Your guide to the *Planning Act 2016*

Queensland Government

Contents

Better planning for Queensland

This guide is a reference tool for navigating the *Planning Act 2016*.

Our planning system is framed by the Planning Act, which replaced the *Sustainable Planning Act 2009* (SPA) on 3 July 2017.

The current planning laws are the result of major reform and consultation, where every planning instrument in the framework was reviewed. The need for such reform arose because the system under SPA was found to be cumbersome and did not provide enough certainty of outcomes to developers and the community alike.

In response, the Queensland Government worked extensively with the community, local governments and industry to develop new planning laws and instruments that would create a more transparent and accountable system, encourage meaningful community engagement, and be user-friendly.

The new laws have removed much of the complexity of the previous legislation and made the planning system clearer, fairer and easier to navigate for all Queenslanders.

This section of the guide explains the principal legislation, subordinate legislation, planning instruments, and supporting statutory instruments. The section concludes with a comparison of the current and previous systems.

Principal legislation

- The *Planning Act 2016* establishes the current planning system.
- The *Planning and Environment Court Act 2016*, which commenced with the Planning Act, governs the constitution, composition, jurisdiction and powers of the Planning and Environment Court (P&E Court). The court is where appeals can be heard about development assessment decisions.

- The *Planning (Consequential) and Other Legislation Amendment Act 2016* has ensured that the links between the different pieces of state legislation have been updated with the commencement of the Planning Act.

Subordinate legislation

- The Planning Regulation 2017 supports the principal legislation by outlining the mechanics for the operation of the Planning Act. It deals with practical matters such as:
  - how development is categorised
  - who will assess a development application
  - the state interest matters for development.

Planning instruments – the 'what' of planning

There are two statutory **state planning instruments**. These are:

- **State Planning Policy (SPP)**

  This instrument sets out the state planning matters (interests) critical to responsible land-use planning and development across Queensland. Local governments must consider the state interests that apply to their areas when making, amending and implementing their planning schemes.

- **Regional plans**

  A regional plan focuses on the growth and development of a defined part of Queensland. Regional planning matters are identified in collaboration with local governments, key industry groups and the wider community. Where a regional plan exists, the local government must consider it when making or amending its planning scheme.

In addition, local governments have **local planning instruments.** These are:

- **Planning schemes**

  Each local government in Queensland has a planning scheme stating how it intends to manage land use and development into the future. The planning scheme also outlines how development applications will be assessed, by categorising development into types of assessment.

- **Planning scheme policies**

  These support the planning scheme and its administration but do not categorise development or types of assessment. For example, a planning scheme policy may:

  - include details about how assessment matters under the planning scheme will be applied, such as templates for turning circles and parking spaces, or
  - outline the procedures the local government will follow in administering development applications in accordance with the Planning Act, such as identifying the locations where applications will be available for inspection and purchase.

- **Temporary local planning instruments** (TLPIs)

  These can be used to safeguard an area in urgent or emergent circumstances (e.g. flood or fire risk) where making an amendment to the planning scheme would take too long.

Supporting statutory instruments – the 'how' of planning

- The **Minister's Guidelines and Rules** (MGR) sets out the guidelines and rules for making and amending local planning instruments, such as planning schemes. The MGR also outlines the public notification requirements to ensure local communities have their say in these instruments.

- The **Development Assessment Rules** (DA Rules) sets the rules for how development applications are assessed in Queensland. The rules outline the process for lodging, assessing and deciding an application and the minimum public notification requirements.
- The **State Development Assessment Provisions** (SDAP) sets out the matters of interest to the state and provides the criteria for assessing development applications where the state government is the assessment manager or referral agency for a development application.

Comparison of current and previous systems

The Planning Act is a far more straightforward piece of legislation compared with the previous legislation (SPA). This has been achieved by:

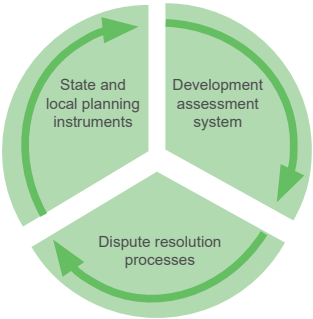
- rearranging provisions so that similar matters are grouped together, are expressed more concisely, and ordered logically
- consolidating definitions as much as possible, so they are easier to find
- removing descriptive detail about plan-making, like key concepts and core matters for planning schemes
- shifting process details to other instruments, such as the Planning Regulation 2017 or other statutory instruments.

