



Navigating the new Planning Regulation 2017

What is where?

When the *Planning Act 2016* (Planning Act) commences on 3 July 2017 it will establish a new planning system for the state and will replace the *Sustainable Planning Act 2009* (SPA). The Planning Act will be accompanied by the Planning Regulation 2017 (Planning Regulation), as well as other documents that are prescribed in the Planning Regulation such as the Minister's Rules and Guidelines.

The following table summarises how key matters from the SPA and associated statutory instruments, including the Sustainable Planning Regulation 2009 (SPR) have been carried forward into the Planning Regulation and other documents. This table is not a comprehensive list of all components of the Planning Regulation, but rather focuses on key issues to assist with navigating the Planning Regulation.

Topic	Where it was	Where it is now	Key changes
State Planning instruments			
State Planning Regulatory Provisions	Yeerongpilly Transit Oriented Development State Planning Regulatory Provision 2014	Incorporated into Brisbane City Plan 2014	N/A
	South East Queensland Regional Plan 2009-2031 State planning regulatory provisions (as amended)	Planning Regulation Section 41 – Deciding whether there is an overriding need in the public interest for development Schedule 10, Part 15 – SEQ Development Area Schedule 10, Part 16 – SEQ regional landscape and rural production area and SEQ rural living area	None (Note these provisions in the Planning Regulation will need to be amended when <i>Shaping SEQ</i> takes effect)



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	Guragunbah State Planning Regulatory Provision	<p>Planning Regulation Schedule 6 – Development local categorising instrument is prohibited from stating is assessable development:</p> <ul style="list-style-type: none"> Section 4 – Material change of use in Guragunbah area <p>From 3 July 2017 – map titled ‘Guragunbah development area’ will be available on the department’s website</p>	None
	State planning regulatory provision (adopted charges)	<p>Planning Regulation Section 52 – Adopted charges Section 72 – Priority infrastructure areas (PIA)</p> <p>Schedule 16 – Prescribed amount</p> <p>From 3 July 2017– maps of PIAs for local governments referred to in section 72 will be available on the department’s website</p>	None. (Note it is intended that the prescribed amount for infrastructure charges will be amended to reflect the indexed charges for 2017 shortly after commencement of the Planning Regulation on 3 July 2017)
	Off-road motorcycling facility on State-owned land at Wyaralong	<p>Planning Regulation Schedule 6 – Development local categorising instrument is prohibited from stating is assessable development:</p> <ul style="list-style-type: none"> Section 5 – Material change of use for off-road motorcycling facility Section 20 – Operational work on off-road motorcycling facility land. <p>Schedule 10, Part 11 – Noise sensitive place on noise attenuation land</p>	None

Topic	Where it was	Where it is now	Key changes
		From 3 July 2017 – map titled ‘Noise attenuation zone for off-road motorcycling facility’ will be available on the department’s website	
	State Planning Regulatory Provisions (Adult stores)		Not transitioned to the Planning Regulation – to be incorporated in planning schemes where relevant.
	South East Queensland Koala Conservation State Planning Regulatory Provisions	Planning Regulation Schedule 10, Part 10 – Koala habitat area Schedule 11 – Assessment benchmarks for development in koala habitat area	None
State Planning Policy	State Planning Policy 2016 Part F: Self-assessable development code	Planning Regulation Schedule 7 – Accepted development: <ul style="list-style-type: none"> Part 3 section 9 (Operational work in wetland protection areas) Schedule 10, Part 20 – Wetland protection area: <ul style="list-style-type: none"> Section 33 – Prohibited development (operational work in a wetland protection area) Schedule 14 – Requirements for high impact earthworks in a wetland protection area	The approach to how this development for high impact earthworks in a wetland protection area is dealt with differs under the new system; however the outcome is not changed. Under the SPA, the operational work required to be carried out for government supported transport infrastructure or for electricity operating works needed to comply with criteria in the self-assessable code to be self-assessable development. Under the Planning Act, the operational work is accepted if it complies with the criteria in Schedule 14 – these criteria reflect the criteria in the former self-assessable code. If the development does not comply, Schedule 10, Part 20, Section 33 states the operational work is prohibited development.
Regional Planning	Sustainable Planning Regulation 2009 Schedule 1 – Designated regions	Planning Regulation Section 4 – Regions Schedule 1 – Regions	A new ‘Gulf’ region is prescribed which relates to the following groups of local governments Burke, Carpentaria, Croydon, Doomadgee, Etheridge and Mornington

