with the public notification stage and states the last date for the receipt of submissions.

### **Review Stage (s9.4)**

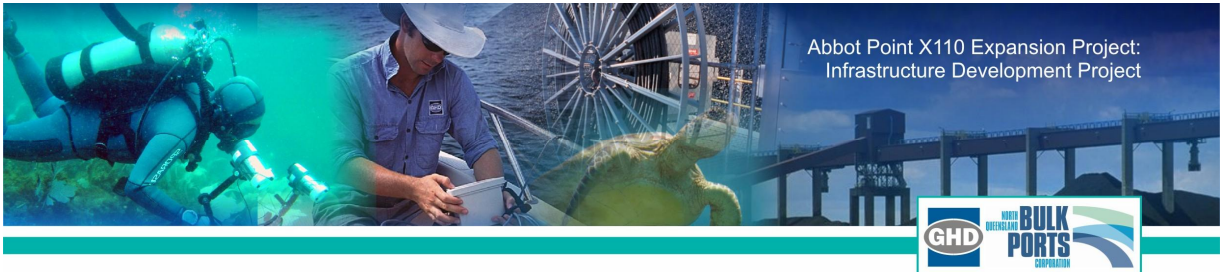
If the CG determines the review stage is still applicable to the Project, the following process is required:

1. The CG may appoint a qualified person or persons to review a submission received in response to the application by any person or a referral agency, within 15 business days after the completion of the referral and notification stages;
2. The reviewer may invite a submitter to attend a hearing conducted by the reviewer, where the hearing shall occur within 15 business days of the reviewer receiving the submission;
3. The reviewer must give the CG a report on the submission within 15 business days (can be extended another 20 business days) after the date of completing the hearing, or within 25 business days after receiving the submission, where no hearing was conducted by the reviewer; and
4. If a reviewer does not respond within the required time, the CG may proceed to the next stage of the assessment process, as if the CG had not appointed a reviewer under the development scheme.

### **Decision Stage (s9.5)**

The CG must decide an application within thirty (30) business days of the completion of the last of the following:

1. receiving an application satisfactory to the CG; or
2. receiving a report of the reviewer; or
3. the proponent giving the CG a statutory declaration under section 9.3(7) of the Development Scheme; or
4. the receipt of a submission from each referral agency under section 9.2(7) or 9.2(8) of the Development Scheme; or
5. public notification of the report prepared by the CG evaluating an EIS (in this instance a VEA) for a proposed use declared a significant project pursuant to section 26 of the Act, as advised under section 9.1(5)(a)(iii).



The CG may, by written notice given to the proponent, extend the decision making period by 45 business days or such longer period as the CG determines. The decision notice must be given within 10 business days after the day the decision is made and must include the following:

- whether the application is approved, approved subject to conditions or refused; and
- if the application is approved subject to conditions, the conditions.

An application for development within the APSDA will be made to the Department of Infrastructure and Planning following the public notification of the draft VEA. An assessment of the proposal against the APSDA is provided in Section 2.3.5.

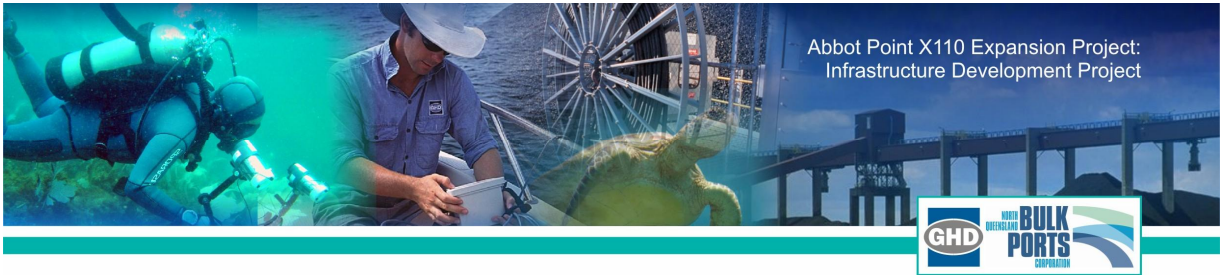
### 2.3.2 Environmental Protection Act 1994

The *Environmental Protection Act 1994* (EP Act) places emphasis on managing Queensland's environment within the principles of ecologically sustainable development. The EP Act is administered by the Department of Environment and Resource Management (DERM). Under the EP Act anyone undertaking an activity that may cause environmental harm must comply with the EP Act's general duty of care and approval is required for:

- » Activities that could cause actual or potential environmental harm via the generation of emissions or through carrying out the activity;
- » Environmentally Relevant Activities (ERAs);
- » Activities likely to cause land contamination (notifiable activities recorded on the Environmental Management Register); and
- » All other notifiable activities listed in Schedule 3 of the EP Act.

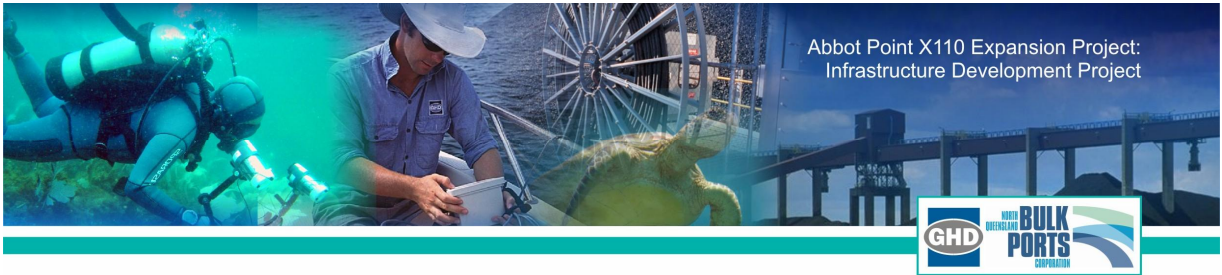
Sections 319 and 320 of the EP Act note that all persons have a duty of care to the environment. Therefore, it is not permissible to cause environmental harm (as defined in the EP Act) whilst undertaking any activity, unless all reasonable and practical means are taken to minimise that harm. To assist in meeting this duty of care, DERM has prepared Environmental Protection Policies (EPPs). The EP Act outlines the scope and content for preparing EPPs to protect Queensland's environment. These policies may be made with regard to the environment or anything that affects, or may affect, the environment. It should also be noted that all subordinate legislation to the EP Act, such as the EPPs, binds all persons.

Schedule 2 of the *Environmental Protection Regulation 2008* under the EP Act lists various ERAs for which development approval and registration certificates are required to authorise those activities. The ERAs that are relevant to the Project are identified in Table 2-1. Activities that have been identified as likely to cause land contamination are listed in Schedule 3 of the EP Act. Under the Act, landowners and local government must inform DERM that land has been, or is being, used for a notifiable activity. Land that has been, or is being, used for a notifiable activity, is recorded on the Environmental Management Register, which is maintained by DERM. Part 8 of the EP Act deals with managing contaminated land. The Proponent will be required to advise DERM if notifiable activities are to occur on site.



**Table 2-1 Relevant ERAs**

ERA	Trigger	Aggregate Environmental Score
<p>16 Extractive and screening activities</p> <p>Lot 46 on SP156160</p> <p>Lot 47 on SP117913</p> <p>Lot 4 on RP738760</p>	<p>Extractive and screening activities consists of any of the following –</p> <p>(c) extracting, other than by dredging, a total of 5000t or more of material, in a year, from an area other than a wild river area;</p> <p>d) screening 5000t or more of material in a year.</p>	<p>Extracting, other than by dredging, in a year, the following quantity of material –</p> <p>(b) 5000t to 100000t – 22</p> <p>Screening, in a year, the following quantity of material –</p> <p>(a) 5000t to 100000t – 13</p>
<p>17 Abrasive Blasting</p> <p>To be undertaken potentially on all lots in X110 Project Area</p>	<p>Abrasive blasting consists of cleaning equipment or structures on a commercial basis using a stream of abrasives in either a wet or dry pressure stream. It includes:</p> <p>(a) spraying a coating on equipment or a structure that has been subject to abrasive blasting; and</p> <p>(b) carrying out the activity at any site.</p>	<p>The aggregate environmental score for abrasive blasting is 16.</p>
<p>18 Boilermaking or Engineering</p> <p>To be undertaken potentially on all lots in X110 Project Area</p>	<p>Boilermaking or engineering consists of boilermaking, assembling, building or manufacturing a total of 200t or more of metal product in a year.</p>	<p>Carrying out the relevant activity for producing, in a year, the following quantity of metal product:</p> <p>(b) more than 10000t – 46</p>
<p>38 Surface Coating</p> <p>To be undertaken potentially on all lots in X110 Project Area</p>	<p>Surface coating consists of using, in a year, 1t or more of surface coating materials for anodising, electroplating, enamelling or galvanizing; or coating or painting or powder coating.</p>	<p>Anodising, electroplating, enamelling or galvanizing, using, in a year, the following quantity of surface coating materials:</p> <p>(d) more than 10000t – 66</p> <p>Coating, painting or powder coating, using, in a year, the following quantity of surface coating materials:</p> <p>(b) more than 100t – 7</p>
<p>43 Concrete batching</p> <p>Lot 4 on RP738760</p> <p>Lot 58 on SP112921</p> <p>Lot 33 on SP124849</p> <p>Lot 32 on SP124849</p> <p>Lot 1 on RP745292</p>	<p>Producing concrete or a concrete product by mixing cement, sand, rock, aggregate or other similar materials in works (including mobile works) having a design production capacity of more than 200t a year.</p>	<p>The aggregate environmental score for concrete batching is 30.</p>



ERA	Trigger	Aggregate Environmental Score
50 Bulk material handling To be undertaken potentially on all lots in X110 Project Area	Commercially loading, unloading or stockpiling materials or goods, in association with an activity mentioned in item 71, using a crane, conveyor, pump or other similar way at a rate of more than 100t a day.	Loading or unloading 100t or more of bulk materials in a day or stockpiling bulk materials – 73
63 Sewage treatment Lot 49 on SP185904	A standard or special sewage treatment works having a peak design capacity to treat sewage of 21 or more equivalent persons.	Operating sewage treatment works, other than no-release works, with a total daily peak design capacity of – (a) 21 to 100EP – 27

The EP Act outlines the scope of, and content for, preparing EPPs to protect Queensland's environment. These policies may be made with regard to the environment, or anything that affects, or may affect, the environment. It should also be noted that all subordinate legislation to the EP Act, such as the EPPs, have legal force. Relevant policies are discussed further below.

