



# User Guide for the Bundaberg Regional Council Planning Scheme 2015

## Introduction

The Bundaberg Regional Council Planning Scheme 2015 (the planning scheme) was prepared and commenced under the Sustainable Planning Act 2009 (SPA) to help guide future land use and development in the Bundaberg Region.

The planning scheme was prepared in accordance with the Queensland Planning Provisions Version 3.1 (QPP) made under SPA. The QPP are standard planning scheme provisions that provide a consistent format and structure for planning schemes across the state. The standard suite of zones, overlays, definitions and development assessment rules in the QPP provided the foundation for the planning scheme.

The planning scheme also reflects the Wide Bay Burnett Regional Plan (September 2011) and the State Planning Policy (December 2013) as relevant to the Bundaberg Region.

In preparation for the introduction and commencement of the Planning Act 2016 (the Act) on 3 July 2017 a new version of the scheme was prepared to assist the smooth implementation of the new legislation. It aligns the terminology used in the scheme with the new terminology in the Act. Some codes were altered to fit the new development assessment rules but there was no impact on the policy intent of the scheme. The 'alignment amendment' also makes the scheme consistent with Version 4.0 of QPP.

This user guide provides information on:-

- » *The structure of the planning scheme;*
- » *The different types of development regulated under the planning scheme and their categories;*
- » *The categories of assessment applying to assessable development;*
- » *Navigating the planning scheme;*
- » *Assessment benchmarks and requirements – Using and applying the planning scheme codes; and*
- » *Applying the assessment rules for development.*

The planning scheme applies to the planning scheme area of the Bundaberg Regional Council including all premises, roads, internal waterways and local government tidal areas. However, the planning scheme does not regulate land use and development in areas designated as Strategic Port Land or Commonwealth (Defence) Land. Where located in the Bundaberg State Development Area, the planning scheme only regulates development for reconfiguring a lot, operational work and building work (not material change of use).

## Structure of the Planning Scheme

In accordance with the QPP, the planning scheme is structured into 10 parts, 6 schedules and 2 appendices, as outlined below.

Parts	Schedules
Part 1 - About the planning scheme	Schedule 1 - Definitions
Part 2 - State planning provisions	Schedule 2 - Mapping
Part 3 - Strategic framework	Schedule 3 - LGIP mapping and supporting material
Part 4 - Local government infrastructure plan (LGIP)	Schedule 4 - Notations required under the <i>Planning Act 2016</i>
Part 5 - Tables of assessment	Schedule 5 - Designation of premises for development of Infrastructure
Part 6 - Zones	Schedule 6 - Planning scheme policies
Part 7 - Local plans	<b>Appendices</b>
Part 8 - Overlays	Appendix 1 - Index and glossary of abbreviations and acronyms
Part 9 Development codes	Appendix 2 - Table of amendments



## Types of development, categories of development and categories of assessment for assessable development

The following types of development are categorised by categorising instruments and are defined under the Act:-

- » *making a material change of use of premises (e.g. starting a new use or increasing the scale or intensity of an existing use);*
- » *reconfiguring a lot (e.g. subdivision of land or rearranging lot boundaries);*
- » *carrying out building work (e.g. building, repairing, altering or demolishing a building); and*
- » *carrying out operational work (e.g. filling or excavation, civil and landscaping works, vegetation clearing and placing an advertising device on premises).*

A proposed development may involve one or more of the above types of development.

A categorising instrument is either:-

- » *a regulation (Planning Regulation 2017), or*
- » *a local categorising instrument (Bundaberg Regional Council Planning Scheme 2015). The Regulation applies to the extent of any inconsistency.*

Development is categorised as:-

- » *prohibited,*
- » *assessable, or*
- » *accepted.*

The categorising instrument may also:-

- » *specify the categories of assessment required for different types of assessable development, and*
- » *set out the matters (the assessment benchmarks) that an assessment manager must assess assessable development against.*

**Prohibited development** – Schedule 6 and 10 of the Regulation is the categorising instrument that categorises prohibited development. The planning scheme may not change this category and may not categorise any other development as prohibited. A development application cannot be made for prohibited development.

