Part 1 About the planning scheme

1.1 Introduction

(1) The Bundaberg Regional Council Planning Scheme 2015 (the planning scheme) has been prepared in accordance with the *Sustainable Planning Act 2009* (the SP Act) as a framework for managing development in a way that advances the purpose of the SP Act.

(2) The planning scheme was amended for alignment with the *Planning Act 2016* (the Act) by the Minister's rules under section 293 of the Act on 16 May 2017.

(3) In seeking to achieve this purpose, the planning scheme sets out Bundaberg Regional Council's intention for the future development in the planning scheme area, over the next sixteen years to 2031.

(4) The planning scheme seeks to advance state and regional policies through more detailed local responses, taking into account the local context.

(5) While the planning scheme has been prepared with a sixteen year horizon, it will be reviewed periodically in accordance with the Act to ensure that it responds appropriately to the changes of the community at a local, regional and State level.

(6) The planning scheme applies to the planning scheme area of Bundaberg Regional Council including all premises, roads, internal waterways and local government tidal areas and interrelates with the surrounding local government areas illustrated on **Map BRC1 (Local government planning scheme area and context)**.

Editor's note—the boundaries of the local government area are described by the maps referred to within the *Local Government (Operations) Regulation 2010*.

Editor's note—State legislation may state that the planning scheme does not apply to certain areas, e.g. strategic port land under the *Transport Infrastructure Act 1994* and priority development areas.

Editor's note—the planning scheme does not apply to Commonwealth Land, e.g. Department of Defence bases, training areas and ranges which are regulated under the *Defence Act 1901* (Commonwealth).



LEGEND

Bundaberg Local Government Area

- Bundaberg Local Government Area
- Townships

Other Elements

- Highway / Arterial Road
- Railway
- Ocean, Waterways and Waterbodies
- Bundaberg Regional Council Boundary

N

0 5 10 15 20 kilometres

1:500,000 approx

BUNDABERG REGIONAL COUNCIL

Map BRC1 Local Government Planning Scheme Area and Context

Version 5.0 effective 10 February 2020

1.2 Planning scheme components

(1) The planning scheme comprises the following components:-

(a) about the planning scheme;
(b) State planning provisions;
(c) the strategic framework;
(d) the local government infrastructure plan;
(e) tables of assessment;
(f) the zones and, where applicable, zone precincts specified in **Table 1.2.1 (Zones and zone precincts)** below;

Table 1.2.1 Zones and zone precincts

Zones and zone precincts
Residential zones category
(a) Low density residential zone
(b) Medium density residential zone, including:-
(i) Precinct MDRZ1 (Bundaberg West medical/health hub)
(ii) Precinct MDRZ2 (Barolin Street office precinct)
(c) High density residential zone
Centre zones category
(d) Principal centre zone, including:-
(i) Precinct PCZ1 (City centre core)
(ii) Precinct PCZ2 (City centre riverfront)
(iii) Precinct PCZ3 (City centre frame)
(e) Major centre zone
(f) District centre zone
(g) Local centre zone
(h) Neighbourhood centre zone
Industry zones category
(i) Industry zone
(j) High impact industry zone
Recreation zones category
(k) Sport and recreation zone
(l) Open space zone
Environmental zones category
(m) Environmental management and conservation zone
Other zones category
(n) Community facilities zone
(o) Emerging community zone
(p) Limited development zone, including:-
(i) Precinct LDZ1 (Limited residential)
(q) Rural zone
(r) Rural residential zone, including:-
(i) Precinct RRZ1 (2,000m^2 minimum lot size area)
(ii) Precinct RRZ2 (4,000m^2 minimum lot size area)
(iii) Precinct RRZ3 (4ha minimum lot size area)
(s) Special purpose zone
(t) Specialised centre zone

(g) the local plans specified in **Table 1.2.2 (Local plans)** below;

Table 1.2.2 Local plans

Local plans
(a) Central coastal urban growth area local plan
(b) Kalkie-Ashfield local development area local plan

