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## Part 1 About the planning scheme<sup>1,2</sup>

### 1.1 Introduction

- (1) The Toowoomba Regional Planning Scheme (planning scheme) has been prepared in accordance with the *Sustainable Planning Act 2009* (the Act) as a framework for managing development in a way that advances the purpose of the 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 3 July 2017.
- (3) In seeking to achieve this purpose, the planning scheme sets out Toowoomba Regional Council's intention for the future development in the planning scheme area over the next 20 years.
- (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 20 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 local, regional and state levels.
- (6) The planning scheme applies to the planning scheme area of Toowoomba Regional Council including all premises, roads, internal waterways and interrelates with the surrounding local government areas illustrated in Map 1.

Editor's note—The planning scheme has been amended to align with the regulated requirements as provided in the *Planning Act 2016*. In accordance with section 16(3) of the Act, the regulated requirements (to the extent chosen) apply to the planning scheme to the extent of any inconsistency.

Editor's note—State legislation may state that the planning scheme does not apply to certain areas, e.g. strategic port land where there is a land use plan only to the extent of any inconsistency. In accordance with the provisions of section 24 of the *Sustainable Ports Development Act 2015* a port overlay for a master planned area prevails over the planning scheme, to the extent of any inconsistency.

#### Map 1 – Local Government planning scheme area / Map 2 – Local Government context

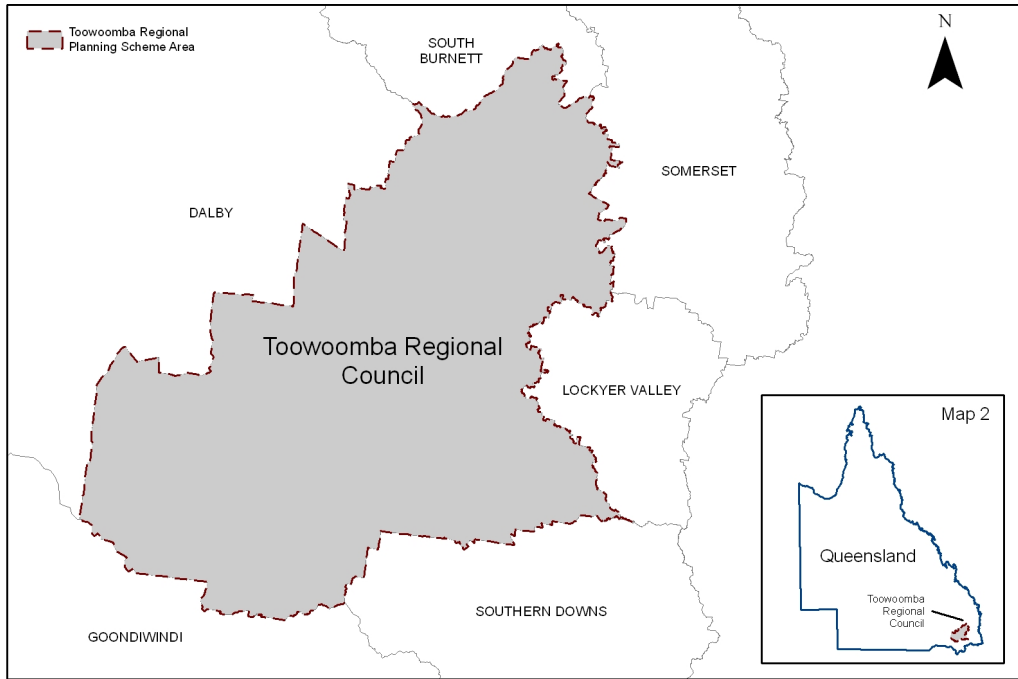
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<sup>1</sup> Amended on 3 July 2017

<sup>2</sup> Amended on 4 August 2014

Toowoomba Regional Planning Scheme  
Part 1 – About the planning scheme  
1.1 – Introduction