**Accepted development** (categorised under the planning scheme or Schedules 6 and 7 of the Regulation)

- » *Accepted – A development approval is not required. However, approvals or licenses may still be required under other state legislation (e.g. Building Regulation 2006) or Council local laws.*
- » *Accepted development subject to requirements – some accepted development must comply with certain requirements to remain accepted. A development approval is not required from Council or another assessment manager. However, the proposed development is still required to comply with the acceptable outcomes of the applicable code(s) in the planning scheme and any relevant requirements specified in the Regulation. Where the proposed development cannot meet one or more of the acceptable outcomes of the applicable code(s) it becomes assessable development requiring code assessment and a development approval is then required from Council or other specified assessment manager.*

**Assessable development** (categorised under the planning scheme or Schedule 10 of the Regulation)

- » *Code assessment – development requires a development approval from Council under the planning scheme or other specified assessment manager and will be assessed against the assessment benchmarks identified as being applicable to the development. A code assessable development application does not require public notification. Development must address the purpose, overall outcomes and the performance and acceptable outcomes contained in the codes relevant to the development. However, if the development is made code assessable only because it does not meet some acceptable outcomes applicable to accepted development, assessment is limited to the matters of non-compliance.*
- » *Impact assessment – development requires a development approval from Council under the planning scheme or other specified assessment manager, and will be assessed against the planning scheme as a whole (to the extent relevant) and any other relevant assessment benchmarks specified in the Regulation. An impact assessable development application requires public notification and provides third party appeal rights to any submitters.*



## Navigating the Planning Scheme

The following is a recommended step-by-step guide to determine whether or not your development proposal will need a development approval from Council and what requirements will apply. A flow chart has been provided below to illustrate the process and the steps typically involved.

### Step 1 - Determine the type of development

When proposing to undertake development, it will first be necessary to determine the type of development involved, i.e. is the development a material change of use, reconfiguring a lot, building work and/or operational work? These terms are defined in Schedule 2 of the Act. A proposed development may involve one or more of these types of development. If the development is a material change of use, determine what definition in Schedule 1 (Definitions) of the planning scheme best fits your proposal.

### Step 2 - Determine the mapped attributes of the development site

Determine the following mapped attributes of the development site and make a note of these attributes:-

1. determine the applicable zone and if relevant, zone precinct by reference to Schedule 2 (Mapping), SC2.2 (Zone maps);
2. determine if the development site is affected by a local plan by reference to Part 7 (Local plans);
3. identify any overlays affecting the development site by reference to Schedule 2 (Mapping), SC2.3 (Overlay maps) and, where relevant, the State Planning Policy interactive mapping system.

Overlays identify areas of land potentially affected by a particular value or physical constraint e.g. heritage, flooding, bushfire. Some land will be subject to one or more overlays while other land will not be subject to any overlays. It is important to note that while a parcel of land may be subject to an overlay, this does not necessarily mean that a proposal will require a development application – the tables of assessment in Part 5 of the planning scheme identify the circumstances where development requires assessment against any particular overlay code. Further, if an overlay applies to part of a property, the overlay provisions will generally only apply to development proposed within the mapped area.

### Step 3 - Determine the category of development and category of assessment

The tables of assessment in Part 5 of the planning scheme identify the category of development and category of assessment for the different types of development (i.e. material change of use, reconfiguring a lot, building work and operational work), and the circumstances where development 'triggers' assessment against an overlay code. The category of development (i.e. accepted, assessable or prohibited) is determined as follows:-

1. Determine if the development is accepted development under schedules 6 and 7 of the Regulation, or is assessable or prohibited development under schedule 10 of the Regulation
2. If none of these circumstances apply:-
  - a. for a material change of use – having regard to the zone (and zone precinct if relevant) for the premises and definition for the proposed use, determine the initial category of assessment listed in Section 5.4 (Categories of development and assessment – Material change of use)
  - b. for reconfiguring a lot – determine the initial level of assessment listed in Section 5.5 (Categories of development and assessment – Reconfiguring a Lot)
  - c. for building work – determine the initial level of assessment listed in Section 5.6 (Categories of development and assessment – Building work);
  - d. for operational work – determine the initial level of assessment listed in Section 5.7 (Categories of development and assessment – Operational work).
3. Where an overlay has been identified as affecting the development site, refer to Section 5.9 (Categories of development and assessment – Overlays) to determine if the overlay further changes the category of assessment.

Where development is comprised of a number of defined uses or is proposed on premises included in more than one zone or is subject to one or more overlays, the category of assessment is the highest level for each aspect of the development under each of the applicable zones or overlays.

It is important to note that the tables of assessment for overlays may change the initial category of assessment in certain circumstances; so it is always necessary to check all the relevant tables of assessment in Part 5 of the planning scheme to confirm the category of assessment.



