

CairnsPlan 2016 Amendment 1 of 2021 – Major Amendment and CairnsPlan 2016 Version 3.0 - Explanatory statement and summary of amendments

Explanatory Statement

The CairnsPlan 2016 Amendment 1 of 2021 – Major Amendment and CairnsPlan 2016 Version 3.0 was adopted by Cairns Regional Council on 13 October 2021 and commenced on 26 October 2021.

The purpose of the amendment was primarily to:

- address feedback from the community and development industry;
- improve the efficiency of the scheme;
- remove unnecessary triggers for development applications;
- update the planning scheme mapping;
- ensure the planning scheme is contemporary and complies with the requirements of the *Planning Act 2016*; and
- reflect the outcomes of the Freshwater and Stratford Town Planning Survey 2019.

A summary of the amendment is contained in Table 1 below.

Please note: The Major amendment introduced a number of changes throughout the planning scheme and Table 1 provides a summary only. A track changes version showing a complete record of all changes can be found at:

<https://www2.cairns.qld.gov.au/Filestore/council-meetings/planning-and-environment/agendas-2021/13-oct-2021/Clause-3-Attachment-2-Proposed-CairnsPlan-2016-Amendment-1-of-2021-Major.pdf>

Table 1 – Summary of amendments

Item No.	Code/Section Reference	Summary of Amendments
1.	Entire planning scheme	Alignment amendment to all parts of the planning scheme to appropriately reflect the changes introduced under the <i>Planning Act 2016</i> (including updated regulated requirements, terminology / defined term changes and references).
2.	Entire planning scheme	Minor and administrative amendments to improve the workability of and clarify the intent of planning scheme provisions (including notes). These amendments address spelling, formatting and other administrative matters.
3.	Part 1	Amendment to and inclusion of notes to clarify interactions with other legislative requirements.
4.	Part 1, Section 1.6	<p>A number of amendments have been made to Part 1, Section 1.6, including:</p> <ul style="list-style-type: none"> • amendments to the layout to provide two (2) tables: one for designation of bush fire prone areas and land liable to flood and another for Building assessment provisions – alternative provisions to the Queensland development Code (QDC). • amendments to the layout of the table including line item numbering, and specific columns for quantifiable standards and qualitative statements. • amendments to provide further guidance on the interaction between the building assessment provisions and the planning scheme. These amendments clarify where alternative provisions (to the building assessment provisions) apply for Building work and relate to: <ul style="list-style-type: none"> ○ clarifying the declaration of a Bushfire prone area; ○ clarifying the declaration of a Flood hazard areas;

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		<ul style="list-style-type: none"> clarifying the declared requirements for Class 1 buildings and associated structures within a Flood hazard area. clarifying the alternative provisions to MP1.1 and MP1.2 of the Queensland Development Code for boundary clearances (setbacks), site coverage and on-site car parking.
5.	Part 1, Section 1.8(3)	Amendments to Section 1.8(3) and Table 1.8.a to exclude triggering a referral agency assessment under the Amenity and aesthetic impact provisions for Hillslopes (colours) for building work for in-ground swimming pools and where development is undertaken in accordance with a Notice of decision for Material change of use that included the Hillslopes overlay code as an assessment benchmark and the Notice of decision includes a condition of approval.
6.	Part 1.8(4)	Inclusion of a new section 1.8 (4) to confirm that Cairns Regional Council has not made a resolution to decide to apply Part 1.3 of the Queensland Development Code to Dual occupancies within the Cairns local government area.
7.	Part 2	Amendments to include an Editor's note advising that in accordance with section 8(4)(a) of the Act, the State Planning Policy (SPP) applies to the extent of any inconsistencies.
8.	Part 3	Various amendments to strategic outcomes to reflect changes made through the planning scheme and correct outdated or incorrect references.
9.	Part 5 (text)	<p>Various amendments to Part 5 in relation to identifying categories of development, the category of assessment and assessment benchmarks for development, including:</p> <ul style="list-style-type: none"> amendments to the Editors note in section 5.2 (6) to clarify that where development includes an 'IF' statement, the varied category of development or assessment prevails. amendment to Section 5.3 (7) to clarify that where a development comprises of a number of defined uses (not in an activity group) the category of development and assessment applicable to a defined use is the category of development and assessment for the entire development. amendments to Section 5.2 (10) to clarify that where the category of development or category of assessment is varied by overlays, local plans or other circumstances (by an IF statement) then the varied category of development or category of assessment applies to the development. Where multiple varied categories of development and assessment apply to the development, the highest varied category of assessment applies to the entire development as follows: <ul style="list-style-type: none"> Accepted subject to requirements prevails over accepted; Code assessable prevails over accepted subject to requirements and accepted; Impact assessable prevails over code assessable, accepted subject to requirements and accepted. amendments to Section 5.4 to confirm that where accepted development does not comply with one or more of the nominated acceptable outcomes that form the requirements for accepted development in the relevant part(s) of the applicable code(s), the development becomes code assessable development, unless otherwise specified. The amendments clarify what development is required to be assessed against (including acceptable outcomes,