#### **Environmental Protection (Noise) Policy, 2008 Qld (EPP Noise)**

The proposal is situated in an unpopulated area, with little likelihood that the construction, commissioning or operation of the proposal would generate noise problems for the community. However, the proponent is advised of the requirements outlined under the EPP Noise and the *AS 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

The objective of the EPP Noise is to identify the environmental values to be protected and it sets the framework for decision-making. The policy seeks to protect the well being of the community, including its social and economic amenity, or the well-being of the individual (Section 7). The policy notes that 'beneficial assets' such as industrial estates etc may be allowed a higher noise level than the acoustic air quality objective of 55 dB(A) for residential areas (Schedule 1).

#### **Environmental Protection (Air) Policy, 2008 Qld (EPP Air)**

The aim of this policy is to identify environmental values to be protected or enhanced, specify air quality indicators and provide a framework for decision-making. The proponent will have obligations under the EPP Air which must be fulfilled. These obligation are further discussed in Section 4.12.

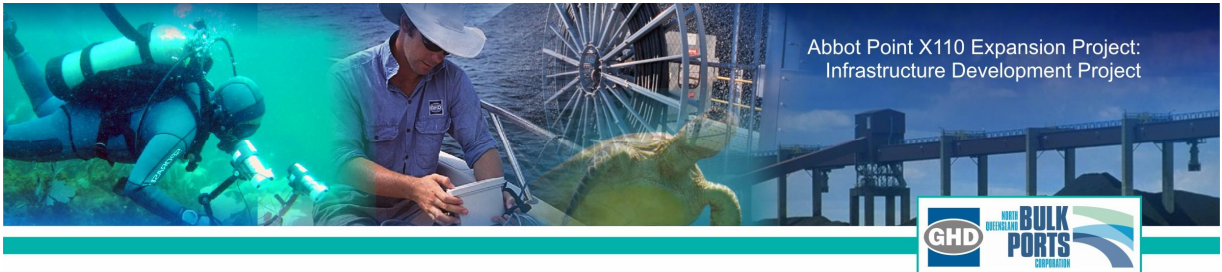
#### **Environmental Protection (Water) Policy, 1997 Qld (EPP Water)**

The policy provides a framework for making decisions on Queensland waters that promote efficient use of resources, best practice environmental management and involving the community.

Sections 15 and 16 provide the management hierarchy for water. These include waste prevention and management, wastewater recycling and the release of waste water on land or to surface waters, stormwater management, release to ground water, construction of wetlands and Acid Sulfate Soils (ASS).

#### **Environmental Protection (Waste Management) Policy, 2000 Qld (EPP Waste)**

The EPP Waste provides a strategic framework for managing waste in Queensland. This is achieved by establishing a preferred waste management hierarchy and principles for achieving good waste management, which should be applied by both government and industry (sections 8-13, Schedule 1).



The waste hierarchy ranges from the most preferred, to the least preferred method: waste avoidance – waste reuse – waste recycling – energy recovery from waste – waste disposal.

The principles for achieving good waste management include:

- » the polluter pays principle - all costs associated with waste management should be borne by the waste generator;
- » the user pays principle - all costs associated with the use of a resource should be included in the price of goods and services developed from the resource; and
- » the product stewardship principle - the producer or importer of a product should take all reasonable steps to minimise environmental harm from the production, use and disposal of the product.

The EPP also defines the required contents of waste management programs (sections 18-21), which the Proponent may be required to implement as a condition of an environmental licence for an Environmentally Relevant Activity (ERA).

### 2.3.3 Integrated Planning Act 1997

The purpose of the *Integrated Planning Act 1997* (IPA) is to seek to achieve ecological sustainability by:

- » coordinating and integrating planning at the local, regional and State levels;
- » managing the process by which development occurs; and
- » managing the effects of development on the environment.

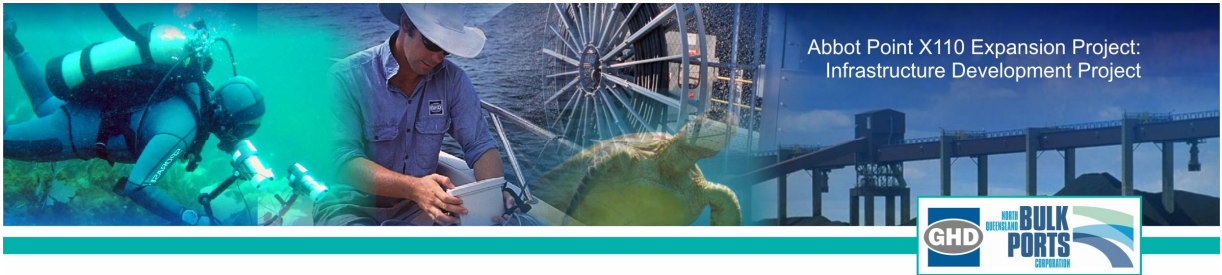
The IPA establishes the Integrated Development Assessment System (IDAS), which integrates a range of development approvals including, but not limited to, the EP Act, *Transport Infrastructure Act 1994*, *Coastal Management and Protection Act 1995*, *Fisheries Act 1994*, *Water Act 2000* and *Vegetation Management Act 1999*, as listed in Schedule 8 of the IPA.

As a minimum, the proposed development involves a MCU of a number of ERAs (refer Table 2-1) and operational works which will require assessment and approvals.

This report has not identified other development approvals that may be required such as building work and/or plumbing and drainage work that are also aspects of 'development' as defined under the IPA.

NQBP has sought designation by the Minister for Infrastructure and Planning, for an Assessment Manager for the development applications. On 11 May 2009, the Minister determined that Assessment Manager for the X110 Infrastructure Development Project is the port authority, that is, North Queensland Bulk Ports Corporation Limited. The Development Applications will be supported by a planning report or a VEA and other information required to be provided with each application. The Assessment Manager must then make a decision to approve, approve subject to specific conditions, or refuse the Development Applications.

IPA is being replaced by the *Sustainability Planning Act*, which was passed in Parliament on 16 September 2009. Approvals for the X110 Infrastructure Development Project will be sought under the Act current at the time of submission.



### 2.3.4 Transport Infrastructure Act 1994

The overall objective of this Act, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, is to provide a regime that allows for, and encourages, effective integrated planning and efficient management of a system of transport infrastructure.

The *Transport Infrastructure Act 1994* (TI Act) establishes the approach for the development and management of land use for ports. Port land use plans identify land that is Strategic Port Land (SPL). Development which is a MCU on strategic port land (SPL) and which is inconsistent with a land use plan approved under the TI Act 1994, triggers assessment under Schedule 8 of the IPA. Other development made assessable through Schedule 8 also applies on SPL. This includes, for example, a MCU for an ERA, or operational works for clearing native vegetation on freehold land (unless the clearing is an exception under Part 1, Schedule 8). Reconfiguration of a lot on SPL is exempt development.

SPL is not subject to local government planning schemes. Instead, the Port Authority regulates development on SPL and is the assessment manager for all applications, regardless of whether the development is inconsistent or consistent with the land use plan. The only exception is applications for building work assessable under the *Building Act 1975* which may be made to a private building certifier. While local governments are not responsible for assessing development on SPL, they are consulted during the preparation of the land use plan.

The Project will require a number of Development Applications in relation to activities being undertaken on SPL.

### 2.3.5 Water Act 2000

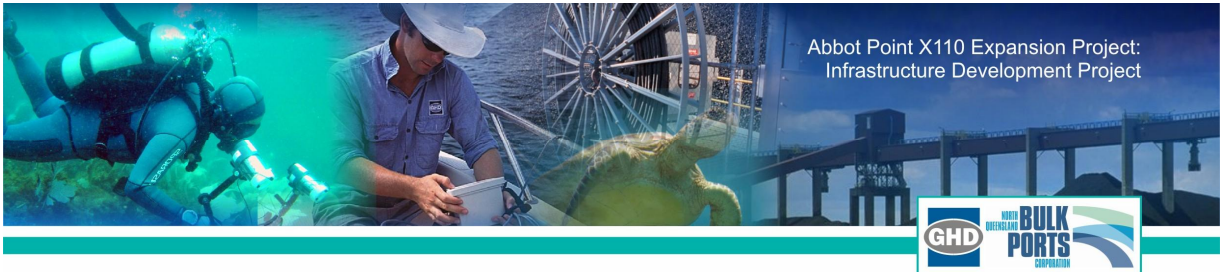
The *Water Act 2000* provides a regime for the licensing, regulation and management of water resources in Queensland. The *Water Act 2000* requires requisite licences (and/or development approvals under the Schedule 8 of IPA) be obtained for the purposes of all or some of the following:

- » Artesian bores;
- » Water pipelines;
- » Pumping stations;
- » Ground level storage sites; and
- » Treatment plants.

All work that may interfere with or impact on water courses, particularly within the bed and banks, will comply with the requirements of the *Water Act 2000* and as necessary or desirable, will be discussed with DERM.

Under section 266 of the *Water Act 2000*, any activities involving excavation or the destruction of vegetation in a watercourse require a permit. In deciding such an application, DERM considers the type and location of the vegetation, the effect of the activity on the watercourse and the reason for the proposal, amongst other things. Generally a watercourse includes any land between the high water marks on the opposite banks of a stream. The Project does not involve development within a watercourse.

The Act also regulates the development of referable dams. A referable dam is one that would, in the event of failure, put population at risk, this is determined through the conduct of a Failure Impact



Assessment. A Failure Impact Assessment is required to be conducted for all dams which are more than 8 m in height and has a capacity greater than 500 ML, or more than 8 m in height with a capacity of more than 250m ML and a catchment area of more than three times its total surface areas and full capacity.

The proposed sedimentation ponds and stormwater return dam proposed as part of the X110 Infrastructure Development Project do not trigger the need for a Failure Impact Assessment.

### 2.3.6 Vegetation Management Act 1999

The *Vegetation Management Act 1999* (VMA), in conjunction with the IPA, regulates the clearing of native vegetation, excluding grasses and mangroves. Under the IPA, operational works are defined as, in part, clearing vegetation, including vegetation to which the VMA applies. Schedule 2, Table 2 of the *Integrated Planning Regulation 1998* (IPA Reg) requires that operational work, that is the clearing of native vegetation, be assessed against the purposes of the VMA.

DERM would assess any clearing proposed by this Project against the relevant *Regional Ongoing Clearing Code*. Only remnant vegetation (native vegetation that occurs in a mapped Regional Ecosystem (RE), or that meets the structural and species requirements to be mapped as a RE) will be assessed under this process.