Map 1



## 1.2 Planning scheme components

- (1) The planning scheme comprises the following elements:
- (a) about the planning scheme
  - (b) state planning provisions
  - (c) strategic framework
  - (d) local government infrastructure plan<sup>3</sup>
  - (e) tables of assessment
  - (f) the following zones:
    - (i) Low Density Residential Zone:
      - (A) Clifford Park Stables Precinct.
      - (B) Park Residential Precinct.
    - (ii) Low-Medium Density Residential Zone:
      - (A) Urban Residential Precinct.
      - (B) Regional Residential Precinct.
      - (C) Urban Consolidation Precinct.
      - (D) Hospital Support Precinct.
      - (E) Office Residential Precinct.
    - (iii) Principal Centre Zone.
    - (iv) Major Centre Zone.
    - (v) District Centre Zone.
    - (vi) Local Centre Zone.
    - (vii) Sport And Recreation Zone.
    - (viii) Open Space Zone:
      - (A) State Government Conservation and Forestry Precinct.
    - (ix) Low Impact Industry Zone.
    - (x) Medium Impact Industry Zone.
    - (xi) High Impact Industry Zone.
    - (xii) Extractive Industry Zone.
    - (xiii) Community Facilities Zone:
      - (A) Education Precinct.
      - (B) Government Precinct.
      - (C) Higher Education Precinct.
      - (D) Hospital Precinct.
      - (E) Other Community Purposes Precinct.
    - (xiv) Emerging Community Zone.
    - (xv) Limited Development Zone (Constrained Land).
    - (xvi) Mixed Use Zone:
      - (A) Parkland Living Precinct.
      - (B) City South Precinct.
      - (C) West Creek Precinct.
      - (D) Railyards Precinct.
      - (E) Health Support Precinct.
    - (xvii) Rural Zone:
      - (A) 100ha Precinct.
      - (B) 200ha Precinct.
      - (C) Heinemann Road Transport Precinct.

<sup>3</sup> Amended on 9 June 2017

- (xviii) Rural Residential Zone:
  - (A) 4,000m<sup>2</sup> Precinct.
  - (B) 1ha Precinct.
  - (C) 2ha Precinct.
- (xix) Specialised Centre Zone.
  - (A) Queensland Government Research Facility Precinct.
  - (B) Toowoomba Airport Precinct.
  - (C) Defence Facilities Precinct.
  - (D) Specialist Retail Centre Precinct.
- (xx) Township Zone:
  - (A) Flood Management Precinct<sup>4</sup>
- (g) the following local plans:
  - (i) Highfields, Meringandan and Meringandan West Local Plan<sup>5</sup>.
  - (ii) Glenvale Local Plan.
  - (iii) Charlton Wellcamp Enterprise Area Local Plan.
- (h) the following overlays:
  - (i) Airport Environs Overlay Code.
  - (ii) Bushfire Hazard Overlay Code.
  - (iii) Flood Hazard Overlay Code.
  - (iv) Landslide Hazard Overlay Code.
  - (v) Heritage Overlay Code.
  - (vi) Neighbourhood Character Overlay Code.
  - (vii) Scenic Amenity Overlay Code.
  - (viii) Regional Infrastructure Corridors and Substations Overlay Code.
  - (ix) Environmental Significance Overlay Code.
  - (x) Extractive Resources Overlay Code.
  - (xi) Agricultural Land Overlay Code.
  - (xii) Water Resource Catchments Overlay Code.
- (i) the following development codes:
  - (i) Advertising Devices Code
  - (ii) Community Residence code requirements, applying to development that may not be made assessable development under the planning scheme
  - (iii) Cropping (involving forestry for wood production) code, applying to development that may not be made assessable development under the planning scheme
  - (iv) Environmental Standards Code
  - (v) Integrated Water Cycle Management Code
  - (vi) Landscaping Code
  - (vii) Reconfiguring a Lot Code

<sup>4</sup> Amended on 21 August 2020

<sup>5</sup> Amended on 29 July 2016

- (viii) Reconfiguring a lot (subdividing one into two lots) and associated operational works code, applying to development for which code assessment is required under schedule 10, part 12, and schedule 10, part 14, division 2 of the Regulation.
  - (ix) Transport, Access and Parking Code
  - (x) Works and Service Code
  - (j) there are no other plans
  - (k) schedules and appendices
- (2) The following planning scheme policies support the planning scheme:
- (i) Planning Scheme Policy No. 1 - Development Application Requirements.
  - (ii) Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure.
  - (iii) Planning Scheme Policy No. 3 – Engineering Standards – Water and Waste Water Infrastructure.
  - (iv) Planning Scheme Policy No. 4 -Master Planning.<sup>6</sup>
  - (v) Planning Scheme Policy No. 5 – (intentionally left blank).
  - (vi) Planning Scheme Policy No. 6 – Heritage Places.
  - (vii) Planning Scheme Policy No. 7 – Neighbourhood Character Places.
  - (viii) Planning Scheme Policy No. 8 – Street Trees.

## 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), to the extent they have been identified in Part 6 and schedule 2 of the planning scheme
  - (c) the definitions in Schedule 1 of the planning scheme
  - (d) the *Acts Interpretation Act 1954*
  - (e) the ordinary meaning where that term is not defined in any of the above.
- (2) In the even a term has been assigned a meaning in more than one of the instruments listed in sub-section 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 replaces, if the context permits, 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 5(2)(a) of the Planning Regulation 2017, the regulated requirements apply to this planning scheme only where specifically identified as regulated requirements in the sections containing the zones and definitions as relevant.