In this regard, where development is identified in the tables of assessment in Part 5 as having a different category of assessment under a zone than under an overlay, the highest category of assessment will prevail as follows:

- » *accepted subject to requirements prevails over accepted;*
- » *code assessment prevails over accepted subject to requirements and accepted; and*
- » *impact assessment prevails over code assessment, accepted subject to requirements and accepted.*

If the proposed development is assessable development requiring code or impact assessment, a development application will be required.

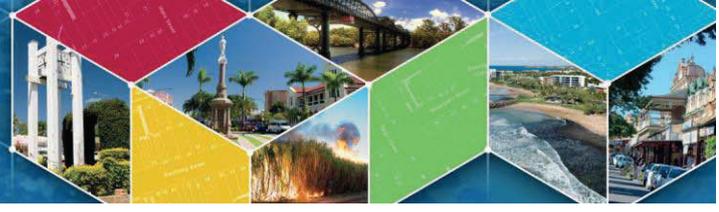
#### **Step 4 - Determine the requirements for accepted development and assessment benchmarks and other matters for assessable development**

For the different types of development, the tables of assessment in Part 5 of the planning scheme identify the requirements for accepted development and assessment benchmarks and other matters for assessable development (i.e. the relevant sections of the planning scheme) that apply to the development.

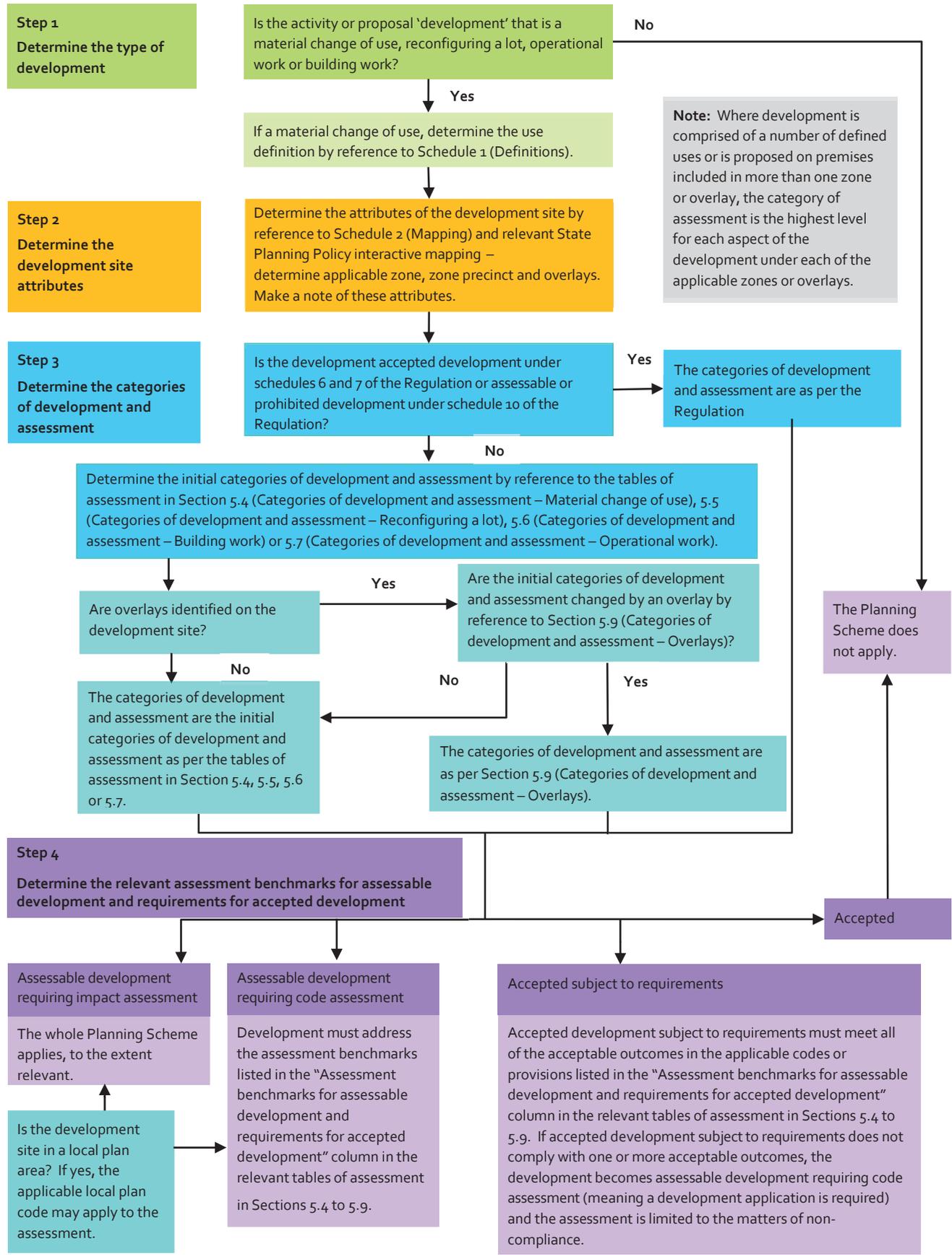
The provisions of the planning scheme that apply to accepted development subject to requirements and assessable development are identified in the "assessment benchmarks for assessable development and requirements for accepted development" column of the relevant tables of assessment in Part 5 (Tables of assessment). For assessable development requiring impact assessment, the planning scheme as whole applies, to the extent relevant.