The Project will require the clearing of 58.1 ha of remnant vegetation, of which 48.19 ha is Not of Concern and 9.96 ha is Of Concern. Clearing is expected to occur on the following lots:

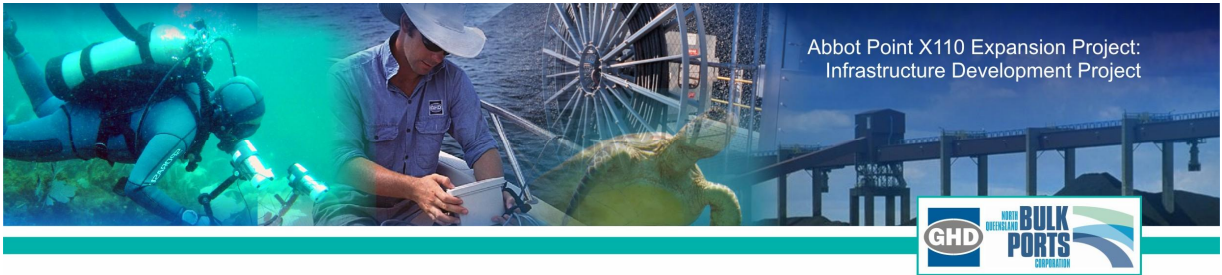
- » Lot 32 on SP124849
- » Lot 1 on RP748628
- » Lot 46 on SP156160
- » Lot 34 on SP112920
- » Lot 56 on SP112921
- » Lot 2 on RP738760
- » Lot 1 on RP738760

### 2.3.7 Aboriginal Cultural Heritage Act 2003

The *Aboriginal Cultural Heritage Act 2003* establishes a 'cultural heritage duty of care', which requires that a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage.

The Act establishes a framework for the assessment of cultural heritage impact and processes to be undertaken in preparing Cultural Heritage Management Plans (CHMP). The Act states that where an EIS is required under a legislative framework, then a CHMP must be prepared to manage all aspects of cultural heritage for the construction and operation of the Project.

As the X110 Infrastructure Development Project does not require the development of a formal EIS, a CHMP is not required under legislation. However, NQBP has elected to prepare a CHMP in accordance with the requirements of the Act to manage all aspects of cultural heritage in relation to the Project development and operation.



### 2.3.8 Nature Conservation Act 1994

DERM manages the *Nature Conservation Act 1992 (NCA)*.

Under section 73 (a) of the NCA, DERM is required to conserve wildlife and its values to:

- » Ensure the survival and natural development of the wildlife in the wild; and
- » Conserve the biological diversity of the wildlife to the greatest possible extent; and
- » Identify, reduce or remove, the effects of threatening processes relating to the wildlife; and
- » Identify the wildlife's critical habitat and conserve it to the greatest possible extent.

Any activity that may have, or may have the potential to, impact on wildlife or its values in an area, may be seen as a threatening process and will be referred to DERM as part of the development approval process. In particular, the effect of the Project on Endangered, Vulnerable, or Rare wildlife, or the habitat on which that wildlife depends, will be of interest to DERM in regard to their obligations under section 73 of the NCA.

The *Nature Conservation (Protected Plants) Conservation Plan 2000* was updated on the 8 February 2008. One of the main changes in this plan is that plants listed as least concern (almost all native plants within Qld) now require a clearing permit from DERM prior to removal. Some exemptions exist and are in relation to freehold land and the landowner undertaking the activity.

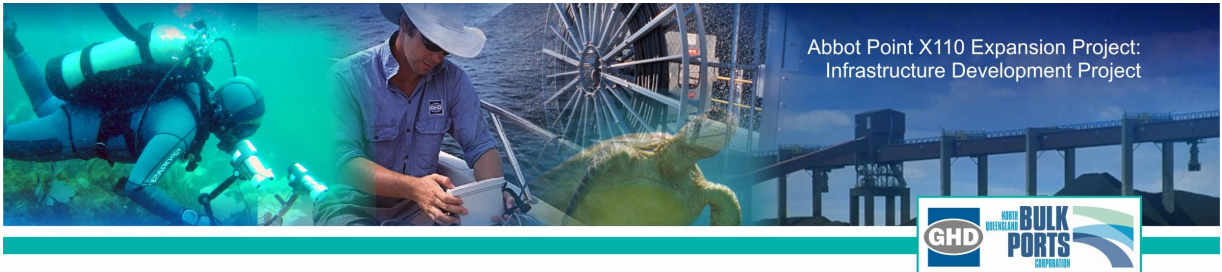
Under section 89 of the NCA, a licence, permit or authority (issued under the NCA), or an exemption is required to 'take' protected plants. The *Nature Conservation (Protected Plants) Conservation Plan 2000* (Conservation Plan) outlines how clearing permits, licences and exemptions can be issued to take protected plants.

Section 41 of the Conservation Plan defines the circumstances where a clearing permit is not required. The most common exemption is where a least concern protected plant is being taken on private (freehold) land and the taking is conducted by the landholder. For the purposes of a clearing permit, the DERM considers that a landholder can be a person or corporation and may include an employee, agent or executive officer (the latter in the case of a corporation). To be considered the landholder, a person must be acting directly on behalf, and for the benefit of, the landholder. Landholder does not include someone not operating under the land owner's direction for the land owner's interests; e.g. an electricity provider maintaining vegetation under powerlines on freehold land.

In summary, a clearing permit is not required to take protected plants if:

- » The taking is of least concern protected plants is conducted by the landholder on private land (as described above);
- » An activity that requires taking is approved by the Governor in Council under an Act other than the NCA. This may include EIS assessments in some situations.
- » An activity that requires taking is approved under an Act other than the NCA and the DERM Chief Executive expressly approves that the taking can occur; or the Chief Executive has provided an exemption for the activity or class of activities.

It should be noted that an approval under IPA or EP Act does not remove the need to obtain a clearing permit under the NCA (unless an exemption applies).



A clearing permit is always required to take rare and threatened plants – those species listed as a classification other than ‘least concern’ in the *Nature Conservation (Wildlife) Regulation 2006*. These classifications are: extinct in the wild, endangered, vulnerable, near threatened and rare.

The Project will require the removal of least concern protected plants. As landowner, NQBP is exempt from the requiring a clearing permit. Some clearing is also required on land currently not owned by NQBP. NQBP is in the process of negotiating acquisition of this land and is expected to be landowner of this area prior to clearing. However, should acquisition of the land not occur prior to the lodgement of development applications for the X110 Infrastructure Development Project, an application under the NCA will be required to secure a permit for clearing.

### 2.3.9 Fisheries Act 1994

The *Fisheries Act 1994* and *Fisheries Regulation 1995* are administered by the Department of Employment, Economic Development and Innovation (DEEDI). Under section 123 of the Act, it is an offence to unlawfully remove, damage or destroy a ‘marine plant’ (defined in the Act as: a plant that usually grows on, or adjacent to, tidal land, whether it is living, dead, standing or fallen).

Under Schedule 8 Table 4 of IPA, operational work that is the removal, destruction or damage of a marine plant is assessable development and is assessed against the purposes of the *Fisheries Act 1994*. Mangroves, seagrass, salt couch and other plants growing adjacent to marine areas are plants likely to be affected by this proposal.

When considering applications for development affecting marine plants, DEEDI consider the level of disturbance likely (both at the construction and operation stage), alternative sites (and the extent to which they are suitable) and possible mitigation measures.

Some marine plants will be affected by the construction of the jetty, so approval to remove marine plants will be sought from DEEDI.

### 2.3.10 Coastal Protection and Management Act 1995

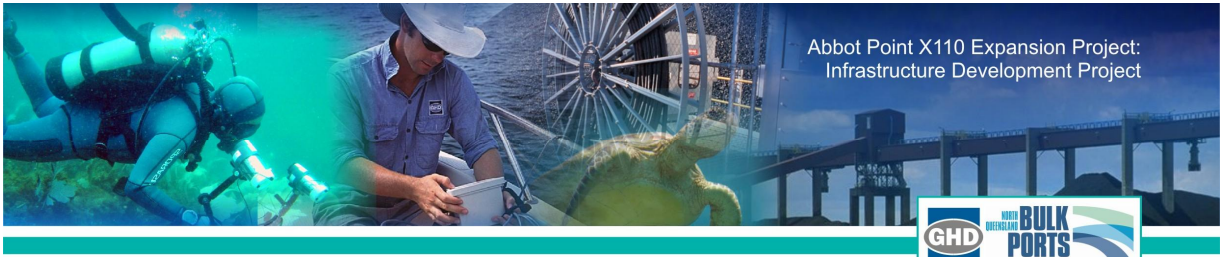
The *Coastal Protection and Management Act 1995* (CPMA) provides for the protection, conservation, rehabilitation and management of the coast including its resources and biological diversity. The development assessment process under the CPMA has been rolled into IDAS under the IPA.

Schedule 8 of the IPA identifies works within tidal waters as assessable development. Tidal water is defined as the sea and any part of a harbour or watercourse ordinarily within the ebb and flow of the tide at spring tides. Tidal works means work in, on or above land under tidal water, or land that would or may be under tidal water, because of development on or near land.

Under IPA, operational works that are defined as tidal works under the CPMA are assessable development. The construction of (among other things) jetties, dockyards, seawalls, a wharf and any work in tidal waters associated with the construction of these structures, is tidal work and must be assessed against the purposes of the CPMA (other Acts may also be involved for non-environmental purposes – see the Integrated Planning Regulations Schedule 2 Table 2).

Under the CPMA, the Chief Executive considering an application for tidal works must consider:

- » Natural coastal, riverine and estuarine processes;



- » Natural topography and drainage of coastal land, including, for example, the integrity of dune systems and natural surface run-off;
- » Coastal wetlands and other coastal ecological systems, including, for example, the wildlife, biological diversity and water quality of the wetlands or systems. Coastal wetlands include tidal wetlands, estuaries, salt marshes, Melaleuca or other coastal swamps, mangrove areas, marshes, lakes or minor coastal streams;
- » Places or objects that have cultural heritage, landscape, historical, anthropological, archaeological or aesthetic significance or value; and
- » Public access to foreshore.

For the purposes of the CPMA, the coastal zone includes all landward features, ecological or natural processes, or human activities that affect, or potentially affect, the coast or coastal resources.

An IDAS application for operational works in relation to works within tidal waters will be required. The application will be assessed against the State Coastal Management Plan.

## 2.4 Planning Assessments

### 2.4.1 Assessment against the Abbot Point Land Use Plan 2008

The Port of Abbot Point, under the authority of NQBP, has a Land Use Plan that was approved in 2008. A new Land Use Plan is currently being developed to include additional on-shore and offshore areas as SPL.