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Standard Planning Scheme Provisions	Queensland Planning Provisions (QPP)	Planning Regulation Sections 5-9 – Regulated Requirements	The mandatory components of the QPP are generally transitioned on a like for like basis. The requirement for the ‘Statement about State planning instruments’ is updated, and requires the statement to identify the instrument, date made, and parts that are appropriately integrated into the planning scheme. The following rows provide more detail.
	Queensland Planning Provisions Part 6 Zones	Planning Regulation Schedule 2 – Zones for local planning instruments	Purpose statements for some zones have been amended to reflect current government policies. For example: <ul style="list-style-type: none"> • Low density residential zone includes ‘a variety of low density dwelling types, including dwelling houses’ • Environmental management and conservation zone, and Conservation zone include a specific reference to ‘coastal processes’ • Emerging community zone is clarified to refer to ‘land that is intended for an urban purpose in the future’ rather than ‘land that is suitable for urban purposes’ • Descriptors for Principal centre zone and Limited development zone are removed – this information has transitioned to guidance material
	Queensland Planning Provisions Schedule 1 Definitions	Planning Regulation Schedule 3 – Use terms for local planning instruments	Definitions for use terms generally reflect the QPP definitions, with modifications to address drafting principles. Definitions for low impact, medium impact, high impact and special industry enable the planning scheme to specify the category for an industry and set thresholds if relevant.

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	Queensland Planning Provisions Schedule 1 Definitions	Planning Regulation Schedule 4 – Administrative terms for local planning instruments	Definitions for administrative terms generally reflect the QPP definitions, with modifications to address drafting principles. The definition for ‘affordable housing’ is amended to include a qualification that ‘members of the household will spend no more than 30% of gross income on housing needs’.
	Queensland Planning Provisions Part 9 Development Codes <ul style="list-style-type: none"> Community residence Reconfiguring a lot (1 into 2) Cropping where involving forestry for wood production 	Planning Regulation Schedule 6 – Development local categorising instrument is prohibited from stating is assessable development: <ul style="list-style-type: none"> Section 6 – Material change of use for community residence Schedule 12 – Particular reconfiguring a lot requiring code assessment Schedule 13 – Requirements for cropping involving forestry for wood production Schedule 24 – Dictionary definition of ‘community residence’	None
	Other QPP components	Contained within guidance material	N/A
Designation of premises			
Designation of premises	<i>Sustainable Planning Act 2009</i> Chapter 5 Sustainable Planning Regulation 2009	Planning Act, Chapter 2 Part 5 Planning Regulation Section 13 – Infrastructure Section 14 – Guidelines for environmental assessment and consultation Section 15 – Designation process rules	None

Topic	Where it was	Where it is now	Key changes
	Schedule 2 – Community infrastructure	Schedule 5 – Infrastructure	
Ministerial designations	<i>Sustainable Planning Act 2009</i> Chapter 5 Part 2 Guidelines for environmental assessment and consultation procedures for designating land for community infrastructure	Planning Act, section 36(3) Minister’s Guidelines and Rules – Guidelines for the process for environmental assessment and consultation for making a Ministerial designation	Refer to the Planning Act and the Minister’s guidelines and rules
Local government designations	<i>Sustainable Planning Act 2009</i> Chapter 5 Part 3	Planning Act, section 37(6) Minister’s Guidelines and Rules – Designation process rules for local government when making and amending a designation	Under SPA local government designations were made as an amendment to the planning scheme. The Designation process rules set out the process which must be followed under the Planning Act.
Superseded planning schemes			
Request for application of superseded planning scheme	<i>Sustainable Planning Act 2009</i> Section 95	Planning Act, section 29 – Request to apply superseded planning scheme Planning Regulation Section 11 – Making superseded planning scheme request	None
Decision on request	<i>Sustainable Planning Act 2009</i> Section 96	Planning Act, section 29 – Request to apply superseded planning scheme Planning Regulation Section 12 – Deciding superseded planning scheme request	None