In accordance with Section 1.5 (Hierarchy of assessment benchmarks) of the planning scheme, where there is inconsistency between the provisions within the planning scheme, the following rules apply:-

- » *relevant assessment benchmarks for assessable development or requirements for accepted development specified in the Regulation prevail over the planning scheme to the extent of any inconsistency;*
- » *the strategic framework prevails over all other elements to the extent of the inconsistency for impact assessment;*
- » *overlays prevail over all other elements (other than the matters mentioned in the two dot points above) to the extent of the inconsistency;*
- » *local plan codes prevail over zone codes, use codes and other development codes to the extent of the inconsistency;*
- » *zone codes prevail over use codes and other development codes to the extent of the inconsistency.*



## Flow chart - Navigating the Planning Scheme





## Assessment Criteria - Using and applying codes

Codes contained in the planning scheme set out most of the assessment benchmarks for assessing assessable development and requirements for accepted development (i.e. standards to be met by development to achieve specified outcomes).

### Format and structure of codes

As the planning scheme was drafted in accordance with the QPP, the codes generally have a consistent format and structure, as follows:-

- » a statement about the application of the code (i.e. what type of development the code applies to);
- » a statement about the purpose of the code;
- » overall outcomes about how the stated purpose of the code will be achieved; and
- » Acceptable outcomes for accepted development subject to requirements and specific assessment benchmarks for assessable development presented in a two column table, with performance outcomes included in the left hand column and, where specified, acceptable outcomes identified in the right hand column.

For assessable development the purpose, overall outcomes and specific assessment benchmarks together form the assessment benchmarks that determine whether development complies with the code.

For accepted development subject to requirements the acceptable outcomes form the requirements that development must meet to remain accepted.

### Zone codes

Zone codes are contained in Part 6 of the planning scheme and provide assessment benchmarks for development in each of the 20 zones identified in the planning scheme. Zone codes only apply to assessable development (i.e. development requiring code or impact assessment).

Where applicable, a zone code may also contain provisions for a precinct in a zone. The respective zones and zone precincts are mapped in Schedule 2 (Mapping) of the planning scheme. In effect, each zone code outlines the broad intent for the zone, via the purpose of the zone code and the overall outcomes, with a focus on the type and form of development that is considered appropriate in that zone.

### Local plan codes

Local plan codes contained in Part 7 (Local plans) of the planning scheme provide assessment benchmarks for development in the following local plan areas:-

- » Central coastal urban growth area; and
- » Kalkie-Ashfield local development area.

Local plan codes only apply to assessable development (i.e. development requiring code or impact assessment).

Local plan codes provide more detailed planning guidance and identify the preferred character and intent for each local plan area. In effect, local plan codes provide variations to the other planning scheme codes (e.g. zone codes and development codes) by including additional and/or overriding assessment benchmarks that apply to development in a particular local plan area.

Each local plan code is supported by a local area structure plan that helps to illustrate various features and elements within the local plan area that are referred to in the assessment benchmarks of the code.

### Overlay codes

Overlays are mapped in Schedule 2 (Mapping) of the planning scheme and in the State Planning Policy (SPP) interactive mapping system, and identify areas that reflect state or local interests and have one or more of the following:-

- » a constraint on land use or development outcomes, including acid sulfate soils and areas at risk from natural hazards such as flood, bushfire and landslide;
- » areas with a particular sensitivity to (or to be protected from) the effects of development, including areas of environmental value or cultural heritage significance;
- » the presence of natural resources, including agricultural land and extractive resource areas;
- » infrastructure to be protected from the effects of development, including the Bundaberg Airport, state controlled roads, rail, gas pipelines and major electricity infrastructure.