The basic system remains the same

The Planning Act retains many similar elements to SPA and so will be familiar to many users.

- There are still state planning instruments and local planning instruments (which must reflect state interests). The Planning Minister still approves these instruments and, for local instruments, continues to set the guidelines and rules for local governments to make or amend their planning schemes.

- There is still an integrated approach to development assessment set in the legislation, along with the roles and responsibilities of the key players. The development assessment process, however, is now found in the DA Rules.
- The State Assessment and Referral Agency (SARA) continues to be the assessment manager or referral agency for development applications where the state has jurisdiction. SARA will use the renewed SDAP to assess development applications where the state government has a role as assessment manager or referral agency.
- There are still dispute resolution processes including the P&E Court and a system for low-cost, speedy dispute resolution through the Development Tribunal.
- There is still a hierarchy of regulatory instruments:
  - the Planning Act establishes the system, including the roles and responsibilities of government, industry and community
  - the Planning Regulation supports the Planning Act by detailing how the Act operates
  - the state planning instruments articulate significant statewide and regional planning interests
  - the statutory instruments articulate the rules for plan-making and development assessment.



Benefits of the new legislation

The new legislation establishes a system that offers:

- **Greater transparency and accountability**

  Decision-makers, both state and local government, are now required to publish their reasons for development decisions. This makes the system more transparent for the community and ensures greater accountability for assessment decisions.

- **Greater certainty**

  The new system retains the code-assessable category of development from the previous system, but has stricter provisions. Previously, decision-makers could draw on other parts of a planning scheme outside the code to justify a decision. Now they are 'bound' to consider the assessment benchmarks (codes) alone. Further, if an application meets all the assessment benchmarks, it must be approved.

- **Continued flexibility**

  There will always be development proposals that are not anticipated by the planning scheme. The new system, like the previous, takes this into account by being 'performance-based', which means that any application can be made against the planning scheme unless it is prohibited development. All development applications that are impact assessable must involve public notification to allow the community to have their say.

Other benefits under the new planning system include:

- Community members can appeal development decisions without fear of adverse cost orders.
- Community engagement is given greater prominence in all statutory instruments and practical tools are provided to local governments to assist them in consulting with their communities.

- Local governments must consult with their communities for longer when making a new planning scheme.
- State heritage places receive stronger protection. There is a new requirement that the Queensland Heritage Council review certain development proposals that may threaten the cultural heritage significance of a site.
- Local governments can increase infrastructure charges levied on new developments to enable them to deliver critical community infrastructure – for example, parks and libraries.
- Land surrender arrangements offer greater protection for our pristine coastline.
- Formal recognition is given to Indigenous knowledge, culture and tradition.
- There is less red tape in the development application process, through a reduction in required forms.
- There is continuity with the previous system by retaining the role of SARA, which provides a one-stop-shop for state assessment of development applications.
- Ecological sustainability is now placed at the heart of the planning system for future generations.

The remainder of this guide outlines each chapter of the Planning Act.

Chapter 1: Preliminary

Chapter 1 of the Planning Act explains that its purpose is 'to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability'.

It defines ecological sustainability as a balance that integrates:

- *the protection of ecological processes and natural systems at local, regional, state and wider levels; and*
- *economic development; and*
- *the maintenance of the cultural, economic, physical and social wellbeing of people and communities.*

The Planning Act emphasises the coordination and integration of planning at the three levels at which it occurs in Queensland, namely:

- state planning
- regional planning
- local planning.

Planning at the local and state levels is directly associated with the respective levels of government. Regional planning is primarily the responsibility of the state (as a regional plan is a state planning instrument); however, in practice, regional planning is a cooperative activity between local and state governments, through regional planning committees.

