

# Part 1 About the planning scheme

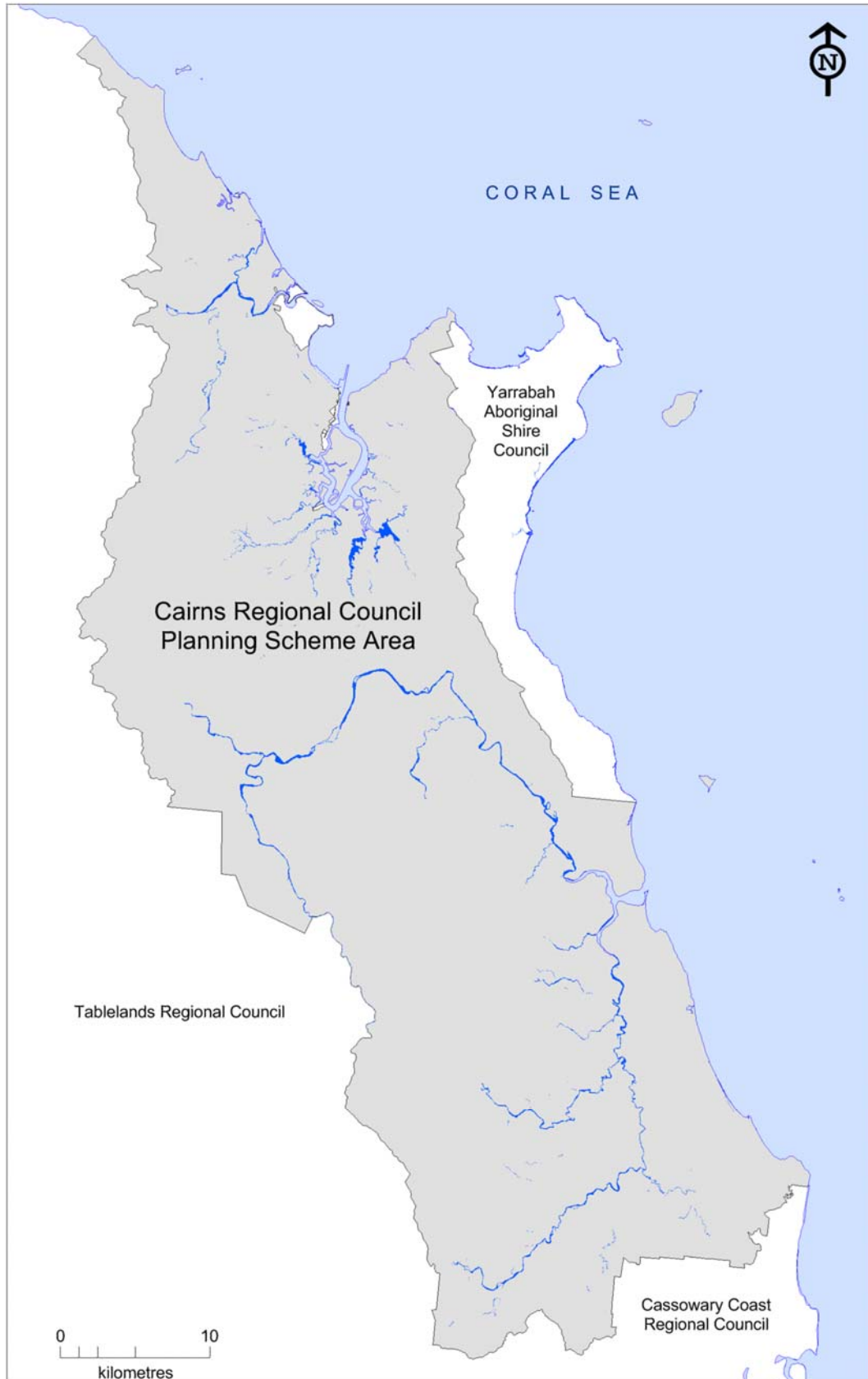
## 1.1 Introduction

- (1) The CairnsPlan 2016 (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) In seeking to achieve this purpose, the planning scheme sets out Cairns Regional Council's intention for the future development in the planning scheme area, over the next 20 years.
- (3) The planning scheme seeks to advance state and regional policies through more detailed local responses, taking into account the local context.
- (4) 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 a local, regional and state level.
- (5) The planning scheme applies to the planning scheme area of Cairns Regional Council including all premises, roads, internal waterways and local government tidal areas and interrelates with the surrounding local government areas illustrated in Figure 1.

Note – Commonwealth and 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*, airport land under the *Airport Assets (Restructuring and Disposal) Act 2008* or defence land under the *Commonwealth Defence Act 1903*.

Note – Development undertaken in accordance with a Community Infrastructure Designation (Schedule 5) does not fall within the regulatory jurisdiction of the CairnsPlan 2016.