Overlay codes are contained in Part 8 (Overlays) of the planning scheme and provide assessment benchmarks for the various overlay elements identified in the overlay maps. While mostly applying to assessable development, the following overlay codes also contain acceptable outcomes for certain accepted development subject to requirements:-

- » *Bushfire hazard overlay (dual occupancy and dwelling house);*
- » *Coastal protection overlay (dual occupancy and dwelling house);*
- » *Flood hazard overlay (dwelling house); and*
- » *Landslide hazard overlay (any accepted development subject to requirements).*

Refer to Fact Sheet – Overlays for further information on overlays in the planning scheme and their effect on development.

### **Development codes**

Development codes are contained in Part 9 of the planning scheme and provide assessment benchmarks and requirements for particular land uses and other aspects of development. Part 9 includes Use codes (section 9.2) and Other development codes (section 9.3).

Other assessment benchmarks for certain assessable development and requirements for certain accepted development are contained in schedules 6, 7 and 10 of the Regulation (includes Community residence, Cropping (involving forestry for wood production) and Reconfiguring a lot (subdividing one lot into two lots) and associated operational work).

### **Use codes**

Use codes are contained in section 9.2 of the planning scheme and provide the assessment benchmarks and requirements for a number of defined uses (e.g. Dwelling house, Dual occupancy, Home based business) by specifying performance outcomes and acceptable outcomes for development. As such, the use codes primarily apply to development for material change of use or associated building work and are focused on regulating building siting, built form and design and managing the general effects of development.

While the majority of use codes only apply to assessable development, the following use codes contain acceptable outcomes for accepted development subject to requirements:

- » *Caretaker's accommodation code;*
- » *Dual occupancy code;*
- » *Dwelling house code;*
- » *Home based business code;*
- » *Industry uses code;*
- » *Market code;*
- » *Nature and rural based tourism code;*
- » *Rural uses code; and*
- » *Sales office code.*

### **Other development codes**

Other development codes are contained in section 9.3 of the planning scheme and provide the assessment benchmarks for development of a stated type (e.g. reconfiguring a lot), operational work (e.g. landscaping) and other specific aspects of development (e.g. transport and parking).

## **Determining requirements for accepted development**

The planning scheme provides a number of “rules” that need to be considered when assessing development and determining compliance with the codes and other provisions of the planning scheme. The sections below describe these rules for the different categories of development.

### **Accepted development subject to requirements**

As stated in section 5.3.3(1) of the planning scheme, accepted development:-

- a. must comply with any requirements nominated as acceptable outcomes in the applicable code(s) as identified in the 'Assessment benchmarks for assessable development and requirements for accepted development' column of the tables of assessment at Part 5 of the planning scheme;
- b. that does not comply with one or more of the nominated acceptable outcomes in the applicable code(s) becomes code assessable development unless otherwise specified.



## Determining assessment benchmarks for assessable development

### Code assessable development

As stated at Section 5.3.3(3) of the planning scheme, code assessable development must be assessed against all the assessment benchmarks identified in the assessment benchmarks column of the relevant tables of assessment in Part 5.

If accepted development subject to requirements becomes assessable development requiring code assessment due to the proposal not complying with one or more of the required acceptable outcomes of an applicable code, the assessment is limited to the subject matter of the required acceptable outcomes that were not complied with or were not capable of being complied with. The development must still, however, maintain compliance with the remainder of the acceptable outcomes in the applicable code(s).

Code assessable development that complies with:-

- a. the purpose and overall outcomes of the code complies with the code;
- b. the performance outcomes or acceptable outcomes of the code complies with the purpose and overall outcomes of the code.

In practice this means that a proposal which complies with the acceptable outcomes of the applicable code is taken to comply with the corresponding performance outcomes and all higher order outcomes of the code (overall outcomes and purpose of the code). Similarly, a proposal which complies with the performance outcomes of the applicable code is taken to comply with the higher order outcomes of the code.

Where a proposal does not comply with the acceptable outcomes or performance outcomes of an applicable code, development can still comply with the code if it complies with the purpose and overall outcomes of the code.

### Impact assessable development

Impact assessable development is assessed against all elements of the planning scheme which are relevant to the proposed development, including Part 3 (Strategic framework). This may include the relevant zone code, local plan code, use code and any relevant overlay codes and other development codes.

Impact assessable development is also assessed against other material as provided for in the in the Act or Regulation.

### Contact us

Should you have any questions in regards to this user guide or the Bundaberg Regional Council Planning Scheme, please contact Council's Development Group.

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#### Disclaimer

*This document deals with technical matters in a summary way only and has been prepared to assist users and the broader community to understand the operation of the Bundaberg Regional Council Planning Scheme. It is not a legal interpretation on the use of the planning scheme. Some variation to the general guidance provided in this document may occur in some specific situations.*