Coordination of planning refers to the linking of planning activities within and between levels of government and the linking of different aspects of planning, such as natural resource planning, land-use planning and infrastructure

planning. Integration refers to the combination and rationalisation of planning outcomes and to presenting them in an integrated way. Local government planning schemes remain the key instrument for integrating state, regional and local planning outcomes.

The Planning Act coordinates planning by:

- providing for robust communication and consultation within and between levels of government as part of the processes for making and amending planning instruments
- establishing bodies, such as regional planning committees, to coordinate planning at a regional level
- establishing the scope of planning instruments in a way that facilitates coordination of different aspects of planning
- establishing a clear hierarchy of planning instruments, allowing them to interact in a way that will result in integrated planning outcomes
- providing for integrated development assessment
- providing for integrated dispute resolution and enforcement.

Chapter 2: Planning

Chapter 2 of the Planning Act describes the planning instruments (state and local) within the framework and how they relate to each other. It also covers superseded planning schemes and compensation, as well as infrastructure designations.

Part 1: Planning instruments

Part 1 defines what the planning instruments are and when they have effect.

State planning instruments set out planning matters that the state has identified as needing to be protected and preserved. Local governments must consider and contribute to these, protecting and preserving these matters through their local planning schemes.

There are two state planning instruments in the new system:

- State Planning Policy (SPP)
- Regional plans.

Consultation and community engagement arrangements, like public notification and regional planning committees, are carried forward under the Planning Act.

SPP

The SPP is a comprehensive document that sets out those matters that are critical to responsible land-use planning and development. Local governments must consider those matters that apply to them when developing and implementing their planning schemes. The SPP has precedence if there is any conflict between the two state planning instruments.

Regional plans

Regional plans focus on the growth and development of defined regions, with regional planning matters identified in collaboration with local governments, key industry groups and the wider

community. Where a regional plan exists, local governments must consider it when making or amending their local planning schemes.

Part 2: State planning instruments

Part 2 outlines how the state planning instruments are made, amended and repealed; how temporary state planning policies are made; and how the public is notified about a new or amended state planning instrument so that they can make written submissions, if they wish.

Any person may make a submission about a state planning instrument to the Planning Minister. The periods for making a submission about a state planning instrument are:

- 40 business days for a new state planning policy or 20 business days for amendment to a state planning policy
- 60 business days for a new regional plan or 30 business days for amendment to a regional plan.

The Planning Minister may make minor amendments to a state planning instrument without calling for public submissions but must issue a public notice and give each affected local government a copy of the public notice and the amendment. Examples of minor amendments are contained in section 11(3) of the Planning Act.

Part 2 also states that when developing and implementing a regional plan, the Planning Minister may establish a regional planning committee and must consider the advice of this committee.

Part 3: Local planning instruments

Part 3 covers how local planning instruments are made and changed, and how they relate to other instruments. This part also includes the ministerial power to direct action about local planning instruments and related matters.

Local planning instruments are:

- planning schemes
- planning scheme policies
- temporary local planning instruments.

Processes for making and amending local planning instruments are set out in the MGR. Some statutory timeframes apply to the making and amending of instruments.

Planning schemes

The core local planning instrument in Queensland is the planning scheme. Every local government has a planning scheme, which is effectively a statement of the local planning framework against which development proposals are made and considered. A local planning scheme takes into account both local policy intentions for areas and any state interests prescribed by the state government in the SPP or a regional plan (where applicable). Most development across the state is assessed against local planning schemes.

Under the Planning Act, planning schemes may also include **local government infrastructure plans** (LGIPs). An LGIP sets out a local government's plans for major infrastructure networks to service the population growth and land uses anticipated in the scheme.

Since 1 July 2016, local governments have been required to include an LGIP in their planning scheme if they intend to levy infrastructure charges or impose conditions for trunk infrastructure. Trunk infrastructure is infrastructure that is shared by multiple developments.

The state government reformed infrastructure planning and charging in 2014, and therefore no significant changes are made in the Planning Act. However, the Planning Act does allow for the maximum amount of the infrastructure charge to be automatically indexed each year.

Planning scheme policies

A planning scheme policy supports the planning and development assessment policies in a planning scheme for part or all of a planning scheme area, by assisting with the practical implementation of objectives or requirements contained in the planning scheme.