<sup>6</sup> Amended on 27 April 2018

### 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.

### 1.3.3 Punctuation

- (1) A word followed by ';',<sup>7</sup> 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

- (1) The following applies to a road, closed road, waterway or reclaimed land in the planning scheme area:
  - (a) if adjoined on both sides by land in the same zone—the road, closed road, waterway or reclaimed land is in the same zones as the adjoining land
  - (b) 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
  - (c) if the road, closed road, waterway or reclaimed land is adjoined on one side only by land in a zone—the entire waterway or reclaimed land is in the same zone as the adjoining land
  - (d) 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.

- (b) assessable development
  - (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.

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<sup>7</sup> Amended on 9 August 2019

- (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.

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

- (1) Where there is inconsistency between provisions in the planning scheme, the following rules apply:
  - (a) the strategic framework prevails over all other components to the extent of the inconsistency for impact assessment
  - (b) relevant codes as specified in schedules 6 and 10 of the Regulation – prevail over all other components to the extent of the inconsistency
  - (c) overlays prevail over all other components (other than the matters mentioned in (a) and (b)) to the extent of the inconsistency
  - (d) local plan codes prevail over zone codes, use codes and other development codes to the extent of the inconsistency
  - (e) zone codes prevail over use codes and other development codes to the extent of the inconsistency
  - (f) provisions of Part 10 may override any of the above.

## 1.6 Building work regulated under a planning scheme<sup>8</sup>

- (1) Section 17(b) of the Regulation identifies the assessment benchmarks for building work that a local planning instrument must not change the effect to the extent the building work is regulated under the building assessment provisions, unless permitted under 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, 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:

- 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, MP 1.2 and MP 1.3 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
- 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*
- 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 are contained in the following parts of this planning scheme:
  - (a) designation of bushfire prone areas;
  - (b) designation of land liable to flooding as identified on the Flood hazard overlay;
  - (c) space for on-site parking for the relevant performance criteria in QDC parts 1.1 and 1.2;
  - (d) outdoor living space for the relevant performance criteria in QDC parts 1.1 and 1.2;

<sup>8</sup> Amended on 21 August 2020

- (e) heights of buildings related to obstruction and overshadowing for the relevant performance criteria in QDC parts 1.1 and 1.2.

- (5) In designating land liable to flooding, the following is also declared pursuant to the *Building Act 1975* section 32(a) the *Building Regulation 2006* section 13(1)(a):
  - (a) in the FR4, FR3, FR2 and FR1 flood risk areas identified on the Flood hazard overlay:
    - (i) the defined flood event;
    - (ii) a freeboard that is more than 300mm; and
    - (iii) finished floor level of Class 1 buildings in a flood hazard area;
  - (b) in the Balance (mixed) flood risk area and in the OFP1 and OFP2 overland flow areas identified on the Flood hazard overlay:
    - (i) a freeboard that is more than 300mm;
    - (ii) finished floor level of Class 1 buildings.

Note— Finished floor levels have also been set for other than Class 1 buildings. The relevant building assessment provisions under the Queensland Development Code specifically for buildings in flood hazard areas do not apply to development within the Balance flood risk area or the OFP1 and OFP2 overland flow areas identified on the Flood hazard overlay. The Defined flood event (DFE) varies across the region. Refer to Schedule 1 for a definition of the Defined flood event

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—In a development application the applicant may request preliminary approval for building work. The decision on that development application can also 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 Temporary Use

- (1) For the purpose of definition of “Temporary use” in Schedule 1 – Table SC1.2:2, Temporary Uses are impermanent if carried out in duration as specified in the table below.

Performance outcomes		Acceptable outcomes	
<b>Duration</b>			
PO <sub>1</sub>	Development is temporary in nature, having regard to: <ul style="list-style-type: none"> <li>(a) duration of time; and</li> <li>(b) works, built form or services required for the operation of the use.</li> </ul>	AO <sub>1.1</sub>	The temporary use: <ul style="list-style-type: none"> <li>(a) does not occur at equal or expected intervals in any 12 month period; and</li> <li>(b) does not exceed a total of 12 days in a year, where one single period does not exceed 5 days duration.</li> </ul>

### 1.7.2 Additional Flood Hazard Information<sup>9</sup>

- (1) For the purposes of the relevant building assessment provisions in relation to buildings in flood hazard areas, the following mapping is available from Council (but not included in this planning scheme):

<sup>9</sup> Amended on 21 August 2020

- (a) Minimum finished floor levels; and
  - (b) Areas of flood velocity greater than 1.5m/s (for the relevant Defined flood event only).
- (2) Other flood hazard data and supporting information is also available from Council to assist in site-specific investigations.

Editor's note—This mapping and other flood hazard data/information may be updated periodically by Council as the need arises.