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Local Planning Instruments			
Development that cannot be made assessable	Sustainable Planning Regulation 2009 Schedule 4 – Development that cannot be declared to be development of a particular type	Planning Regulation Section 16 – Development local categorising instrument is prohibited from stating is assessable development Schedule 6 – Development local categorising instrument is prohibited from stating is assessable development	None
Making, amending or repealing local planning instruments	<i>Sustainable Planning Act 2009</i> Chapter 3 Part 5 – Making or amending local planning instruments Statutory guideline 01/16 Making and amending local planning instruments	Planning Act, Chapter 2 Part 3 Divisions 1 and 2 Planning Regulation Section 10 – Minister’s guidelines and rules Minister’s Guidelines and Rules <ul style="list-style-type: none"> – Minister’s guidelines for making or amending a planning scheme – Guidelines setting out the matters that the chief executive must consider when preparing a notice to be given under section 18(3)(a) or (b) of the Act – Minister’s rules for amending a planning scheme for section 20 of the Act – Minister’s rules for making and amending a PSP or TLPI – Minister’s rules for making a planning change to reduce a risk of serious harm to persons or property on the premises from natural events or processes 	Refer to the Planning Act and the Minister’s guidelines and rules

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Development Assessment			
Development assessment	<p><i>Sustainable Planning Act 2009</i> Chapter 6</p> <p>Statutory guideline 06/09 Substantially different development when changing applications</p> <p>Statutory guideline 05/09 Sufficient grounds for decisions that conflict with a planning instrument</p> <p>Statutory guideline 04/09 Preliminary approvals that affect a local planning instrument</p>	<p>Planning Act, Chapter 3</p> <p>Planning Regulation Sections 18 – 20 – Categories of development Section 44 – Development assessment rules</p> <p>Development assessment rules</p> <ul style="list-style-type: none"> – Application – Referral – Information request – Decision – Changes to the application and referral agency responses 	<p>Refer to the Planning Act and the Development assessment rules.</p>
Accepted development	<p>Sustainable Planning Regulation 2009 Section 9 – Assessable development, self-assessable development and type of assessment</p> <p>Schedule 3 Part 2 – Self-assessable development</p>	<p>Planning Regulation Section 18 – Accepted development</p> <p>Schedule 7 – Accepted development</p>	<p>Development that was self-assessable under the SPA is transitioned to accepted development subject to requirements. These requirements generally reflect the arrangements under the SPR.</p> <p>Certain building work in a declared fish habitat area was self-assessable under the SPR – under the Planning Regulation this building work has transitioned to non-referable building work, i.e. it does not require referral to SARA for assessment.</p>
Prohibited development	<p><i>Sustainable Planning Act 2009</i> Schedule 1 – Prohibited development</p>	<p>Planning Regulation Section 19 – Prohibited development</p> <p>Schedule 10 Development assessment</p>	<p>The Planning Regulation includes a new prohibition for a MCU if it involves clearing native vegetation. Prior to the implementation of SARA, MCU applications involving clearing native vegetation also required the</p>

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		<ul style="list-style-type: none"> various parts for prohibited development 	<p>vegetation clearing to be for a relevant purpose under section 22A of the VMA. However, when SARA was implemented, the requirement was inadvertently disconnected. The inclusion of this prohibition addresses this regulatory gap and establishes a clear and consistent basis for dealing with applications that involve the native vegetation clearing.</p> <p>The approach to particular MCU on contaminated land is also changed under the Regulation. Under SPR this development was subject to compliance assessment – whereby the MCU could be approved only if it complied with the criteria. Compliance assessment is not continued under the Planning Act, and the Regulation ensures an MCU that does not comply with the requirements prohibited, which reflects how compliance assessment works under the SPA.</p>
Assessable development	<p>Sustainable Planning Regulation 2009</p> <p>Section 9 – Assessable development, self-assessable development and type of assessment</p> <p>Schedule 3 Part 1 – Assessable development</p> <p>Schedule 18 – Compliance assessment of particular development (RaL 1 into 2)</p>	<p>Planning Regulation</p> <p>Section 20 – Assessable development</p> <p>Section 28(2) – Code assessment for particular development applications</p> <p>Schedule 9 – Building work under Building Act</p> <p>Schedule 10 – Development assessment</p> <p>Schedule 12 – Particular reconfiguring a lot requiring code assessment (RaL 1 into 2)</p>	<p>Building work in a declared fish habitat area was assessable development under the SPR. This arrangement is changed under the Planning Regulation, with assessable building work requiring referral to SARA if it is in a declared fish habitat area.</p> <p>RaL 1 into 2 is now code assessable if it complies with the criteria, rather than subject to compliance assessment which is discontinued under the Planning Act.</p> <p>The Planning Regulation transitions arrangements for development on Brisbane core port land from the <i>Transport Infrastructure Act 1994</i>.</p>
Assessment manager	<p>Sustainable Planning Regulation 2009</p> <p>Section 12 – Assessment</p>	<p>Planning Regulation</p> <p>Section 21 – Assessment manager for development applications</p>	<p>Building certifiers are prescribed as assessment manager for particular building work, reflecting the arrangements under the Building Act.</p>