Temporary local planning instruments

A temporary local planning instrument (TLPI) may be used to bring into effect urgent provisions for a local area before the planning scheme can be amended where there is a risk of serious environmental harm, or where it gives rise to adverse cultural, economic or social conditions, and where the delay in bringing in such provisions would increase the risk.

Part 4: Superseded planning schemes

Part 4 explains how a person can ask the local government to consider applying a superseded planning scheme to a development proposal. The Planning Act provides for the requirements and powers for making and deciding these requests.

Compensation provisions, in relation to adverse planning changes, carry forward and now sit with the provisions for superseded planning schemes. There are new arrangements for compensation in relation to planning changes made to a planning scheme as a result of natural hazards.

Part 5: Designation of premises for development of infrastructure

Part 5 provides for:

- who may designate premises for the development of infrastructure – this is either the Planning Minister (a change from SPA under which any state minister could designate) or the local government
- what the designation may provide for
- amendments to designations
- duration and extension of designations
- the repeal of designations
- the requirement for designations to be noted in the planning scheme.

The MGR contains:

- guidelines for the process for environmental assessment and consultation for making or amending a ministerial designation, and
- the designation process rules for the local government when making or amending a designation.

Chapter 3: Development assessment

Chapter 3 of the Planning Act outlines the development assessment framework and contains the most foundational changes to the planning system.

The chapter:

- defines and describes categories of development and assessment
- explains how to make, change, assess and decide development applications, and provides the head of power for the DA Rules
- outlines the rights and responsibilities for development approvals, including how to seek changes and extensions to development approvals
- clarifies the Minister's powers in relation to the development assessment system
- concludes with various miscellaneous provisions.

Who is involved in development assessment?

The following are key stakeholders in the development assessment framework:

- **applicant** — the person that makes the development application
- **assessment manager** — the entity responsible for assessing and deciding a development application. This is usually the local government that administers the planning scheme for the local area. In some instances, the assessment manager may be the state government. The Planning Act does allow selected assessment managers to establish a list of alternative assessment managers who may become the assessment manager for certain development applications.

- **referral agency** — an entity that is required to undertake an additional assessment of certain types of development applications during the development assessment process. Referral agencies are either concurrence agencies (who can direct the assessment manager to refuse the application) or advice agencies (who cannot direct the decision and are limited to providing the assessment manager with advice only)
- **submitter** — a person who makes a properly made submission about a development application during the public notification period. Submitters may be afforded the right to appeal the decision.

Development and approval types

Categories of development

There are three categories of development outlined in the Planning Act (as compared with five in SPA). They are:

- **prohibited development** — development that is not allowed under any circumstances. Only the Planning Regulation may identify prohibited development. A development application cannot be made for prohibited development.
- **accepted development** — development that does not require a development permit; however, it must meet any requirements set by the local government or the state. Development that is not otherwise categorised as prohibited or assessable is accepted development.
- **assessable development** — development that requires a development permit before it can occur. There are two categories of assessable development: code assessable or impact assessable.

All properly made development applications must be

assessed and decided, even if they are inconsistent with the expectations of the community (as outlined in the planning scheme).

Categorising and assessing development

Categorising instruments under the Planning Act can be the Planning Regulation or a local categorising instrument (being either a planning scheme, TLPI or a variation approval).

Categorising instruments can:

- categorise development as either accepted, assessable or prohibited
- specify the category of assessment required for assessable development
- set out assessment benchmarks and other assessment matters that the application must be assessed against.

Development approvals

Assessable development is development for which a development approval is required. A development approval can be either one or other, or a combination of:

- a **development permit**, which authorises the carrying out of assessable development
- a **preliminary approval**, which approves the development but does not authorise the carrying out of assessable development. A preliminary approval may include a **variation approval**, which can give approval to vary the effect of a local planning instrument. When making an application that seeks to vary the effect of the planning scheme, this is called a variation request.

Exemption certificates

Exemption certificates may be given by local or state government (as assessment managers) in a limited number of circumstances. Exemption certificates certify that a development approval is not required for development that is otherwise stated assessable development. These generally have effect for two years and

allow the development stated in the exemption certificate to be carried out without a development approval.