Figure 1 – Local government planning scheme area and context



## 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 following zone codes:
    - (i) Community facilities zone code;
    - (ii) Conservation zone code;
    - (iii) District centre zone code;
    - (iv) Emerging community zone code;
    - (v) Environmental management zone code;
      - (A) Environmental management precinct 1 – Residential;
      - (B) Environmental management precinct 2 – Russell Heads;
    - (vi) High impact industry zone code;
    - (vii) Local centre zone code;
    - (viii) Low density residential zone code;
    - (ix) Low impact industry zone code;
    - (x) Low-medium density residential zone code;
    - (xi) Major centre zone code;
    - (xii) Medium density residential zone code;
    - (xiii) Medium impact industry zone code;
    - (xiv) Mixed use zone code;
      - (A) Mixed use precinct 1 – Commercial;
      - (B) Mixed use precinct 2 – Trades and services;
      - (C) Mixed use precinct 3 – Residential;
    - (xv) Neighbourhood centre zone code;
    - (xvi) Open space zone code;
    - (xvii) Principal centre zone code;
    - (xviii) Rural residential zone code;
    - (xix) Rural zone code;
    - (xx) Special purpose zone code;
    - (xxi) Specialised centre zone code;
      - (A) Specialised centre precinct 1 – Hospitals and allied medical;
      - (B) Specialised centre precinct 2 – Showgrounds and major sports;
      - (C) Specialised centre precinct 3 – James Cook University;
    - (xxii) Sport and recreation zone code;
    - (xxiii) Tourism zone code;
    - (xxiv) Tourist accommodation zone code;
      - (A) Tourist accommodation precinct 1 – Islands;
    - (xxv) Township zone code;
    - (xxvi) Waterfront and marine industry zone code.
  - (g) the following local plans:
    - (i) Babinda local plan code;
      - (A) Precinct 1 – Munro Street;
      - (B) Precinct 2 – Mill re-development.
    - (ii) City centre local plan code;
      - (A) Precinct 1 – City centre core;
        - (i) Sub-precinct 1a – Shields Street;
      - (B) Precinct 2 – City centre frame.
    - (iii) Earville local plan code;
      - (A) Precinct 1 – Earville core;

- (B) Precinct 2 – Earlville frame;
- (C) Precinct 3 – Cannon Park.
- (iv) Edmonton local plan code;
  - (A) Precinct 1 – Edmonton core;
  - (B) Precinct 2 – Edmonton frame;
  - (C) Precinct 3 – Community health;
  - (D) Precinct 4 – Urban consolidation.
- (v) Edmonton industry and business local plan code;
  - (A) Precinct 1 – Mixed use employment;
  - (B) Precinct 2 – Low impact employment;
  - (C) Precinct 3 – Transport based industry;
  - (D) Precinct 4 – Mixed use centre;
  - (E) Precinct 5 – Existing employment;
  - (F) Precinct 6 – Existing community;
  - (G) Precinct 7 – High impact sports;
  - (H) Precinct 8 – Future investigation.
- (vi) Gordonvale local plan code;
  - (A) Precinct 1 – Town centre;
  - (B) Precinct 2 – Maher Road;
  - (C) Precinct 3 – Riverstone Road;
  - (D) Precinct 4 – Draper Road.
  - (E) Precinct 5 – Mill
- (vii) Mount Peter local plan code;
  - (A) Precinct 1 – Conservation;
  - (B) Precinct 2 – Cooper Road;
  - (C) Precinct 3 – Maitland Road;
  - (D) Precinct 4 – Future urban communities.
- (viii) Smithfield local plan code;
  - (A) Precinct 1 – Smithfield major activity centre;
  - (B) Precinct 2 – James Cook University;
  - (C) Precinct 3 – Employment;
  - (D) Precinct 4 – Residential communities.
- (h) the following overlay codes:
  - (i) Acid sulfate soils overlay code;
  - (ii) Airport environs overlay code;
  - (iii) Building height overlay code;
  - (iv) Bushfire hazard overlay code;
  - (v) Coastal processes overlay code;
  - (vi) Extractive resources overlay code;
  - (vii) Flood and inundation hazards overlay code;
  - (viii) Hazardous and explosive facilities overlay code;
  - (ix) Hillslopes overlay code;
  - (x) Landscape values overlay code;
  - (xi) Natural areas overlay code;
  - (xii) Neighbourhood character overlay code;
  - (xiii) Places of significance overlay code;
  - (xiv) Potential landslip hazard overlay code;
  - (xv) Transport network overlay code.
- (i) the following development codes:
  - (i) statewide codes:
    - (A) Community residence code;
    - (B) Forestry for wood production code;
    - (C) Reconfiguring a lot (subdividing one lot into two lots) and associated operational work code.

