

Queensland’s new planning system

In Queensland, statewide legislation establishes the framework and overarching policy for land-use planning. Commencing in mid–2017, the new *Planning Act 2016* establishes a new planning system for the state, replacing the *Sustainable Planning Act 2009*. While the new planning legislation changes the system, the fundamental roles of the state, local government and community have not changed.

This document outlines the three main elements of the planning system – plan-making, development assessment and dispute resolution – and the roles of state government, local government and the community.

Plan-making

The *Planning Act 2016* provides for the making of the documents that guide all strategic planning and development throughout the state.

The primary document is the planning scheme, which is created by a local government taking into account the aspirations of their communities and the state’s interests. Each scheme specifies the levels of assessment for all defined land uses, and the assessment requirements for each.

The local planning scheme categorises what land-use and development proposals need to obtain an approval from council and what proposals do not need an approval.

The role of state government

The state mandates the roles and responsibilities of the Planning Minister, and the state and local governments for making and amending local planning instruments. This includes setting out the process for making plans, including minimum requirements for community consultation, and identifying and articulating the relevant state interests that must be integrated into the planning scheme.

The Planning Minister approves the planning scheme for consultation with the community and, ultimately, for adoption. In this way, the Planning Minister can be satisfied that the state’s interests have been appropriately dealt with in the planning scheme.

Key instruments: State Planning Policy, Planning Regulation, Minister’s Guidelines and Rules, Regional Plans

The role of local government

Local governments are responsible for preparing and maintaining their own local planning scheme, in consultation with their communities and the state. They must consider all the state interests and any regional plan that exists in the area.

In the local planning scheme, each local government uses the terms and categories of development set up in the *Planning Act 2016* to identify how these different types of development will be assessed by them.

It is the local government that decides what will be code assessable or impact assessable, and detailed matters such as codes, building heights, site setbacks and other expectations. These are set up in the local planning scheme.

Key instruments: Planning Scheme, Temporary Local Planning Instrument, Planning Scheme Policy

The role of the community

The community plays a key role in the plan-making process. Before the Planning Minister gives final approval for the planning scheme to be formally adopted, the state seeks evidence from local governments about how they involved their local community in developing it.

The new system provides an additional two weeks (a total of eight weeks) for the community to get involved and make a submission on their local planning scheme. The community can comment on the entire planning scheme, including the local government’s choices about what development is nominated as either code or impact assessable, and detailed matters like building heights and site setbacks.

Development assessment

The *Planning Act 2016* establishes a statewide, applicant-driven development assessment system, by which local governments (and state agencies in particular circumstances) assess and make decisions on the various land-use and development proposals.

Each decision the local government makes on each application is subject to appeal by the applicant and sometimes also by submitters.

While most applications in a local area are assessed by the local government, the state plays a role in assessing state interests through the **State Assessment and Referral Agency (SARA)**.

The *Planning Act 2016* mandates the framework and process for development assessment and also the basic requirements for an application.

In most cases, the local government is the assessment manager; however, where the state specifies that it has a particular interest through the Planning Regulation, the state assesses those aspects of the development administered by SARA (by using the State Development Assessment Provisions).

Under the new system, the state government is required to publish its reasons for development assessment decisions.

Key instruments: Development Assessment Rules, State Development Assessment Provisions, Planning Regulation

The local government assesses applications in their local area against their planning scheme and issues a decision on each application. Applicants use the scheme to identify what types of development are envisaged in which areas and the assessment criteria that will apply.

Sometimes, the local government also makes an infrastructure agreement with the applicant, which outlines how necessary infrastructure will be funded.

Local governments will be required to publish their reasons for development assessment decisions under the new system.

The community has a role in the development assessment process when impact-assessable developments are publicly notified and submissions invited.

The planning scheme provides the community with an understanding of what development can be expected to occur in their local area and the assessment criteria that will apply. The community will have access to the reasons for development assessment decisions.

Dispute resolution

In any system, disputes and offences occur, and applicants may wish to appeal against decisions that have been made in relation to their applications, or aspects of the decisions.

The state has a robust dispute-resolution process that supports applicants, local governments, the state government and submitters.

The legislation sets up two key forums for resolving disputes: a court-based process and a low-cost and less formal process for simple technical matters.

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The Planning and Environment Court is set up under the *Planning and Environment Court Act 2016*, with the *Planning Act 2016* also setting out what matters can be heard by the court including rights of appeal.

The Development Tribunal provides a low-cost, speedy dispute-resolution option on certain technical matters. This is set up in the *Planning Act 2016*.

Local governments, applicants and community members can access dispute-resolution avenues as specified under the legislation. Each party bears their own costs, except in limited circumstances relating to frivolous, vexatious or improper action.

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