Development assessment process

The process for development assessment is not found in the Planning Act but in the DA Rules.

There are five parts to the DA process:

- application
- referral
- information request
- public notification
- decision.

Depending on the development being applied for, the required steps in each process may vary. Not all parts will apply to all development applications — for example, only impact-assessable applications and applications involving a variation request require public notification.

The DA Rules also establish arrangements for:

- changing a development application before it has been decided
- dealing with missed referrals
- setting timeframes throughout the assessment process, including lapsing and revival provisions and the ability to stop the current period.
- determining what is substantially different development
- establishing requirements for giving public notice.

The DA Rules and other information supporting the development assessment process under the Planning Act can be accessed on the department's website: https://planning.dilgp.qld.gov.au/

Properly made development applications

For each development application to be progressed through the development assessment process it must be properly made.

This means it must:

- be made to the assessment manager
- be made in the approved form
- be accompanied by the documents required under the approved form
- be accompanied by the required fee
- include owner's consent (where required).

The Planning Act provides that the assessment manager may choose to accept an application as properly made if it has not met all the requirements related to the approved forms and supporting material. However, the assessment manager cannot accept an application as properly made without owner's consent (where it is required) or the required fee.

Statement of reasons

The Planning Act requires local and state governments, as assessment managers, to publish the reasons for their decisions. This is required for most development applications (both code assessable and impact assessable).

Exceptions are for development applications that involve operational works only, or building works assessable against the building assessment provisions in the *Building Act 1975*. However, assessments managers may still choose to do so.

Publishing the reasons for decisions helps the community understand why they were made and ensures assessment managers (both local and state government) are accountable

The Planning Act also requires the reasons for a decision to change a development approval to be published, as well as the responses given by the state when acting as a referral agency.

Types of assessment

The Planning Act establishes separate rules for assessing code-assessable development, impact-assessable development and variation requests.

- **Code assessment** must be assessed only against assessment benchmarks (stated in the categorising instrument) and having regard to matters prescribed by the regulation. The assessment manager must approve the development application to the extent it complies with assessment benchmarks, or, if compliance with assessment benchmarks cannot be achieved, by imposing development conditions.
- **Impact assessment** must be carried out against the assessment benchmarks and having regard to any matters prescribed by regulation. It may be carried out against or having regard to any other relevant matters, such as a planning need, or the current relevance of the assessment benchmarks in the light of changed circumstances.
- **a variation request** must consider the consistency of the variations sought with the rest of the planning scheme and the effect the variations would have on submission rights for later development applications, as well as any other requirements set out in the Planning Regulation.

Types of decision

In deciding a development application, the assessment manager must:

- approve all or part of the development application,
- approve all or part of the development application, with conditions, or
- refuse the development application.

An assessment manager may also decide to give a preliminary approval, a development permit, or both.

Referral agencies (other than advice agencies) have the power to direct the assessment manager to refuse an application, or to direct that conditions be added to any approval given.

Development approvals

This chapter also prescribes the effect and duration of development approvals and when they lapse, and how they may be extended, changed or cancelled.

The ability to make representations to change a development approval during the applicant's appeal period is provided under the Planning Act. There is also a timeframe in which representations must be considered and decided.

After the applicant's appeal period, the process for making a change application to a development approval allows for both minor and non-minor changes. Non-minor or 'other' change applications are assessed and decided using the development assessment process set out under the DA Rules.

Ministerial powers

Ministerial powers for development decisions are found in this chapter, including directions and call-ins, which are limited to where the matter involves, or is likely to involve, a state interest. The Planning Minister's two-step process for call-ins, which includes a process for seeking representations about a proposed call-in, is retained in the Planning Act.

Chapter 4: Infrastructure

Chapter 4 of the Planning Act establishes the framework for managing how infrastructure is provided and funded within the development assessment system.

It provides for:

- local government charges resolutions, and the setting of adopted charges for development infrastructure
- levying charges
- recalculation and conversion processes
- conditions about infrastructure (including those imposed by state infrastructure providers)
- infrastructure agreements.

Infrastructure planning and funding

What types of infrastructure are there?