- (ii) use codes:
    - (A) Animal keeping code;
    - (B) Aquaculture and intensive animal industry code;
    - (C) Brothel code;
    - (D) Bulky goods and outdoor sales code;
    - (E) Caretaker's accommodation code;
    - (F) Child care centre code;
    - (G) Community activities code;
    - (H) Community care centre code;
    - (I) Dual occupancy code;
    - (J) Dwelling house code;
    - (K) Dwelling unit code;
    - (L) Extractive industry code;
    - (M) Home based business code;
    - (N) Market code;
    - (O) Multiple dwelling and short-term accommodation code;
    - (P) Parking station code;
    - (Q) Relocatable home park and tourist park code;
    - (R) Retirement facility and residential care facility code;
    - (S) Roadside stall code;
    - (T) Rooming accommodation code;
    - (U) Sales office code;
    - (V) Service station and car wash code;
    - (W) Sport and recreation activities code;
    - (X) Telecommunications facility code;
    - (Y) Veterinary services code.
  - (iii) Other development codes:
    - (A) Advertising devices code;
    - (B) Centre design code;
    - (C) Environmental performance code;
    - (D) Excavation and filling code;
    - (E) Industry design code;
    - (F) Infrastructure works code;
    - (G) Landscaping code;
    - (H) Parking and access code;
    - (I) Reconfiguring a lot code;
    - (J) Vegetation management code.
  - (j) schedules and appendices.
- (2) The following planning scheme policies support the planning scheme:
- (a) Planning scheme policy – Acid sulfate soils;
  - (b) Planning scheme policy – Centres and centre activities;
  - (c) Planning scheme policy – Crime prevention through environmental design (CPTED);
  - (d) Planning scheme policy – Environmental management plans;
  - (e) Planning scheme policy – FNQROC Regional Development Manual;
  - (f) Planning scheme policy – Landscape values;
  - (g) Planning scheme policy – Landscaping;
  - (h) Planning scheme policy – Natural environment;
  - (i) Planning scheme policy – Natural hazards;
  - (j) Planning scheme policy – Neighbourhood character;
  - (k) Planning scheme policy – Parking and access;
  - (l) Planning scheme policy – Places of significance;
  - (m) Planning scheme policy – Site assessments;
  - (n) Planning scheme policy – Structure planning;

- (o) Planning scheme policy – Tropical urbanism.

## 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 Act;
  - (b) the *Sustainable Planning Regulation 2009* (the Regulation);
  - (c) the definitions in Schedule 1 of the planning scheme;
  - (d) the *Acts Interpretation Act 1954*; or
  - (e) the ordinary meaning where that term is not defined in the Act, the Regulation, Schedule 1 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 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 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.

### 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*, 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 <sup>1</sup> - 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, foreshores and reclaimed land

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

<sup>1</sup> Footnote – this is an example of a footnote.

- (a) If adjoined on both sides by land in the same zone - the road, closed road, waterway, foreshore or reclaimed land is in the same zone 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, foreshore 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, foreshore or reclaimed land is adjoined on one side only by land in a zone - the entire road, closed road, waterway, foreshore or reclaimed land is in the same zone as the adjoining land; or
- (d) If the road, closed road, waterway, foreshore or reclaimed land is covered by a zone then that zone applies.

Editors note — the boundaries of the local government area are described by the maps referred to within the *Local Government Regulation 2012*.

## 1.4 Categories of development

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

- (a) Exempt development

Editor's note - a development permit is not required for exempt development.

- (b) Self-assessable development

Editor's note - a development permit is not required for self-assessable development.

- (c) Development requiring compliance assessment

Editor's note - a compliance permit is required for development requiring compliance assessment.

- (d) Assessable development

Editor's note - a development permit is required for assessable development.

- (e) Prohibited development

Editor's note - a development application or a request for compliance assessment cannot be made for prohibited development.

- (2) The Act and Regulation prescribe levels of assessment for certain types of development.
- (3) The planning scheme also states the level of assessment for certain types of development in the planning scheme area in Part 5.

## 1.5 Hierarchy of assessment criteria

- (1) Where there is inconsistency between provisions within the planning scheme, the following rules apply:
- (a) the strategic framework prevails over all other components to the extent of the inconsistency;
  - (b) statewide codes prevail over all other components (other than the strategic framework) to the extent of the inconsistency;
  - (c) overlay codes prevail over all other components (other than the strategic framework and statewide codes) 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 the planning scheme

- (1) Section 78A of the Act states that a local planning instrument must not include provisions about building work 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 a code for integrated development assessment system for the carrying out of building assessment work or self-assessable work (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 3 of the Regulation to determine assessable development and the type of assessment.