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		<p>performance outcomes, overall outcomes and purpose of the code that is relevant to the subject matters of the acceptable outcome).</p> <ul style="list-style-type: none"> removal of Section 5.5 - prescribed levels of assessment.
10.	Part 5 (tables)	<p>A number of amendments have been made to Part 5, including changes to category of development and assessment and applicability of assessment benchmarks for a number of zones, including:</p> <ul style="list-style-type: none"> various amendments to the category of development and assessment for certain types of development within the Neighbourhood character overlay in relevant zones; amendments to the category of development and assessment for Reconfiguring a lot and Dual occupancy within the Freshwater and Stratford Neighbourhood character areas in certain zones. a new type of development for Operational works for access crossovers or driveways in all zones. amendments to the applicable benchmarks for Dwelling house development (including Building work on a site containing an existing Dwelling house) within certain zones to remove duplication of overlay and development codes where these have been integrated into the new Dwelling house code. amendments to remove the applicability of the Potential Landslip hazard overlay code to apply to Building work in all zones. a new type of development for Minor Building work and Building work on a site containing an existing Dual occupancy or Multiple dwelling within relevant zones. amendments to include the Industry design code as an applicable code to Building work in certain zones. amendments to apply the Hazardous and explosive facilities overlay code as required by the Department of State Development, Infrastructure, Local Government and Planning. amendments to ensure terminology has been updated to reflect the SPP mapping in the Extractive resources overlay. amendments to remove references to Community residence. amendments to ensure the appropriate assessment requirements are identified for development for Forestry for wood production. amendments to clarify when the planning scheme applies to Building Work on a lot within the Flood and inundation hazard overlay in relevant zones. amendment to increase the category of assessment for dwelling houses and dual occupancy that are accepted subject to requirements to impact assessable, where within Sub-precinct 2b – High-extreme hazard area of Precinct 2 Mount Peter in certain zones within relevant zones. amendments to remove the applicability of the Bushfire hazard overlay from building work within the community facilities zone. amendments to confirm the codes applicable to Building work within the Conservation zone. amendment to apply the Dual occupancy code, Excavation and filling code, Infrastructure works code, Parking and access code to Dual occupancy within the Neighbourhood character overlay in relevant zones. amendment to Health care services where within an existing building for a lawfully established centre activity in certain zones. amendment to include a new level of assessment (code) for Building work if for a new awning or street canopy and include the City centre

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		<p>local plan code and Centre design code as relevant assessment benchmarks.</p> <ul style="list-style-type: none"> • amendment to confirm the codes applicable to Material change of use for Extractive industry in relevant zones. • amendments category of assessment for Emergency services where not within the Extractive resource overlay. • other various amendments to resolve any identified errors and administrative matters.
11.	Part 6	<p>Various amendments have been made to Part 6, including:</p> <ul style="list-style-type: none"> • amendments to all purpose statements to align with <i>Planning Regulation 2017</i>. • adding requirements to consider Wet Tropics World Heritage Area in relevant zones (e.g. Conservation). • replicated policy statements from the Strategic framework into the overall outcomes to apply in code assessment. • amendments to include notes that specify where the provisions relating to the role and function of centres within the hierarchy of centres are contained for both code and impact assessment. • amendments to the Conservation zone to include requirements for accepted development for building work. • minor changes to clarify provisions. • other various amendments to resolve any identified errors and administrative matters.
12.	Part 7	<p>Various amendments have been made to Part 7, including:</p> <ul style="list-style-type: none"> • minor changes to correct errors and clarify provisions. • amendments to include notes that specify where the provisions relating to the role and function of centres within the hierarchy of centres are contained for both code and impact assessment. • amendments to the City centre local plan code to: <ul style="list-style-type: none"> ○ ensure the operational aspects of the Cairns Airport and Port of Cairns are maintained and protected. ○ overall outcomes and PO's to ensure the height of building and structures does not create a permanent or temporary obstruction into the operational airspace of Cairns airport. ○ ensure the outcomes sought within the Acceptable outcomes align with the Performance outcomes. ○ include a note to state that the site coverage requirements in the Acceptable outcome prevails over any other requirements in a zone or development code; ○ clarify vertical landscaping requirements.
13.	Part 8	<p>A number of amendments have been made to Part 8, including:</p> <ul style="list-style-type: none"> • Acid sulfate soils overlay code – minor changes to provide further provisions on acid sulfate soils management plan and amendments to development not causing environmental harm. • Airport environs overlay code – amendments to: <ul style="list-style-type: none"> ○ reflect the requirements of the SPP guidance material. ○ improve workability through greater clarity on provisions. ○ provide guidance on when third party advice may be sought. ○ ensure the terminology in the code and mapping are consistent. ○ remove requirements for certain building works in relation to ANEF contours.