(h) the overlays specified in **Table 1.2.3 (Overlays)** below;

Table 1.2.3 Overlays

Overlays
(a) Acid sulfate soils overlay
(b) Agricultural land overlay
(c) Airport and aviation facilities overlay
(d) Biodiversity areas overlay

Overlays	
(e)	Bushfire hazard overlay
(f)	Coastal protection overlay
(g)	Extractive resources overlay
(h)	Flood hazard overlay
(i)	Heritage and neighbourhood character overlay
(j)	Infrastructure overlay
(k)	Sea turtle sensitive area overlay
(l)	Steep land (slopes >15%) overlay
(m)	Water resource catchments overlay

(i) the development codes specified in **Table 1.2.4 (Development codes)** below;

Table 1.2.4 Development codes

Development codes	
Use codes	
(a)	Business uses code
(b)	Caretaker's accommodation code
(c)	Child care centre code
(d)	Community activities code
(e)	Dual occupancy code
(f)	Dwelling house code
(g)	Extractive industry code
(h)	Home based business code
(i)	Industry uses code
(j)	Market code
(k)	Multi-unit residential uses code
(l)	Nature and rural based tourism code
(m)	Relocatable home park and tourist park code
(n)	Residential care facility and retirement facility code
(o)	Rural uses code
(p)	Sales office code
(q)	Service station code
(r)	Telecommunications facility code
(s)	Utility installation code
Other development codes	
(t)	Advertising devices code
(u)	Landscaping code
(v)	Nuisance code
(w)	Reconfiguring a lot code
(x)	Transport and parking code
(y)	Vegetation management code
(z)	Works, services and infrastructure code

(j) schedules and appendices.

(2) The following planning scheme policies specified in **Table 1.2.5 (Planning scheme policies)** below support the planning scheme:-

Table 1.2.5 Planning scheme policies

Planning scheme policies	
Planning scheme policies relating to Part 8 (Overlay codes)	
(a)	Planning scheme policy for the heritage and neighbourhood character overlay code
Planning scheme policies relating to Part 9 (Other codes)	
(b)	Planning scheme policy for development works
(c)	Planning scheme policy for waste management
Other planning scheme policies	
(d)	Planning scheme policy for information Council may request, and preparing well made applications and technical reports

1.3 Interpretation

1.3.1 Definitions

(1) A term used in the planning scheme has the meaning assigned to that term by one of the following:-

(a) the *Planning Act 2016* (the Act);

(b) the Planning Regulation 2017 (the Regulation), other than the regulated requirements;

(c) the definitions in **Schedule 1 (Definitions)** of the planning scheme;

(d) the *Acts Interpretation Act 1954*;

(e) the ordinary meaning where that term is not defined in the Act, the Regulation, **Schedule 1 (Definitions)** of the planning scheme or the *Acts Interpretation Act 1954*.

(2) In the event a term has been assigned a meaning in more than one of the instruments listed in clause 1.3.1(1), the meaning contained in the instrument highest on the list will prevail.

(3) A reference in the planning scheme to any act includes any regulation or instrument made under it, and where amended or replaced, means the amended or replaced act.

(4) A reference in the planning scheme to a specific resource document or standard, means the latest version of the resource document or standard.

(5) A reference to a part, section, table or schedule is a reference to a part, section, table or schedule of the planning scheme.

Editor's note—in accordance with section 16(3) of the Act, the regulated requirements apply to this planning scheme to the extent of any inconsistency with the definitions in the planning scheme.

1.3.2 Standard drawings, maps, notes, editor's notes and footnotes

(1) Standard drawings contained in codes or schedules are part of the planning scheme.

(2) Maps provide information to support the outcomes and are part of the planning scheme.

(3) Notes are identified by the title "note" and are part of the planning scheme.

(4) Editor's notes and footnotes are extrinsic material, as per the *Acts Interpretation Act 1954*, and are identified by the title "editor's note" and "footnote" and are provided to assist in the interpretation of the planning scheme; they do not have the force of law.