The Planning Act defines two types of infrastructure:

- **trunk infrastructure** — infrastructure that is shared between multiple developments
- **non-trunk infrastructure** — infrastructure within a development or that connects a development to trunk infrastructure.

Local governments provide trunk infrastructure (for which they levy charges), while developers provide non-trunk infrastructure.

What are LGIPs?

LGIPs (local government infrastructure plans) are developed by local governments and identify the trunk infrastructure necessary to service growth in a local area. LGIPs are made in accordance with the MGR and form part of a local government's planning scheme.

An LGIP is required for a local government to levy infrastructure charges or impose conditions for trunk infrastructure.

How is infrastructure paid for and provided?

Adopted charges for trunk infrastructure may be levied under a charges resolution. Charges resolutions are made by local governments in accordance with the requirements of this chapter.

Local governments may impose conditions on development for necessary trunk infrastructure, non-trunk infrastructure and extra payment conditions for infrastructure. If trunk infrastructure is provided by a developer, the local government must offset the cost of the works and/or land against the charges that would otherwise be payable, or refund any difference in costs.

Infrastructure agreements

Local governments and developers may enter into infrastructure agreements about infrastructure provision and payments. Infrastructure agreements apply instead of development approval conditions and infrastructure charges notices, and establish the agreed means of providing and funding trunk infrastructure.

Minister's guidelines

The Minister's guidelines for working out the cost of infrastructure for an offset or refund, and the criteria for deciding conversion applications, are contained in the MGR.

Chapter 5: Offences and enforcement

Chapter 5 of the Planning Act is about offences (including development offences), enforcement notices, proceedings in a magistrates court, powers for development offences in the P&E Court, inspectors and their enforcement powers, and miscellaneous provisions.

Changes to this section of the Planning Act include simplifying development offence provisions and increasing the maximum penalty for development offences.

Offences, notices and orders

What is an offence under the Planning Act?

The Planning Act sets offences for:

- carrying out development without a development permit
- failure to comply with a development approval
- carrying out prohibited development.

The Planning Act prescribes maximum penalties for each of these offences. There are some exemptions, including carrying out emergency development to prevent danger to life or to ensure the structural adequacy of a building.

What enforcement mechanisms are there?

Enforcement mechanisms available under the Planning Act are:

- **Show cause and enforcement notices**. These include notifications, stays, applications in response, and remedying contraventions.
- **Enforcement proceedings** in a magistrates court Offences against the Planning Act are established as summary offences. Proceedings for offences, proceedings brought in a representative capacity, fines, recovery of investigation expenses, and remedial orders are also covered.

- **Enforcement proceedings in the P&E Court.** The Planning Act establishes the powers of the court in relation to remedying or restraining the commission of a development offence, including an offence that has not yet occurred but is likely to.

When can show cause notices and enforcement notices be given?

A **show cause notice** may be given where an assessing authority reasonably believes a person has committed or is committing a development offence. Generally, a show cause notice must be given before issuing an enforcement notice; however, the assessing authority may proceed directly to issuing an enforcement notice if it reasonably considers it is not appropriate in the circumstances to give the show cause notice.

An **enforcement notice** is a notice telling a person to stop committing an offence or to remedy the commission of an offence. It is an offence to fail to comply with an enforcement notice. Fines in excess of $560,000 can be imposed.

Who can take proceedings to a magistrates court?

Any person may bring proceedings in a magistrates court to prosecute another person for an offence. The Planning Act provides for a consistent one-year period to begin offence proceedings.

Who can take proceedings to the P&E Court?

Any person can bring proceedings in the P&E Court to stop the commission of an offence.

Inspectors

The Planning Act includes, for the first time, provisions for inspectors. These provisions provide entities (including SARA) with entry and investigation powers.

Chapter 6: Dispute resolution

Chapter 6 of the Planning Act sets out the rights of applicants and submitters to appeal to a Development Tribunal or the P&E Court regarding development applications. These rights, and how to resolve disputes, form the 'dispute resolution' framework, which is essential to ensuring a well-run system where difficulties are promptly resolved.

This chapter is about the processes for appealing decisions and resolving disputes through:

- the **P&E Court**
- **Development Tribunals** (previously called the Building and Development Dispute Resolution Committees).