Topic	Where it was	Where it is now	Key changes
	<p>manager for development applications</p> <p>Schedule 6 – Assessment manager for development applications</p>	Schedule 8 – Assessment manager for development applications	The assessment manager for all applications on airport land, including RaL, is the chief executive rather than the local government, as these areas are not regulated under planning schemes.
Code assessment generally	<p><i>Sustainable Planning Act 2009</i> Chapter 6 Sections 255A – 255E – Chief executive assessing particular applications as assessment manager or referral agency Section 313 – Code assessment generally</p>	<p>Planning Regulation Sections 25-28 – Code assessment (Assessment benchmarks, Matters code assessment must have regard to generally)</p>	Changes reflect the requirements under the Planning Act, and prescribe the matters the assessment manager must carry out the assessment against (the assessment benchmarks) and matters the assessment manager must have regard to generally.
Impact assessment generally	<p><i>Sustainable Planning Act 2009</i> Chapter 6 Section 314 – Impact assessment generally</p>	<p>Planning Regulation Sections 29-31 – Impact assessment (Assessment benchmarks, Matters impact must have regard to generally)</p>	Changes reflect the requirements under the Planning Act, and prescribe the matters the assessment manager must carry out the assessment against (the assessment benchmarks) and matters the assessment manager must have regard to generally.
Variation requests	<p><i>Sustainable Planning Act 2009</i> Chapter 6 Section 316 – Assessment for s242 preliminary approvals</p>	<p>Planning Regulation Section 32 – Assessing variation requests</p>	Changes reflect the requirements under the Planning Act, and prescribe the matters the assessment manager must consider in the assessment.
Exempt clearing work	<p>Sustainable Planning Regulation 2009 Schedule 24 – Clearing of native vegetation—not assessable development under Schedule 3 part 1</p>	<p>Planning Regulation Schedule 10 Development assessment:</p> <ul style="list-style-type: none"> Part 3 – Clearing native vegetation <p>Schedule 21 – Exempt clearing work</p>	None

Topic	Where it was	Where it is now	Key changes
	table 4 item 1	Schedule 24 Dictionary – definition of 'exempt clearing work'	
Referral agencies	<p><i>Sustainable Planning Act 2009</i> Section 282 – Referral agency assesses application</p> <p>Sustainable Planning Regulation 2009 Section 13 & Schedule 7 – Referral agencies and their jurisdictions</p> <p>Schedule 8 – Special fire services and referral jurisdiction of Queensland Fire and Emergency Service</p> <p>Schedule 9 – Development impacting on State transport infrastructure and thresholds</p>	<p>Planning Regulation Sections 22-24 – Referral agency's assessment</p> <p>Schedule 9 – Building work under Building Act</p> <p>Schedule 10 – Development assessment</p> <p>Schedule 19 – Special fire services and matters for referral agency's assessment</p> <p>Schedule 20 – Development impacting on State transport infrastructure and thresholds</p>	<p>Changes reflect the requirements under the Planning Act, and prescribe the matters the referral agency may or must carry out the assessment against, and matters the referral agency may or must have regard to generally.</p> <p>The Planning Regulation transitions referral arrangements for development on Brisbane core port land from the <i>Transport Infrastructure Act 1994</i> (TIA). Rather than the referrals being made to various state agencies as in the TIA, these referrals are made to the chief executive and have been amended for consistency with equivalent referrals under the Planning Regulation for development in other areas.</p>
Referral agency timeframes	<p>Sustainable Planning Regulation 2009</p> <p>Schedule 15 – Referral agency assessment periods</p>	<p>Development assessment rules Section 9 – Referral agency's assessment Schedule 2 – Referral agency's assessment period</p>	None
Fees	<p>Sustainable Planning Regulation 2009 Division 3 – Fees</p>	<p>Planning Regulation Sections 33-36 – Required fee for development applications or referral to the chief executive</p>	<p>The fees have been reviewed and indexed for 2017 amounts.</p> <p>New fees apply to change applications (other than for a minor change) as these are new applications under the</p>