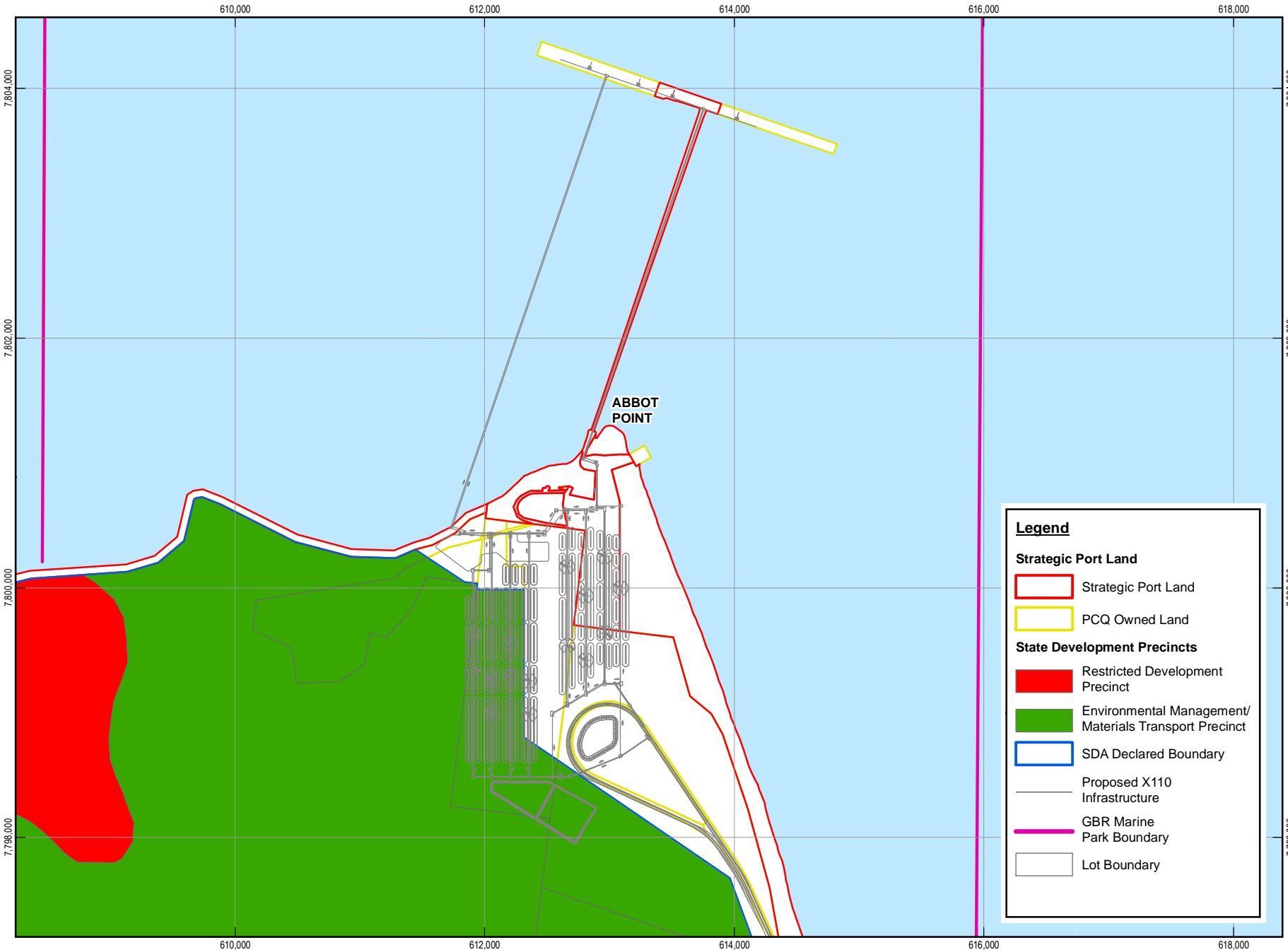
This Land Use Plan for the Port of Abbot Point has been prepared in accordance with the TI Act and includes:

- » A set of *Desired Environmental Outcomes* which provide the overall vision and future direction for the port and a set of outcomes to be reflected through the Land Use Plan.
- » Four *Land Use Plan Designations* which allocate all SPL (including land proposed as SPL) into a designation of similar land use and development functions, attributes or development intent and performance.
- » A description of the *Intent* and a list of *Indicative Uses* that relate to each land use designation.
- » A *Development Guidelines* document that includes a set of codes against which development on SPL is to be assessed.

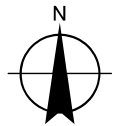
The proposed development is consistent with the Land Use Plan and therefore does not trigger the requirement for approval of a MCU under the NQBP Land Use Plan. A MCU is required for the APSDA.

### 2.4.2 Assessment against the Abbot Point State Development Area

A development scheme has been prepared to manage land use in the APSDA. This scheme, prepared by the Coordinator-General, was approved by the Governor-in-Council on 19 June 2008. A precinct map forms part of the development scheme. This precinct map divides the APSDA into four precincts (see to Figure 2-2).

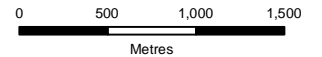


## ABBOT POINT X110 EXPANSION



Job Number | 41-20175  
Revision | B  
Date | 06 OCT 2009

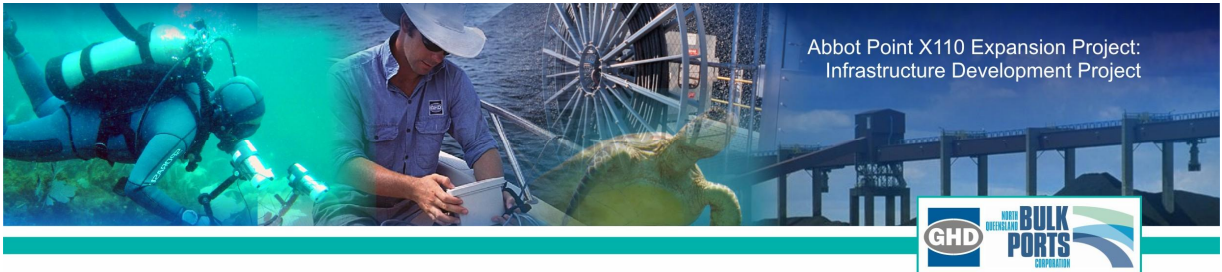
1:42,825 (at A4)



Map Projection: Universal Transverse Mercator  
Horizontal Datum: Geocentric Datum of Australia (GDA)  
Grid: Map Grid of Australia 1994, Zone 55

## STATE DEVELOPMENT PRECINCTS

FIGURE 2-2



The APSDA precincts are:

- » Industry Precinct;
- » Infrastructure and Corridors Precinct;
- » Restricted Development Precinct; and
- » Environmental Management / Materials Transportation Precinct.

The CG assesses applications having regard to the intent, objectives and purpose of these land use precincts and policies within the development scheme in considering the suitability of proposed land uses.

The western portion of the proposed X110 development is included in the Environmental Management / Materials Transport Precinct of the APSDA. All uses that are not Agriculture, Infrastructure Facility or Local Infrastructure in this precinct are not consistent with the purpose of the land use designation.

The intent of the Environmental Management/Materials Transportation Precinct is:

*“To recognise, protect and maintain areas of high ecological significance.*

*To provide infrastructure where it is essential for transportation between the Industry Precinct and the port in a manner which ensures areas of ecological significance are recognised and managed taking into account environmental values.*

*To provide areas for open space where remnant vegetation, wetlands, waterways and areas of ecological significance can remain and where revegetation can occur.*

*To restrict incompatible land uses from establishing near the Industry Precinct.*

*To provide for the physical separation of significant industrial and infrastructure activities within the Abbot Point State Development Area from sensitive land uses outside the Abbot Point State Development Area.*

*To provide for the utilisation of limited areas within the Precinct for uses which will have no adverse impact on premises located outside of the Abbot Point State Development Area and are compatible with being in close proximity to industry.” (CoG 2008).*

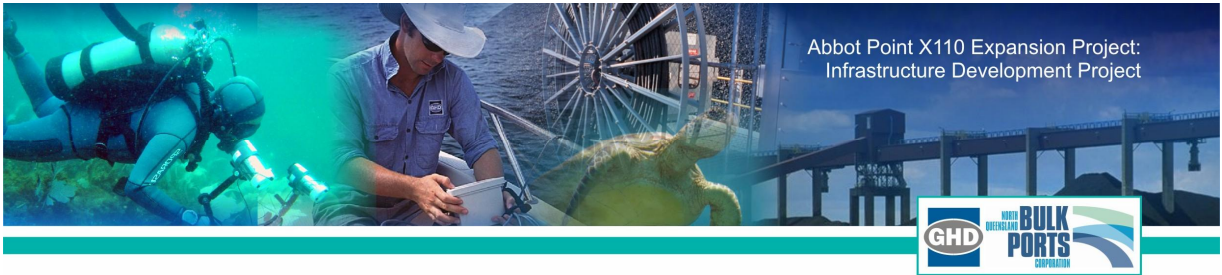
Schedule 1 of the Scheme provides a table of consistent uses for each precinct. The table includes three types of use:

- » Column A – Uses that are considered highly likely to meet the purpose of the land use designation;
- » Column B – Uses that may meet the purpose of the land use designation; and
- » Column C – Uses that area considered likely to compromise the purpose of the land use designation;

Column B identifies three uses which may meet the purpose of the Environmental Management/Materials Transportation Precinct, being Agriculture, Infrastructure Facility or Local Infrastructure.

An “infrastructure facility” means the use of premises for any of the following:

- » *a road, railway, bridge or other transport facility;*
- » *a jetty or port;*



- » *an electricity generation, transmission or distribution facility;*
- » *a storage, distribution or gathering or other transmission facility for –*
  - *oil or gas; or*
  - *derivatives of oil or gas;*
- » *a storage or transportation facility for coal, any other mineral or any mineral concentrate;*
- » *a dam, water storage facility, pipeline, channel or other water management, distribution or reticulation facility; or*
- » *a cable, antenna, tower or other communication facility” (CoG 2008).*

The proposed X110 Infrastructure Development Project does not significantly compromise the purpose of the Environmental Management/Materials Transportation Precinct. Further the proposed development, which meets the definition of an Infrastructure Facility, is specifically identified within Schedule 1 of the Scheme as being a use envisaged to develop within the Precinct and which may meet the purpose of the precinct.

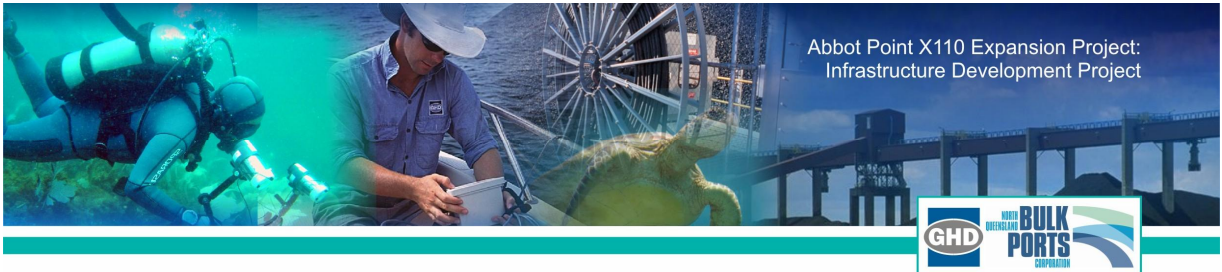
#### **2.4.3 Assessment against the State Coastal Management Plan**

The *State Coastal Management Plan – Queensland's Coastal Policy* (the State Coastal Plan) is a statutory instrument under section 30 of the CPMA and has the effect of a State Planning Policy (SPP) under the IPA. The plan operates in conjunction with other policies and instruments of the CPMA.