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		<ul style="list-style-type: none"> • Building height overlay code – amendments to add a note to clarify landscaping requirements. • Bushfire hazard overlay code – amendment to ensure terminology in code and mapping are consistent and amendments to remove the date reference in the Australian standard to ensure that the most up to date version is referenced. • Extractive resources overlay code - amendments to terminology in the code and mapping are consistent and align with the terminology within the SPP. • Flood and inundation hazards overlay code - amendments to: <ul style="list-style-type: none"> ○ clarify that the code does not apply to building work that the Queensland Development Code MP3.5 applies. ○ to confirm that the provisions apply to all development, not just development that involves filling and specifically only apply within Sub precinct Zone 2 of Precinct 3 ○ include a new provision to exclude the requirements for flood immunity only where the development is for minor building work that is not associated with a Material change of use. • Hazardous and explosives facilities overlay code – amendments to reflect changes required by the Department of Department of State Development, Infrastructure, Local Government and Planning including: <ul style="list-style-type: none"> ○ clarifying provisions. ○ adding specific requirements for: Reconfiguring a lot, vulnerable land uses, Vulnerable use management area and requirements for development within the Major hazard facility area. ○ identifying circumstances for third party referrals. • Hillslopes overlay code – amendments to remove duplication with Building assessment provisions and removal of requirements for development being located within 50 metres of the site frontage. • Landscape values overlay code - amendments to include additional provisions from the strategic framework into the overall outcomes. • Natural areas overlay code - amendments to: <ul style="list-style-type: none"> ○ include additional acceptable outcomes to reduce unnecessary applications. ○ ensure terminology in the code and mapping are consistent and align with the terminology within the SPP. ○ include a provision to ensure development does not occur within the MSES – Regulated vegetation (wetland) mapped area. ○ amendments to include an overall outcome that development avoids adverse impacts on the cultural heritage significance of the Wet Tropics of Queensland World Heritage Area and include a note to reference to the Strategic framework maps. ○ amendments to include a note advising circumstance where Council may seek Third-party advice. ○ Inclusion of note identifying where an ecological assessment report may be required. • Neighbourhood character overlay code - amendments to: <ul style="list-style-type: none"> ○ reflect the results of the Freshwater and Stratford Town Planning Survey 2019; ○ include requirements for reconfiguring a lot, Material change of use involving secondary dwellings and development involving relocation or repositioning of character houses.

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		<ul style="list-style-type: none"> ○ clarify the requirements for the demolition, removal and repositioning of a character house and circumstances where a character house may be demolished; ○ combine performance outcomes where there is duplication; ○ ensure the code references defined terminology; ○ include provision to retain vegetation. • Places of significance overly code - amendments to the purpose, overall outcomes and code to remove the requirements that relate to development on a premise that adjoins a State heritage place. • Potential landslip hazard overlay code - amendments to: <ul style="list-style-type: none"> ○ clarify that certification is to be undertaken by an appropriately qualified and experienced engineering geologist, geotechnical engineer or registered professional engineer appropriately experienced in slope stability investigations. ○ clarify that the requirements relating to existing benching relate to works that were undertaken lawfully. • Transport network overlay code – amendments to: <ul style="list-style-type: none"> ○ ensure terminology in the code and overlay mapping are consistent; ○ ensure development provides infrastructure in accordance with the LGIP; ○ clarify the requirements for future intersection and access points to major transport corridors; ○ ensure development provides active transport infrastructure in accordance with the appropriate documents guiding the provisions of active transport networks and to the appropriate standard. • Other various amendments to resolve any identified errors and administrative matters.
14.	Part 9	<p>A number of changes have been made to Part 9, including but not limited to:</p> <ul style="list-style-type: none"> • Bulky goods and outdoor sales code – amendments to clarify fencing and landscaping requirements. • Child care centre code - Amendments to clarify fencing and screening requirements. • Dual occupancy code – amendments to: <ul style="list-style-type: none"> ○ include new performance and acceptable outcomes for Building work to an existing Dual occupancy; ○ performance and acceptable outcomes to clarify parking and access, screening, landscaping and refuse collection requirements; ○ correct an error in the setbacks for the secondary street frontage for garages and carports. • Statewide codes - amendments to remove the Community residence and Reconfiguration of a lot (subdividing one into two lots) and associated operational works code and move the Forestry for wood production code into the Development code section. • Dwelling house code - amendments to include a new Dwelling house code to provide a streamlined, single assessment benchmark for Material Change of Use and / or Building work for the majority of Dwelling Houses, where located within a Residential zone and Rural residential zone.