Topic	Where it was	Where it is now	Key changes
	Schedule 7A – Particular assessment manager and concurrence agency application fees	Section 37 – Fee for fast-track development Section 38 – Required fee for non-profit organisations and government-funded community development Section 39 – Required fee for particular change applications and extension applications Section 40 – When required fee may be waived Schedules 9 and 10 – Fees for development assessment and referral Schedule 15 – Required fee for change applications and extension applications	Planning Act. The circumstances when fees may be waived in full or in part are included in the Planning Regulation.
Decision notices	<i>Sustainable Planning Act 2009</i> Chapter 6 Division 4 - Notice of decision	Planning Regulation Sections 42-43 – Who decision notice must be given to and requirements for decision notice	None
Ministerial call ins	<i>Sustainable Planning Act 2009</i> Chapter 6 Part 11 Division 2 – Ministerial Call in powers	Planning Regulation Sections 45-51 – Ministerial call ins (proposed call in notice)	None
Approving plans of subdivision	Sustainable Planning Regulation 2009 Schedule 19 – Compliance assessment of subdivision plans	Planning Regulation Section 69 – Approving plans of subdivision Schedule 18 – Approving plans of subdivision	Approving plans of subdivision was subject to compliance assessment under the SPA. As compliance assessment is not continued under the Planning Act, the Planning Regulation prescribes the process for approving plans of subdivision. The criteria for approving the plans of subdivision reflect the criteria under the SPR. A 20 business day period applies to the approval, commencing when the request is compliant

Topic	Where it was	Where it is now	Key changes
			with the criteria.
Appeals, offences and enforcement			
Development tribunal	<i>Sustainable Planning Act 2009</i> Chapter 7 Part 2 – Building and development dispute resolution committees <i>Sustainable Planning Regulation 2009</i> Schedule 21 – Building and development committee fees	Planning Act, Chapter 6 Part 2 – Development tribunal Planning Regulation Sections 54-56 – Development tribunal qualifications, chairperson and fees Schedule 17 – Tribunal fees	None
Planning and Environment Court Fees	<i>Sustainable Planning Regulation 2009</i> Section 22 – Court fees Schedule 20 – Court fees	Uniform Civil Procedure (Fees) Regulation 2009	The establishment and operation of the Court has been transitioned to a separate <i>Planning and Environment Court Act 2016</i> , and is not included in the Planning Act.
Infrastructure			
Local government infrastructure plans	Statutory guideline 03/14— Local government infrastructure plans	Planning Regulation Section 53 – infrastructure guidelines Minister’s Guidelines and Rules – Minister’s rules for reviewing, making or amending an LGIP – Minister’s guidelines for working out the cost of infrastructure for an offset or refund; and criteria for deciding conversion applications	None
Miscellaneous			
Urban encroachment provisions	<i>Sustainable Planning Act 2009</i> Chapter 8A – Provisions	Planning Regulation Sections 57-68 – Urban encroachment provisions, registrations or renewals	None

Topic	Where it was	Where it is now	Key changes
	about urban encroachment		
Public access to documents	<i>Sustainable Planning Act 2009</i> Chapter 9 Part 6 – Public access to planning and development information	Planning Regulation Section 70 – Public access to certain documents Schedule 22 – publicly accessible documents	Requirements are updated to address new instruments that may be made under the Planning Act, e.g. exemption certificates and change approvals, and chosen assessment managers as new entities under the Act. The requirements for publication of documents on websites are increased, in line with public expectation for such access to information.
Planning and development certificates	<i>Sustainable Planning Act 2009</i> Chapter 9 Part 6 Division 4 – Planning and Development Certificates	Planning Regulation Section 71 – Planning and development certificates Schedule 23 – Content of planning and development certificates	Requirements for a limited certificate are updated to remove the requirement for details of SPRPs, replaced with the requirement to name any State planning instrument applying to the premises. Information for the premises from the infrastructure charges register is required to be included in a limited certificate, rather than a standard certificate. Requirements for a standard certificate are updated to address new instruments under the Planning Act, e.g. exemption certificates.