The proposed X110 Infrastructure Development Project must have regard to the State Coastal Plan, particularly the principles and policies of the ten (10) management outcomes. These management outcomes comprise:

- » Coastal Use and Development;
- » Physical Coastal Processes;
- » Public Access to the Coast;
- » Water Quality;
- » Indigenous Traditional Owner and Cultural Resources;
- » Cultural Heritage;
- » Coastal Landscapes;
- » Conserving Nature;
- » Coordinated Management; and
- » Research and Information.

The ten management outcomes of the State Coastal Plan and their relevance to the Project are discussed as follows.



## Coastal Use and Development

### ***Policy 2.1.1 Areas of state significance (social and economic)***

The policy applies to the areas neighbouring or adjoining areas of state significance (social and economic). SPL is considered an area of state significance.

This policy requires that *“the integrity and functioning of ‘areas of state significance (social and economic)’ are maintained and protected from incompatible land uses and activities that may adversely affect the continued use of these areas”*.

This policy does not apply to the X110 Expansion, as the land is designated as SPL and land within a State Development Area and is being developed as a port related industry. Therefore, the integrity and functioning of the port (or area of state significance) is maintained and protected from incompatible land uses and activities that may adversely affect the continued use of this area.

### ***Policy 2.1.2 Settlement pattern and design***

This policy applies to the coast, existing urban areas on the coast, or new urban areas containing coastal resources and their values.

This policy requires that *“the coast is conserved in its natural or non-urban state outside of existing urban areas and urban growth is managed to protect coastal resources and their values by minimising adverse impacts”*.

This policy does not apply to the X110 Expansion, as the land is designated as SPL and land within a State Development Area and is being developed as a port related industry. The development of the X110 Expansion will be conducted so that the coastal resources and their values are protected and adverse impacts are minimised.

### ***Policy 2.1.3 Coastal-dependent land uses***

The policy applies to the land on and neighbouring the foreshore, and land containing coastal resources and their values.

This policy requires that when:

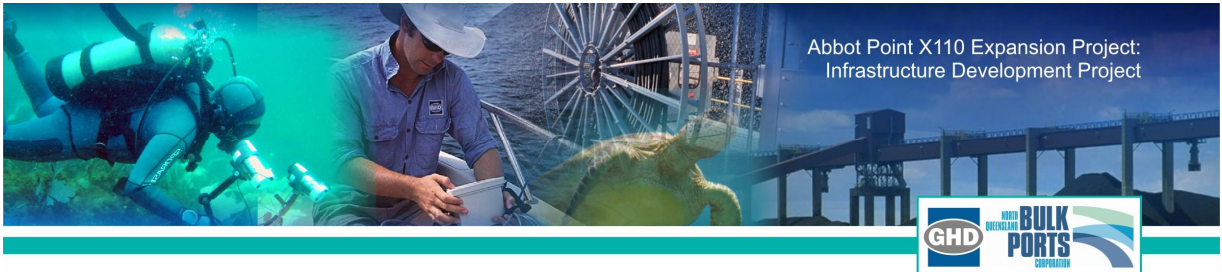
*“planning for appropriate land uses in areas adjoining the foreshore, adequate provision needs to be made for coastal-dependent land uses. Where there is competition for available land, preference should be given to necessary coastal-dependent land uses ahead of other urban land uses.*

*Planning for the location and design of new coastal-dependent land uses outside of existing coastal townships should be undertaken so as to avoid or minimise adverse impacts on coastal resources and their values”*.

The proposed development is to be developed on SPL for a port related use. It is therefore considered that the development is consistent with this policy, as the Project is a coastal dependent land use (i.e. port expansion).

### ***Policy 2.1.4 Canals and dry land marinas***

The development of a canal or dry land marina is not proposed as part of this Project. It is therefore considered that this policy does not apply to the X110 expansion.



#### **Policy 2.1.5 Maritime infrastructure**

This policy advises *“that maritime infrastructure (such as ports) have an important role in the state’s economy and is appropriate where there is a demonstrated public need, no net loss of public access to the coast (in accordance with policy 2.3.1) and adverse impacts on coastal resources and their values are avoided where practicable, or minimised.”*

It is considered that the location of the Project on SPL is a compatible land use for the subject site and is consistent with this policy, as it consolidates port related industry in one area.

The public access aspects of this policy are detailed further in Policy 2.3.1 Public Access.

#### **Policy 2.1.6 Extractive industry**

This policy will not apply, as the Project does not involve an extractive industry.

#### **Policy 2.1.7 Mining and petroleum activities**

This policy will not apply, as the Project does not involve a Mining and petroleum activity.

#### **Policy 2.1.8 Dredging**

This policy will not apply, as the X110 Infrastructure Development Project does not involve any dredging activity. All dredging activity is captured within the separate assessment process of the X110 Apron and Berth Capital Dredging Project.

#### **Policy 2.1.9 Reclamation**

This policy will not apply, as the Project does not involve any reclamation activity.

#### **Policy 2.1.10 Tourism and recreational activities**

This policy will not apply, as the Project does not involve tourism and recreational activities.

#### **Policy 2.1.11 Rural land uses**

This policy requires that *“rural land uses are sustainably managed to maintain their important economic role in Queensland, as well as to protect coastal resources and their values, particularly coastal waters and wetlands”*.

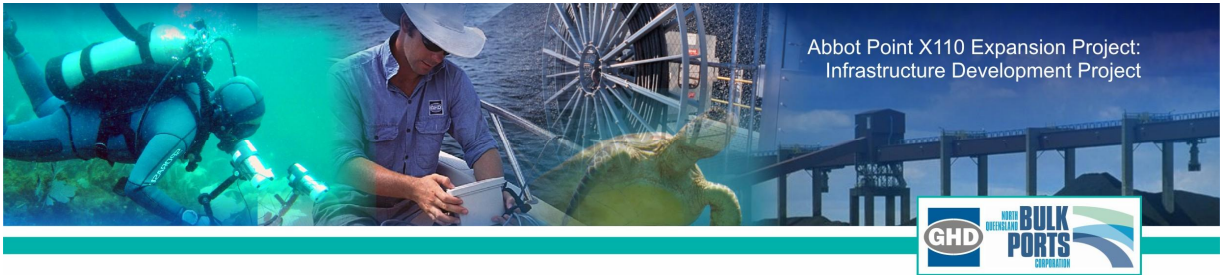
Land adjacent to the APCT, including the Caley Valley wetland system is currently used for cattle grazing. The Rural Land Uses policy seeks to manage the rural use of land so as not to impact on the environmental values of wetlands such as Caley Valley. As the Project does not comprise a rural use, this policy does not apply to the Project.

#### **Policy 2.1.12 Managing water resources**

The project does not involve taking of water from a watercourse, or the interference of flow of water in a watercourse. Therefore the policy does not apply to the Project.

#### **Policy 2.1.13 Fishing**

This policy will not apply, as the Project does not involve the development of new fishing activities in the region.



**Policy 2.1.14 Aquaculture**

This policy will not apply, as the Project does not involve the development of aquaculture.

**Physical Coastal Processes**

**Policy 2.2.1 Adaptation to climate change**

This policy requires that:

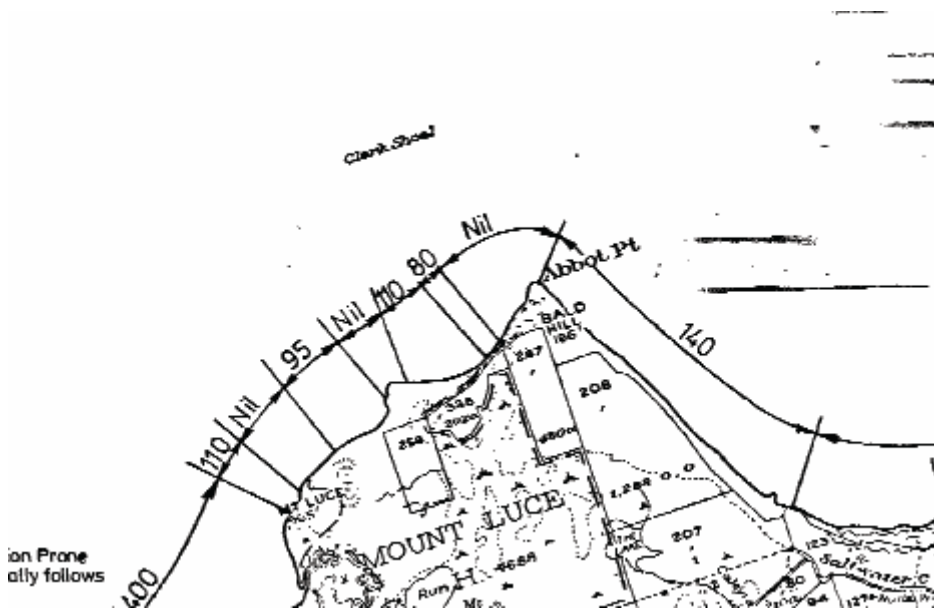
*“Knowledge and understanding of greenhouse issues and climate change impacts should be improved amongst the public and private sectors with the aim of setting the foundation for cost effective adaptation measures. The four target areas are: avoidance of development on vulnerable areas; improved knowledge and understanding of climate change; assessments of impacts and vulnerability; and incorporating adaptation strategies into coastal planning and management”.*

The climate change aspects of the Project are discussed further in other sections of the VEA, and a project specific Environmental Management Plan will be developed for the construction and operation staged of the Project to appropriately manage and mitigate any impacts upon greenhouse issues and climate change.