The chapter also gives the appeal periods for different types of appeals.

What is the procedure for making an appeal?

An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal. The appeal must be in the approved form and state the grounds of the appeal. The notice of appeal must also be given to other relevant parties.

How much does it cost to appeal?

The *Planning and Environment Court Act 2016* states each party pays its own costs for proceedings, except in specific circumstances (determined by the sitting judge). This is to ensure costs orders don't act as a deterrent to residents and/or community groups exercising their appeal rights.

Section 17 of the Planning Regulation outlines tribunal fees.

What matters can be heard?

The Development Tribunal hears certain low-risk, technical disputes.

The P&E Court generally hears appeals about more complex matters – the complexity of such matters requires consideration by a judge in the court.

Schedule 1 of the Planning Act states in detail the matters that may be appealed to the P&E Court or the Development Tribunal. It also removes appeal provisions made redundant by the Planning Act, such as appeals relating to compliance assessment, while ensuring all relevant SPA appeal rights are retained.

Chapter 7: Miscellaneous

Chapter 7 of the Planning Act contains miscellaneous provisions.

Taking or purchasing land for planning purposes

This part preserves the power for local governments to take or purchase land in certain circumstances.

Public access to documents

The Planning Act provides for the Planning Regulation to prescribe the requirements for public access to documents. These requirements include information about new items introduced in the Planning Act, such as **exemption certificates** and **alternative assessment managers**.

The provisions for planning and development certificates are also found here. This includes a time limit of six years for compensation where an error or omission in a certificate is made by the local government.

Urban encroachment

The continuation of the urban encroachment arrangements under the previous legislation is provided for.

Other provisions

A range of miscellaneous matters are covered in this part including party houses, assessment and decision rules for applications involving a state heritage place, application of the court evidentiary provisions, electronic service of documents, references to terms used in the Act, delegation of functions and powers by the Minister, approved forms and the guideline-making and regulation-making powers.

Chapter 8: Transitional provisions and repeal

Chapter 8 of the Planning Act provides for transitional provisions, and for repeal of SPA. The chapter outlines how matters under the previous legislation translate to the new system.

Generally, documents under SPA effectively become documents of the same type under the Planning Act, and matters in process under SPA will continue to be assessed and decided or finalised under SPA, with all matters started under the Planning Act dealt with under the new legislation.

However, chapter 8, part 1, divisions 3 to 7 do include some specific exceptions or variations to these general rules.

Some key terms

Schedule 2 of the Planning Act contains key terms, including the following:

Accepted development — development for which a development approval is not required.

Assessable development — development for which a development approval is required.

Assessment benchmarks — the matters that an assessment manager must assess assessable development against.

Code assessment — an assessment that must be carried out only against the assessment benchmarks.

Impact assessment — an assessment that must be carried out against the assessment benchmarks, and may be carried out against any other relevant matter.

Development is defined as any of the following:

- carrying out building work
- carrying out plumbing or drainage work
- carrying out operational work
- reconfiguring a lot
- making a material change of use of premises.

Ecological sustainability is a balance that integrates:

- the protection of ecological processes and natural systems at local, regional, state and wider levels; and
- economic development; and
- the maintenance of the cultural, economic, physical and social well-being of people and communities.

Prohibited development — development for which a development application may not be made.

Properly made submission means a submission that:

a) is signed by each person (the submission-makers) who made the submission; and

b) is received —

   i. for a submission about an instrument under section 18, a state planning instrument, or a designation on or before the last day for making the submission; or

   ii. otherwise during the period fixed under this Act for making the submission; and by the due date

c) states the name and residential or business address of all submission-makers; and

d) states its grounds, and the facts and circumstances relied on to support the grounds; and

e) states 1 postal or electronic address for service relating to the submission for all submission-makers; and

f) is made to —

   i. for a submission made under chapter 2, the person to whom the submission is required to be made under that chapter; or

   ii. for a submission about a development application, the assessment manager; or

   iii. for a submission about a change application, the responsible entity.

Properly made development application means one that:

> used the correct form

> supplied the right information

> obtained owner's consent

> paid the required fees.

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