Note—this is an example of a note.
Editor's note—this is an example of an editor's note.
Footnote[1]—see example at bottom of page.

1.3.3 Punctuation

(1) A word followed by ";" or ", and" is considered to be "and".

(2) A word followed by "; or" means either or both options can apply.

1.3.4 Zones for roads, closed roads, waterways and reclaimed land

The following applies to a road, closed road, waterway or reclaimed land in the planning scheme area:-

(1) if adjoined on both sides by land in the same zone—the road, closed road, waterway or reclaimed land is in the same zone as the adjoining land; or

(2) if adjoined on one side by land in a zone and adjoined on the other side by land in another zone—the road, closed road, waterway or reclaimed land is in the same zone as the adjoining land when measured from a point equidistant from the adjoining boundaries; or

[1] Footnote—this is an example of a footnote

(3) if the road, closed road, waterway or reclaimed land is adjoined on one side only by land in a zone—the entire road, waterway or reclaimed land is in the same zone as the adjoining land; or

(4) if the road, closed road, waterway or reclaimed land is covered by a zone then that zone applies.

Editor's note—The boundaries of the local government area are described by the maps referred to in the Local Government Regulation 2012.

1.4 Categories of development

(1) The categories of development under the Act are:-

(a) accepted development;

Editor's note—a development approval is not required for development that is accepted development. Under section 44(6)(a) of the Act, if a categorising instrument does not apply a category of development to a particular development, the development is accepted development. Schedule 7 of the Regulation also prescribes accepted development.

Editor's note—in this planning scheme, some development is categorised as accepted, subject to meeting certain requirements. These requirements are identified in the tables of assessment and in the relevant codes.

(b) assessable development; and
  (i) code assessment
  (ii) impact assessment

Editor's note—a development approval is required for assessable development. Schedules 9, 10 and 12 of the Regulation also prescribe assessable development.

(c) prohibited development.

Editor's note—a development application may not be made for prohibited development. Schedule 10 of the Regulation prescribes prohibited development.

(2) The planning scheme states the category of development for certain types of development, and specifies the category of assessment for assessable development in the planning scheme area in **Part 5 (Tables of assessment)**.

Editor's note—Section 43 of the Act identifies that a categorising instrument categorises development and specifies categories of assessment and may be a regulation or local categorising instrument. A local categorising instrument includes a planning scheme, a TLPI or a variation approval.

1.5 Hierarchy of assessment benchmarks

Where there is inconsistency between provisions within the planning scheme, the following rules apply:-

(1) relevant assessment benchmarks or requirements for accepted development specified in the Planning Regulation prevail over the planning scheme to the extent of any inconsistency;

(2) the strategic framework prevails over all other components to the extent of the inconsistency for impact assessment;

(3) overlays prevail over all other components (other than the matters mentioned in (1) and (2)) to the extent of the inconsistency;

(4) local plan codes prevail over zone codes, use codes and other development codes to the extent of the inconsistency;

(5) zone codes prevail over use codes and other development codes to the extent of the inconsistency.

1.6 Building work regulated under the planning scheme

(1) Section 17(b) of the Regulation identifies that a local planning instrument must not be inconsistent with the effect of the building assessment provisions stated in the *Building Act 1975*.

(2) The building assessment provisions are listed in section 30 of the *Building Act 1975.*

Editor's note—the building assessment provisions are stated in section 30 of the *Building Act 1975* and are assessment benchmarks for the carrying out of building assessment work or building work that is accepted development subject to any requirements (see also section 31 of the *Building Act 1975*).

(3) This planning scheme, through **Part 5 (Tables of assessment)**, regulates building work in accordance with sections 32 and 33 of the *Building Act 1975*.