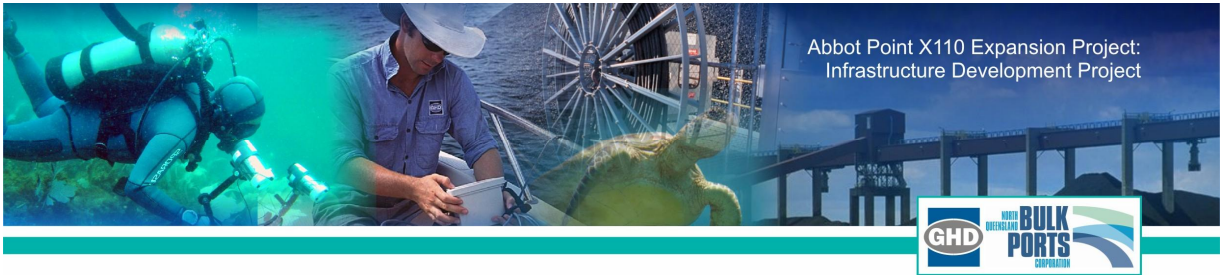
**Policy 2.2.2 Erosion prone areas**

This policy requires that *“to the extent practicable, erosion prone areas are to remain undeveloped apart from acceptable temporary or relocatable structures for safety and recreational purposes”.*

An extract of the former Bowen Shire erosion prone land map is showing in Figure 2-3. The proposed area of development for offshore infrastructure, being the jetty and associated infrastructure, is located within an area of ‘nil’ set back for development. Therefore the provisions of this policy do not apply to the Project.



**Figure 2-3 Extract from former Bowen Shire erosion prone land – Chart SC33BB**



### **Policy 2.2.3 Shoreline erosion management**

This policy specified that:

*“Regional coastal management plans will identify any priority areas for erosion management.*

*These areas will be taken into account when considering:*

- (a) applications for renewal or conversion of leases for leasehold land on the coast;*
- (b) issuing any approvals for coastal protection works; and*
- (c) assessing applications for funding proposals for coastal management programs”.*

The Project does not involve any of the application types referred to within the policy and is therefore not applicable.

### **Policy 2.2.4 Coastal hazards**

This policy requires that:

*“When determining new areas for urban land uses on the coast, an evaluation is to be carried out to identify the level of potential risk to life and property from coastal hazards. This evaluation should be based on mapping of storm tide hazard areas in addition to considering the impact of physical coastal processes, including any impacts from potential sea level rise. Development in areas on the coast identified as having a risk of being affected by coastal hazards needs to be carefully considered and wherever possible, be retained undeveloped. Where areas vulnerable to storm tide inundation have been developed, further development in these areas needs to address: (a) its vulnerability to sea level rise and storm tide inundation; and (b) the proposed access to, and protection of, evacuation routes.*

*In such areas, local government should have in place counter-disaster plans to address these coastal hazards.”*

The coastal hazard aspects of the Project are discussed further in other sections VEA (see Section 4.5), and a project specific Environmental Management Plan will be developed for the construction and operation stages of the Project, to appropriately manage and mitigate any impacts caused by coastal hazards.

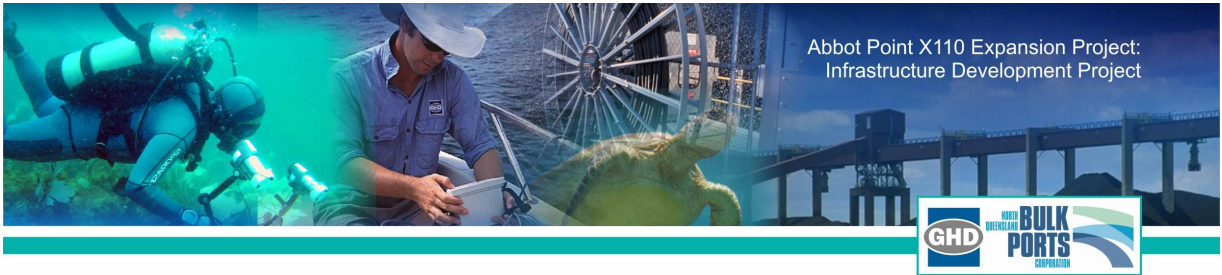
### **Policy 2.2.5 Beach protection structures**

This policy requires that:

*“Construction of structures for the purpose of beach protection (including artificial reefs, banks, wrecks, breakwaters and groynes) in coastal waters will only be approved where:*

- (a) there is a demonstrated need in the public interest; and*
- (b) comprehensive investigation has been carried out and it can be demonstrated that:*
  - (i) there would not be any significant adverse impacts on the longshore transport of sediments; and*
  - (ii) there would be no increase in coastal hazards for the neighbouring foreshore.”*

This policy will not apply, as the Project does not include beach protection structures as part of the development.



## Public Access to the Coast

### **Policy 2.3.1 Future need for access**

This policy requires that:

*“There is no net loss of public access to the foreshore or of public useability of coastal waters. This is to be maintained, protected and enhanced where the provision and operation of infrastructure of state economic significance and protection of coastal (natural and cultural) resources is not compromised”.*

Currently, access to the proposed Project area by the public is not permitted, as it is a port area with security restrictions. This situation is not expected to change once the X110 Expansion project is in operation, that is, the public will not be able to access the coastal area directly affected by expansion.

### **Policy 2.3.2 Design of Access**

This policy does not apply, as no public access is being provided as part of the project.

### **Policy 2.3.3 Coastal Road Network**

This policy does not apply, as the coastal road network does not form part of the project.

### **Policy 2.3.4 Vehicle use on beach**

This policy does not apply, as the project does not include provisions for the use of vehicles on the adjacent beaches.

## Water Quality

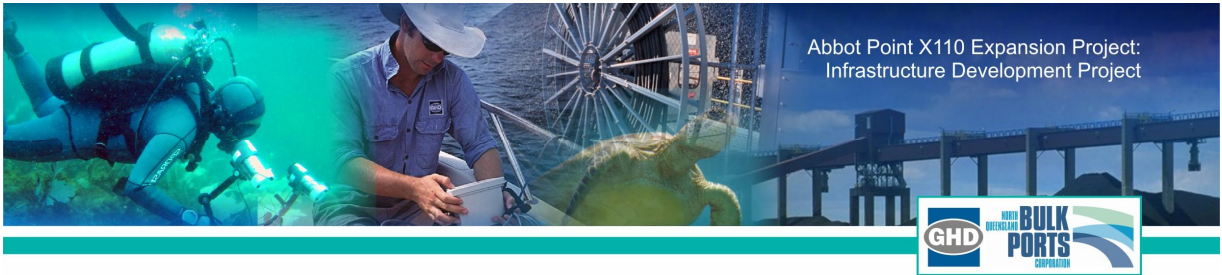
The coastal management outcome for water quality under the State Coastal Plan requires that *“Where environmental values and water quality objectives have been determined for coastal waters in accordance with the EPP (Water), development and use of the coastal zone is planned and managed to protect the identified values and achieve the water quality objectives.*

*Where environmental values and water quality objectives have not been determined for coastal waters, development and use of the coastal zone is planned and managed to minimise adverse impacts on water quality and achieve the general environmental values and water quality objectives outlined in the EPP(Water).”*

There are six policies for water quality under the plan, these include:

- » 2.4.1 Water quality management;
- » 2.4.2 Wastewater discharges to coastal waters;
- » 2.4.3 Waste-disposal facilities;
- » 2.4.4 Stormwater management;
- » 2.4.5 Groundwater quality; and
- » 2.4.6 ASS.

Water quality management is discussed further in other aspects of the VEA and a project specific Environmental Management Plan will be developed for the construction and operation stages of the Project, to appropriately manage and mitigate any impacts upon water quality in accordance with the EPP for Water.



## Indigenous Traditional Owner and Cultural Resources

The coastal management outcome for Indigenous Traditional Owner and Cultural Resources under the State Coastal Plan requires that *“the living culture of Indigenous Traditional Owners and their connection with cultural resources within the coastal zone is valued and continues for future generations of Indigenous Traditional Owners.”*

There are two policies for Indigenous Traditional Owner and Cultural Resources under the plan, these include:

- » 2.5.1 Areas of state significance (Indigenous Traditional Owner cultural resources); and
- » 2.5.2 Involvement of Indigenous Traditional Owners in managing their cultural resources.

Indigenous Cultural Heritage is discussed further in other aspects of the VEA and a project specific CHMP will be developed for the construction and operation stages of the Project , in consultation with Traditional Owners and in accordance with Section 87 of the ACH Act. This will ensure that the Project meets the requirements of this policy.

### Cultural Heritage

The coastal management outcome for Cultural Heritage under the State Coastal Plan requires *“that places, buildings and objects with important cultural heritage values located on the coast are appreciated, conserved, managed and passed on to future generations.”*

There are two policies for Cultural Heritage under the plan, these include:

- » 2.6.1 Areas of state significance (cultural heritage)
- » 2.6.2 Cultural heritage

Cultural Heritage is discussed further in other aspects of the VEA and a project specific CHMP will be developed for the construction and operation stages of the Project. This will ensure that the Project meets the requirements of this policy.

## Coastal Landscapes

### **Policy 2.7.1 Areas of state significance (scenic coastal landscapes)**

This policy discusses incorporating areas of state significance into regional coastal plans and planning schemes.

*“In preparing regional coastal plans, ‘areas of state significance (scenic coastal landscapes)’ are to be identified and their diversity, quality and extent of scenic landscape values are to be recognised and protected.*

*The preparation of regional planning strategies and local government planning schemes for areas that include ‘areas of state significance (scenic coastal landscapes)’ as identified by regional coastal plans, are to include measures that protect areas with coastal landscape values from incompatible land uses.*

*Where ‘areas of state significance (scenic coastal landscapes)’ have not been identified by a regional coastal plan, regional planning strategies and planning schemes are encouraged to protect scenic landscape values from incompatible land uses”.*



The area proposed for the Project is identified as SPL and land within a State Development Area. The Bowen Planning Scheme designates these as 'not subject to Planning Scheme'. It is therefore concluded, that the Project does not interfere with an area of State Significance.

**Policy 2.7.2 Other coastal landscape values**

This policy requires that:

*“When assessing landscape values, the importance of coastal landscapes to the state and regional community is to be addressed. In particular, the relevant Indigenous Traditional Owner communities are to be involved in the assessment of landscape values (refer to policy 2.5.2).*

*In addition to policy 2.7.1 which focuses on scenic values of coastal landscapes of state significance, regional coastal plans will assess the following:*

- (a) for areas identified as ‘areas of state significance (scenic coastal landscapes)’ — other coastal landscape values such as cultural and spiritual values that are of state or regional importance;*
- (b) for areas not identified as ‘areas of state significance (scenic coastal landscapes)’ — the importance of coastal landscape character and associated values; and*
- (c) the coastal landscapes’ sensitivity to development and change.*

*Investigations into landscape values will be undertaken as part of the preparation of regional coastal plans to identify the values identified in this policy. Other relevant and current landscape studies for the region will be identified and used in these investigations.*

*Regional planning strategies and local government planning schemes for coastal areas should protect areas with state and regionally important coastal landscape values, identified by regional coastal plans, from incompatible land uses.*

*Where state and regionally significant coastal landscape values have not been identified by a regional coastal plan, regional planning strategies and planning schemes are encouraged to protect coastal landscape values that are consistent with this policy.”*

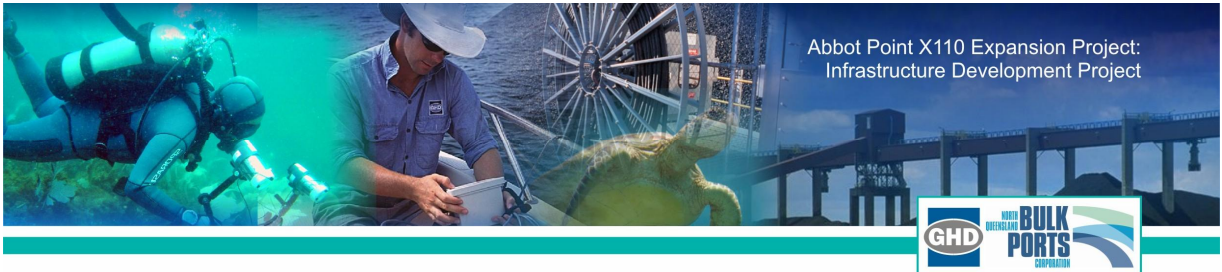
Landscape values of the Project Area have been discussed further as part of a visual impact assessment (refer Section 4.3).