- (4) The building assessment provisions are contained in the following parts of this planning scheme:

**Table 1.6.a – Building assessment provisions**

Description	Assessment criteria	Building Act 1975 (BA) and Building Regulation 2006 (BR) reference
<b>Bushfire hazard</b>		
Designation of bushfire prone areas for the BCA or QDC	Bushfire hazard overlay maps	Section 32(a) BA and section 12 BR
<b>Flood hazard</b>		
Designation of natural hazard management area (flood)	Flood and inundation hazard overlay maps	Section 32(a) BA and section 13(1)(a) BR
Design requirements within the natural hazard management area (flood)	Flood and inundation hazard overlay code	Section 32(a) BA and section 13(1)(b) BR
<b>Queensland Development Code (QDC) alternative provisions</b>		
Alternatives to QDC boundary clearance provisions	Relevant zone code contained in Part 6	Section 33(2) BA
Alternative to QDC building height provisions (performance criterion 4)	Relevant zone code contained in Part 6	BA and section 10(2)(b) BR



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 271 of the Act, for building work assessable against the *Building Act 1975*. The decision notice must state this.

## 1.7 Relationship of the planning scheme to the planning scheme policies

- (1) The planning scheme should be read in conjunction with the planning scheme policies which:
  - (a) Provide information that may be required or requested for a development application;
  - (b) Contain standards;
  - (c) Include guidelines or advice about satisfying assessment criteria in the planning scheme.
- (2) When preparing an application for assessment against the planning scheme or a part of the planning scheme, reference should be made to applicable planning scheme policies.

## 1.8 Local government administrative matters

- (1) For the purpose of Schedule 7 Table 1 Item 17 of the *Sustainable Planning Regulation 2009* it is declared that building work for a building or structure which is a single detached class 1(a)(i) building, class 1(a)(ii) building comprising not more than 2 attached dwellings or a class 10 building or structure within the Hillslopes overlay may:
  - (a) have an extremely adverse effect on the amenity, or likely amenity, of the locality; or
  - (b) be in extreme conflict with the character of the locality.
- (2) Where building work is triggered by 1.8(1) it must be referred to the Local government as a concurrence agency and be assessed against the criteria within Table 1.8.a.

**Table 1.8.a – Amenity and aesthetic impact of particular building work assessment provisions**

Performance outcome (PO)	Acceptable outcomes (AO)
<p><b>PO1</b> The landscape character and scenic amenity quality of hillslopes areas is retained to protect the scenic backdrop to the region.</p>	<p><b>AO1.1</b> Building work:</p> <ol style="list-style-type: none"> <li>(a) is finished predominantly in the following exterior colours or surfaces:                             <ol style="list-style-type: none"> <li>(i) moderately dark to darker shades of olive green, brown, green, blue, or charcoal; or</li> <li>(ii) moderately dark to darker wood stains that blend with the colour and hues of the surrounding vegetation and landscape;</li> </ol> </li> <li>(b) is not finished in the following exterior colours or surfaces:                             <ol style="list-style-type: none"> <li>(i) pastel or terracotta colours, reds, yellows, shades of white or beige, or other bright colours that do not blend with the surrounding vegetation and landscape;</li> <li>(ii) reflective surfaces;</li> </ol> </li> <li>(c) exterior colour schemes do not result in the use of a single colour on large surface areas or broad expanses.</li> </ol> <p><b>AO1.2</b> Roofs on buildings or structures are:</p> <ol style="list-style-type: none"> <li>(a) non reflective and finished in a low contrast</li> </ol>

Performance outcome (PO)	Acceptable outcomes (AO)
	colour that blends with the surrounding vegetation and landscape; (b) not finished in terracotta colours, reds, yellows, shades of white, beige or light grey.

- (3) The following Advertising devices, are to be regulated by the planning scheme and not the local laws:
  - (a) Pylon signage;
  - (b) Billboard signage;
  - (c) Projecting signage;
  - (d) Illuminated signage;
  - (e) All advertising devices relating to adult stores and brothels;
  
- (4) Where an advertising device does not fall within one of the advertising devices listed in section 1.8(3), it must be assessed against the local laws.
  
- (5) The Council has resolved that the operation of following types of activities will be regulated by the local laws and not the planning scheme:
  - (a) **Shared facility accommodation operation** means the operation of the provision of shared facility accommodation to holiday makers or travellers, but does not include accommodation in a hotel or motel;
  - (b) **Temporary entertainment event** means an event and the operation of an event that is held temporarily – not on a regular basis – to provide entertainment to the public whether or not upon payment of a fee for admission and whether or not the management reserves the right to exclude individual members of the public;
  - (c) **Temporary home** means a temporary structure that is erected for the occupation of the owner, and immediate family, of the land upon which there is a current approval to construct a dwelling house and only during the construction of the approved dwelling house.