Editor's note—the *Building Act 1975* permits planning schemes to:-

(a) regulate, for the Building Code of Australia (BCA) or the Queensland Development Code (QDC), matters prescribed under a regulation under the *Building Act 1975* (section 32). These include variations to provisions contained in parts MP1.1, MP1.2 and MP1.3 of the QDC such as heights of buildings related to obstruction and overshadowing, siting and design of buildings to provide visual privacy and adequate sight lines, on-site parking and outdoor living spaces. It may also regulate other matters, such as designating land liable to flooding, designating land as bushfire prone areas and transport noise corridors;
(b) deal with an aspect of, or matter related or incidental to building work prescribed under a regulation under section 32 of the *Building Act 1975*;
(c) specify alternative boundary clearances and site cover provisions for Class 1 and 10 structures under section 33 of the *Building Act 1975*.

Refer to Schedule 9 of the Regulation to determine assessable development, the type of assessment and any referrals applying to the building work.

(4) The building assessment provisions contained in the planning scheme and the relevant section where these provisions are located is specified in **Table 1.6.1 (Building assessment provisions)** below:-

Table 1.6.1 Building assessment provisions

Building assessment provision	Relevant section of the planning scheme
Dwelling house	
Alternative provisions—that part of the planning scheme identifying alternative provisions to those in the QDC MP1.1 and MP1.2 as permitted by the *Building Act 1975*.	**Section 8.2.6 (Coastal protection overlay code)** **Section 8.2.8 (Flood hazard overlay code)** **Section 9.3.6 (Dwelling house code)**
Flood hazard	
Identification of the level to which floor levels of habitable rooms in a building must be built.	**Section 8.2.8 (Flood hazard overlay code)**
Bushfire hazard	
Designation of part of the planning scheme area as a designated bushfire prone area for the BCA and the QDC.	Bushfire hazard areas identified in the SPP interactive mapping system (plan making) as referenced in **Section 8.2.5 (Bushfire hazard overlay code)**.
Transport noise corridors	
The transport chief executive has designated transport noise corridors within the Bundaberg Regional Council local government area. Land identified within the transport noise corridors and the detail about the levels of noise within the corridors can be accessed via the SPP interactive mapping system (plan making).	Nil

Note—interested persons may obtain details about the transport noise corridors and the levels of noise from Council.

Editor's note—a decision in relation to building work that is assessable development under the planning scheme should only be issued as a preliminary approval. See section 83(b) of the *Building Act 1975*.

Editor's note—generally, only one development permit is necessary for building work assessed against the building assessment provisions under the *Building Act 1975*. An application may be made to a private certifier for the development permit, and any provisions included in the planning scheme under sections 32 and 33 of the *Building Act 1975* may be assessed, either by the certifier, or under some circumstances, by the local government through a referral.

However, nothing stops a person seeking a preliminary approval for the building work from the local government. The decision on that development application can, under section 54 of the Act, be taken to be a referral agency's response in relation to the matters included in the planning scheme under section 32 or 33 of the *Building Act 1975*.

A separate development permit for the building work from the local government is only required if the building work requires assessment under the planning scheme against matters other than:

- the building assessment provisions, or
- another matter under the planning scheme that can be assessed through a referral from a private certifier.

In the same way, as for a preliminary approval, the decision about the development permit can, under section 54 of the Act, be taken to be a referral agency's response in relation to the matters included in the planning scheme under sections 32 or 33 of the *Building Act 1975*.

Editor's note—in a development application the applicant may request preliminary approval for building work. The decision on that development application is to be taken to be a referral agency's response under section 56 of the Act, for building work assessable against the *Building Act 1975*. The decision notice must state this.

1.7 Local government administrative matters

1.7.1 Zones for Commonwealth land

(1) Where Commonwealth land in the planning scheme area is not covered by a zone, the following applies:-
   (a) for Lot 5 on RP148360 and Lots 403 and 404 on B15819, the land is deemed to be included in the Principal centre zone and Precinct PCZ3 (City centre frame); and
   (b) for elsewhere within the planning scheme area, the land is deemed to be included in the Community facilities zone.