**Conserving Nature**

**Policy 2.8.1 Areas of state significance (natural resources)**

This policy requires that *“land identified to be developed in the future for urban, maritime and rural land uses in regional plans, planning schemes and port land use plans is to be located outside of ‘areas of state significance (natural resources)’. Existing urban, maritime and rural land uses within ‘areas of state significance (natural resources)’ will not expand in these areas unless it can be demonstrated that there will be no adverse impacts on coastal resources and their values. If a use or activity that has adverse effects is to occur within ‘areas of state significance (natural resources)’, it must have a demonstrated net benefit for the state as a whole.’*

The area proposed for the Project is identified as SPL and land within a State Development Area. The Project constitutes an expansion of the existing APCT, which will marginally encroach upon the Caley Valley Wetland. The design of the coal stockpiles has sought to minimise potential direct impacts as far



as practicable, however, a small area of direct impact is unavoidable. Operation of the existing APCT has been demonstrated to not have an impact on the water quality of the adjacent wetland (see Section 4 for further discussion). The proposed management plan for water quality for X110 is consistent with existing measures and directs water away from the wetlands to two new settlement ponds. It is therefore considered unlikely that the X110 project will have an impact on water quality within the adjacent wetland and achieves compliance with the aforementioned policy requirement for *no adverse impact on coastal resources and their values*.

### **Policy 2.8.2 Coastal wetlands**

This policy requires that *“further loss or degradation of coastal wetlands is to be avoided and impacts on coastal wetlands prevented, minimised or mitigated (in order of preference).”*

The policy addresses matters that are relevant to the conservation and management of Queensland’s coastal wetlands, including land within 100 m of a coastal wetland. The Project is located within a wetland or within 100 m of a wetland (ie Abbot Point-Caley Valley Wetland to the west). This wetland is located on privately owned cattle grazing land.

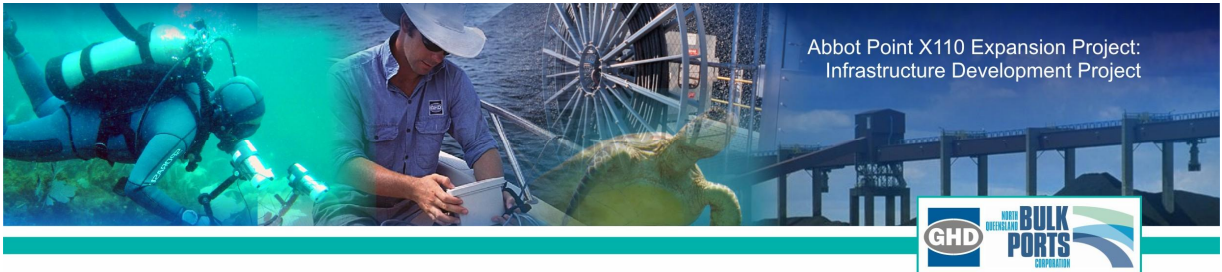
The wetland is not Ramsar listed, but is included in the Directory of Important Wetlands of Australia (ANCA 1996 and updated 2001). The directory listing identifies the site as being in a good condition and comprises fresh to brackish seasonally variable water quality with a central water body, Lake Caley, being brackish. Caley Valley Wetland was artificially altered during the 1950s, by the development of a bund wall which isolated the wetland from tidal influences.

The size of the wetland varies significantly between seasons. In the wet season, it can be up to 18 km long and up to 6 km wide, covering an area of approximately 5,000 ha. In the dry season, it contracts to Lake Caley and can become completely dry during drought conditions. The wetland in its current condition has been created by bunding off tidal exchange. This bund is located on private land some 8 km to the west of APCT. The wetland now has highly variable levels of salinity, with extensive hypersaline and ecologically degraded areas in the lower reaches.

The boundary of the wetland is not straight and follows land contours. The proposed coal terminal development is generally adjacent to the boundary of the footprint in the wet season, but it does encroach on a small area of wetland that juts into the proposed X110 development area. In the dry season, the development will be significantly distanced from wetland waters.

Design of the coal stockpiles has sought to minimise the impact on the wetland as far as possible. Given the small area of wetland to be directly impacted and its location at the fringe of wet season inundation, it is unlikely that the overall function of the system will be adversely impacted. To date, no impacts associated with the current development and operation of the APCT has been observed over the wetlands. This has been partly due to the runoff protection and detention storage provided by the two existing settlement ponds, which capture all onsite water. This indicates that current environmental management practices are effective in managing potential impacts. The same measures to manage water runoff will be employed for the proposed Project.

Further details in relation to the potential impact and mitigation measures to be implemented in relation to the Caley Valley Wetland are discussed in Section 4.



**Policy 2.8.3 Biodiversity**

This policy requires that *“biodiversity on the coast is to be safeguarded through conserving and appropriately managing the diverse range of habitats including coral reefs, seagrass, soft bottom (benthic) communities, dune systems, saltflats, coastal wetlands and riparian vegetation.”*

The management and mitigation measures to be put in place to safeguard biodiversity within the Project area are covered further in the Construction and Operational Environmental Management Plan (Section 5).

**Policy 2.8.4 Rehabilitation of coastal resources**

This policy requires that *“rehabilitation of degraded coastal areas and resources is encouraged. For existing activities in the coastal zone, a proactive voluntary approach to rehabilitation working in partnership with landholders, community groups (such as catchment management), local government (including Aboriginal Councils and Island Councils) and local Indigenous Traditional Owner groups is supported. The priority for rehabilitation is the restoration of degraded coastal ecosystems to their natural ecological, physical and aesthetic condition”.*

NQBP or the terminal operator will implement rehabilitation of degraded coastal areas and resources within the Project area, where required during the life of the Project. All rehabilitation works will be in accordance with the Environmental Management Plan that accompanies the VEA and approval by the relevant authorities.

**Policy 2.8.5 Pest species management**

This policy requires that:

*“The focus of pest management activities is on minimising the risk of introducing new pest species and reducing or at least controlling the impact of pest species infestations. Management of pest species will have regard to:*

- (a) preventing the introduction, establishment and spread of pest species in the coastal zone; and*
- (b) managing the impacts of existing and new pest species”.*

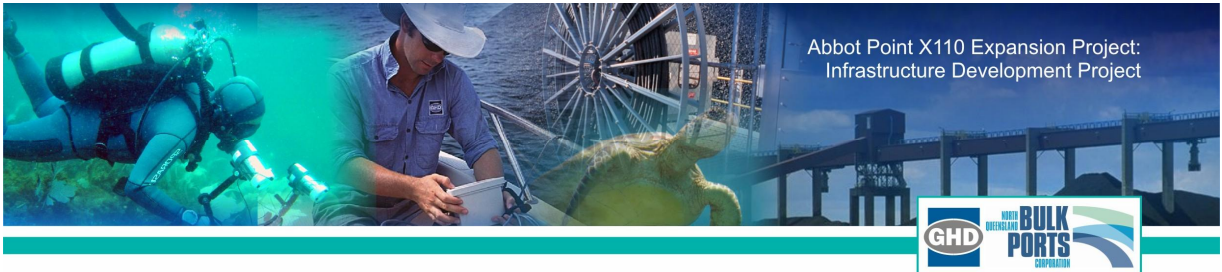
NQBP or the project proponent will implement pest management strategies within the Project area where required during the life of the Project. All pest management will be in accordance with the Environmental Management Plan (Section 5).

**Coordinated Management**

*“Coordinated management is coordinated and integrated across all levels of government and within the community”.*

There are five policies for Coordinated Management under the plan, these include:

- » 2.9.1 Regional coastal management plans;
- » 2.9.2 Coordinated management of jurisdictions;
- » 2.9.3 State land on the coast;
- » 2.9.4 Private use of State land on the coast; and
- » 2.9.5 Control districts.



These policies deal with the coordination and implementation of the State Coastal Plan into regional and local planning documents, and therefore are not applicable to this Project.

### Research and Information

The coastal management outcome for Research and Information is “*research programs, and data and information collection and management focus on, support and enhance effective coastal management*”.

There are three policies for Research and Information under the plan, these include:

- » 2.10.1 Information management;
- » 2.10.2 Inter-agency coordination; and
- » 2.10.3 Monitoring.

These policies deal with the coordination of data management by Government departments and are therefore not applicable to the Project.

### 2.4.4 State Planning Policies

#### SPP 1/92 – Development and Conservation of Good Quality Agricultural Land

The SPP for the Development and Conservation of Good Quality Agricultural Land (GQAL) is to assist local government authorities to include GQAL guidelines in planning assessment. To assist in determining land which is suitable for future development, four agricultural land classes are identified within the guideline to the SPP. These classifications comprise:

- » **Class A Crop Land-** Land that is suitable for current and potential crops, with limitations to production, which range from none to moderate levels;
- » **Class B Limited Crop Land-** Land that is marginal for current and potential crops due to severe limitations and suitable for pastures. Engineering and/or agronomic improvements may be required before the land is considered suitable for cropping;
- » **Class C Pasture Land-** Land that is suitable only for improved or native pastures due to limitations which preclude continuous cultivation for crop production, but some areas may tolerate a short period of ground disturbance for pasture establishment;
- » **Class D Non-agricultural land-** Land not suitable for agricultural uses due to extreme limitations. This may be under disturbed land with significant habitat, conservation and/or catchment values, or land that may be unsuitable because of very steep slopes, shallow soils, rock outcrop or poor drainage (Queensland Government, 1992).

Agricultural Land classes have been developed according to their suitability for agricultural uses and ability to maintain a level of productivity. Factors included in the assessment of agricultural lands comprise soil type, topographic and climatic limitations.