1.7.2 Temporary uses not assessable under this planning scheme

(1) Council may determine that a temporary use that is unlikely to create a significant detrimental impact on the amenity of nearby land is not a material change of use of premises and is therefore not development as defined under the Act. Such activities include, but are not necessarily limited to, the following:-

   (a) school fetes;
   (b) travelling circuses;
   (c) temporary accommodation (within caravans, motorhomes tents or similar) where associated with an event or other temporary use; and
   (d) promotional activities.

   Editor's note—while not assessable under the planning scheme a temporary use may need to address or adhere to local laws or subordinate local laws.

1.7.3 Mining tenements

(1) Mining tenements have been granted or renewed within the Bundaberg Regional Council local government area. Mining tenements are identified on the Infrastructure overlay maps in **Schedule 2 (Mapping)** for information purposes.

(2) The Planning Act does not apply to development in mining tenements authorised under the *Mineral Resources Act 1989*, other than for administrating development assessment for the Heritage Act, in relation to a Queensland heritage place.

(3) Details of the mining tenements may be obtained from the chief executive of the department in which the *Mineral Resources Act 1989* is administered.

1.7.4 Other documents incorporated in the planning scheme

(1) **Table 1.7.4.1 (Overlay mapping in the SPP interactive mapping system)** identifies overlays or overlay elements depicted in the State Planning Policy (SPP) interactive mapping system that are referenced and incorporated in the planning scheme.

Table 1.7.4.1 Overlay mapping in the SPP interactive mapping system

Overlay	SPP interactive mapping system reference
Agricultural land overlay	Agricultural Land Classification (ALC) Class A and Class B land (mapped under the 'Economic Growth' theme, subsection 'Agriculture').
Airport and aviation facilities overlay	The following 'Strategic airports and aviation facilities' elements (mapped under the 'Infrastructure' theme):- (a) obstacle limitation surfaces (OLS); (b) Australian noise exposure forecast (ANEF) contours; (c) airport public safety areas; (d) lighting area buffer and wildlife hazard buffer zones; and (e) aviation facilities and associated building restricted areas.

Overlay	SPP interactive mapping system reference
Biodiversity areas overlay	Matters of State Environmental Significance (MSES) (mapped under the 'Environment and heritage' theme, subsection 'Biodiversity')
Bushfire hazard overlay	Bushfire prone areas mapped as medium, high and very high potential bushfire intensity areas (mapped under the 'Safety and resilience to hazards' theme, subsection 'Natural hazards risk and resilience')
Coastal protection overlay	(a) Coastal management district (mapped under the 'Environment and heritage' theme, subsection 'Coastal environment'); and (b) Erosion prone areas (mapped under the 'Safety and resilience to hazards' theme, subsection 'Natural hazards risk and resilience').
Extractive resources overlay	The following 'Mining and extractive resources' elements (mapped under the 'Economic growth' theme):- (a) resource/ processing areas; (b) resource separation areas; and (c) transport route separation areas.
Heritage and neighbourhood character overlay	Queensland heritage places and national heritage places (mapped under the 'Environment and heritage' theme, subsection 'Cultural heritage')[2].
Infrastructure overlay	(a) major electricity infrastructure and electricity substations (mapped under the 'Infrastructure' theme, subsection 'Energy and water supply – major electricity infrastructure'); (b) State controlled road and railway corridors (mapped under the 'Infrastructure' theme, subsection 'Transport infrastructure'); and (c) stock routes (mapped under the 'Economic growth' theme, subsection 'Agriculture').

(2) **Table 1.7.4.2 (Other overlay mapping)** identifies other overlays or overlay elements that are referenced and incorporated in the planning scheme, but are not included in the Overlay maps at **Schedule 2 (Mapping)**.

Table 1.7.4.2 Other overlay mapping

Overlay	Mapping reference
Flood hazard overlay	Flood hazard area designated by Council under the Building Regulation 2006, section 13.

[2] Note—Queensland Heritage Places are identified in the Queensland Heritage Register. Places of national heritage significance are identified in the Australian Heritage Database.

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