SPP 1/92 provides that GQAL should not be developed for non-rural purposes unless there is an overriding public need.

The Bowen Shire – Overlay Map 02 identifies the potential for GQAL within the study area. The overlay Map 02 does not identify the X110 project area as including land as GQAL, therefore, this SPP will not be applicable to this Project.



### **SPP 2/02 – Planning and Managing Development involving ASS**

The SPP for managing the development of acid sulphate soils (ASS) is concerned with the development of low-lying coastal areas containing ASS, predominately below 5 metres AHD.

These soils may be found close to natural ground level but could also be found at depth in the soil profile. Actual ASS generally overlie potential ASS horizons, but both may also occur within the same layer and may not be mutually exclusive.

The SPP applies to development that would result in:

- » the excavation of, or otherwise removing, 100 cubic metres or more of soil or sediment from areas below 5 metres AHD; or
- » filling of land involving 500 cubic metres or more of material with an average depth of 0.5 metres or greater.

The control of development on ASS occurs in the Development Assessment process.

The Bowen Shire – Overlay Map 06 identifies management areas for ASS within Bowen. The overlay Map 06 identifies the X110 Project as including land affected by ASS, therefore, this SPP is likely to be applicable to this Project.

Having regard to the DERM checklist and guidelines for ASS, an ASS Management Plan is likely to need to be developed, in addition to standard management procedures. These appropriate measures will ensure that potential disturbance of ASS is minimised and that the Project will comply with this SPP. Issues associated with ASS are discussed further in Section 4.

### **SPP 1/02 – Development in the Vicinity of Certain Airports and Aviation Facilities**

This SPP sets out broad principles for protecting airports and aviation facilities, which is an essential component of the State's transport infrastructure and national defence system.

The Project area is not in close proximity to aviation facilities or airports (i.e. located on land affected by an Obstacle Limitation Surface). Therefore this SPP is not applicable.

### **SPP 1/03 – Mitigating the Adverse Impacts of Flood, Bushfire and Landslide**

The SPP for mitigating the adverse impacts of Flood, Bushfire and Landslide seeks to minimise the potential adverse impacts of natural hazards, by adequately considering these impacts when making decisions about specific development.

Section A1.1 in Annex 1 of the SPP specifies development to which the policy applies. Generally this is related to development which increases the number of people working within a potentially hazardous area. The Project does not meet the criteria set out in Section A1.1 and therefore the SPP does not apply.

### **SPP 1/07 – Housing and Residential Development**

The SPP for Housing and Residential Development took effect on the 29 January 2007 and seeks to identify housing needs for certain Local Governments in Queensland.

This SPP only applies to local governments that meet the following criteria:

- » a population of 10,000 or more within at least one urbanised area; and



- » a minimum average dwelling approval rate of 100 dwellings per annum over the latest five year period.

This SPP therefore, does not apply to the Project.

### **SPP 2/07 – Protection of Extractive Resources**

The SPP 2/07 for the Protection of Extractive Resources commenced officially on the 3 September 2007. The purpose of this policy is to identify and protect extractive resource areas of State or regional significance, from activities that could potentially constrain or sterilise resources.

In accordance with the policy definitions, extractive resources comprise sand, gravel, quarry rock, clay and soil. The policy identifies a number of Key Resource Areas throughout the State. A fundamental objective of the policy is to prevent conflict between extractive industry and other, incompatible land uses that have the potential to sterilise the availability of the extractive resource.

The Project area does not contain any land recognised as a Key Resource Area and thereby this SPP is not relevant to the Project.

## **2.4.5 Regional Planning**

### **Whitsunday, Hinterland and Mackay Regional Planning Project**

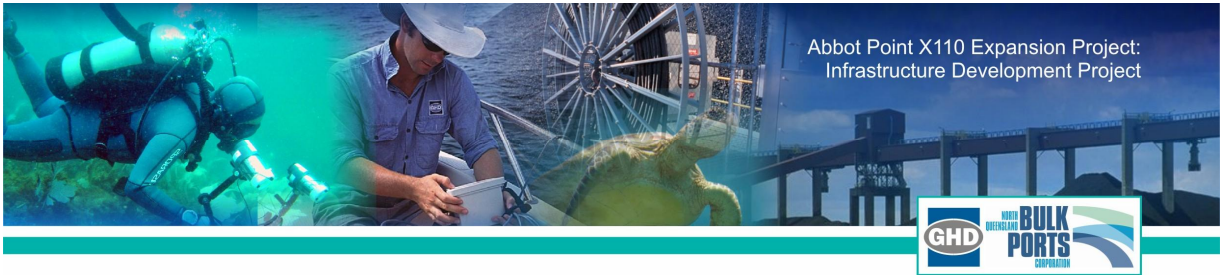
The Whitsunday, Hinterland and Mackay Regional Planning Project (WHAM) is a joint government and community project to develop a long term strategic plan for the Whitsunday region. The WHAM Regional Plan was endorsed by the Queensland Government in early 2005.

The WHAM Regional Plan provides a framework for guiding growth and development in the region over the next 15-20 years. The WHAM region encompasses the now amalgamated Councils of Mackay City Council and the Belyando, Bowen, Broadsound, Nebo, Mirani, Sarina and Whitsunday Shire Councils.

Part D of the Regional Plan identifies Regional Goals and Strategies. The goals and strategies that support the Project include:

- » Economic Development Goal 3.13 Land Infrastructure and Transport – to provide a range, if suitable, of appropriately located sites and adequate services and infrastructure to meet the needs of the region's existing and future businesses and industries in a timely, cost efficient and effective manner.
  - Strategy 3 – investigate the potential for co-location of industrial activities using port and rail facilities and expansion to these networks.
  - Maps 4 and 5 Economic Development – show Abbot Point as being part of the key Economic Area and as being a major port for coal exports.
- » Transport Goal 7.5 Seaports – To provide and maintain competitive, cost effective, efficient and safe seaport facilities to meet the needs of regional industries.
  - Map 8 Transport – identifies Abbot Point as a major Transport Hub and Port.

The Project is consistent with seeking to achieve the goals and strategies of the WHAM.



## The Northern Economic Triangle

The Northern Economic Triangle (NET) is a commitment by the Queensland Government to foster sustainable economic, social and community growth through the emergence of Mount Isa, Townsville and Bowen as a triangle of mineral processing and industrial development.

The NET aims to ensure the provision of critical infrastructure that underpins private sector investment in minerals processing and industrial development over the next half century. The NET integrates the activities of each economic centre through the development of strategies to:

- » support stronger regional linkages;
- » enhance mining and mineral processing; and
- » enhance industrial development.

The NET is a strategic response by the Queensland Government to:

- » raise the regional and international profile of north-west and north Queensland;
- » expand mining and mineral processing operations to supply world markets;
- » recognise the present global boom in demand for minerals and metals and the likelihood of the demand remaining strong into the foreseeable future;
- » recognise opportunities for development presented by large international companies seeking locations for value-adding projects on the east coast of Queensland; and
- » promote collaborative solutions for the provision of critical infrastructure and opportunities for private sector investment.

The *Northern Economic Triangle Infrastructure Plan 2007-2012* was released by the government on 3 August 2007. The plan identifies Regional Goals and Strategies for Bowen. The goals and strategies that support the proposed Project include:

- » progressively expand the capacity of the coal terminal at Abbot Point through completion of Stage 2 expansion plans and proceed to additional stages subject to market demand and development of the Northern Missing Link rail connection; and
- » plan and undertake developments, as dictated by market circumstances, for the development of the Port of Abbot Point as a multi-cargo trade port to service the proposed State development area and the broader region.

The X110 Expansion specifically meets the goal for expanding the capacity for coal export through Abbot Point.

## 2.5 Approval Summary

Table 2-2 provides a summary of the identified approvals required for the Project.

**Table 2-2 Approval Summary**

Permit, Approval or Licence	Why it applies	When it applies	Administering Authority	Applies P/O
<i>Environment Protection and Biodiversity Conservation Act 1999</i> <i>Controlled Action (Preliminary Documentation)</i>	Any action on Commonwealth land that is likely to have a significant impact on the environment or elsewhere any action that may have significant impact on matters of national environmental significance (eg listed threatened species and communities).	If declared a "Controlled Action".	Department of the Environment, Water, Heritage and the Arts	P Declared a "Controlled Action".
<i>State Development and Public Works Organisation Act 1971</i> <i>Significant Project (no EIS required)</i>	If a project is declared a significant project by the Coordinator General.	If declared a "Significant Project".	The Department of Infrastructure and Planning	O Declared a Significant Project declaration, but EIS not required.
MCU <i>State Development and Public Works Organisation Act 1971</i>	If existing use of property is changed or intensified within a State Development Area.	Lodgement of application.	The Department of Infrastructure and Planning	P Area of development within the APSDA.
MCU <i>Integrated Planning Act 1997</i>	If existing use of property is changed or intensified.	Lodgement of IDAS applications.	North Queensland Bulk Ports Corporation Limited	P Port expansion.
Operational works <i>Integrated Planning Act 1997</i>	For clearing remnant vegetation	Lodgement of IDAS applications.	Department of Environment and Resource Management	P
Operational works <i>Coastal Protection and Management Act 2003</i>  Note that if an application for operational works under the <i>Integrated Planning Act 1997</i> (refer above) is required, then operational work under the <i>Coastal Protection and Management Act 2003</i> will be triggered (resulting in an integrated approval process).	Operational works includes: » Carrying out tidal works in, on or above tidal waters (eg embankments, pipelines, outfalls); » Constructing or installing works in a watercourse between the area of the mean high water springs and highest astronomical tide (other than those works in tidal water) if the structure interferes with the flow of the watercourse; » Interfering with quarry material on State coastal land above the high water mark; » Draining or allowing drainage or flow of water or other matter across State coastal land above high water mark; and » Removing or interfering with coastal dunes (other than coastal land) that is an erosion prone areas and above high water mark.	Lodgement of IDAS applications.	Department of Environment and Resource Management	P
<i>Aboriginal Cultural Heritage Act 2003</i>	Any disturbance to soil. Duty of care guidelines must be considered to determine the extent of investigation. May also consider coastal and sea disturbance. Extent of disturbance is a function of level of disturbance.	Undertake during design phase.	Department of Environment and Resource Management	O Although no approval is required, a CHMP will be registered and followed.
Riverine Protection Permit <i>Water Act 2000</i>	Should access be required to the beds of any non-tidal watercourse (creek or river as identified under the <i>Water Act 2000</i> )	Required for Construction Phase	Department of Environment and Resource Management	P
Vegetation Clearing Permit VMA	Where a RE or remnant vegetation is disturbed by the construction and operation of the infrastructure.	Required for Construction Phase	Department of Environment and Resource Management	P Required for clearing of remnant vegetation