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		<ul style="list-style-type: none"> • Dwelling house (Secondary dwelling) code - amendments to provide a Dwelling house (secondary dwelling) code and amendments to the lot size requirements for secondary dwellings within the Rural zone. • Home based business code – amendments to: <ul style="list-style-type: none"> ○ clarify the requirements for the hours of operation to provide for more appropriate hours of operation for a range of home-based businesses. ○ reference 'dwelling' within requirements in substitution for 'dwelling house'; ○ include a section specifically for home-based child care. • Multiple dwelling and short-term accommodation code – amendments to: <ul style="list-style-type: none"> ○ include new performance and acceptable outcomes for Building work on a site containing an existing Multiple Dwelling. ○ to clarify the landscaping requirements and remove the refuse collection requirements from the code. • Parking station code – amendments to clarify landscaping. • Relocatable home park and tourist park code – amendments to clarify landscaping requirements and remove the refuse collection requirements from the code. • Retirement facility and residential care facility code - amendments to clarify the communal recreation area requirements. • Rooming accommodation code - amendments to clarify landscaping requirements. • Sales office code - amendments to group related character and amenity requirements. • Service station and car wash code - amendments to clarify landscaping and customer facilities requirements and to ensure the acceptable outcomes relate to the performance outcomes. • Sport and recreation activities code - amendments to clarify the landscaping requirements. • Centre design code - amendments to includes notes that specify provisions relating to the role and function of centres within the hierarchy of centres and to clarify requirements for development within an existing building in a higher order centre. • Environmental performance code – amendments to refuse collection requirements and to clarify the stormwater requirements. • Excavation and filling code – amendments to: <ul style="list-style-type: none"> ○ ensure the code requirements clearly articulate outcomes. ○ clarify requirements for works within proximity to the boundary ○ clarify the relationship between requirements for height of development and earthworks and the impact on character and amenity and provide requirements for the overall height of development. ○ to remove duplication of Building assessment provisions. • Industry design code - amendments to move a number of accepted requirements to the assessable section of the code and inclusion of new performance and acceptable outcomes for Building work. • Industry design code - amendments to change the references to A major hazard facility under Schedule 3 of the Sustainable Planning Regulation 2009 and replaces with A hazardous chemical facility under Schedule 10 of the Planning Regulation 2017. • Infrastructure works code – amendments to: <ul style="list-style-type: none"> ○ clarify and simplify the requirements for development.

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		<ul style="list-style-type: none"> ○ clarify the relationship between requirements and standards. ○ restructure the code and grouping of requirements. ○ ensure requirements are capable of application to accepted development. ○ ensure there is no duplication with Building assessment provisions. ○ the requirements relating to non-artificial waterways and ensuring that water levels are maintained to prevent lowering of groundwater within adjacent acid sulfate soil. ○ refine stormwater management design objectives (Construction phase). • Landscaping code and Parking and access code - amendments to provide for transition between land uses where for development within existing buildings and where within higher order centre zones. • Parking and access code - amendments to: <ul style="list-style-type: none"> ○ the requirements for development within an existing building within a higher order centre zone to ensure there is no loss of parking spaces; ○ Inclusion of a note within Table 9.4.8.3.b to provide clarification to requirements for Short term accommodation and dual key units; ○ clarify the requirements for access crossovers and driveways; ○ include car parking rates for non-accommodation components of nature-based tourism. • Reconfiguring a lot code - amendments to non-trunk open space requirements and provide clarification that the lot size and minimum width and dimension excludes the area of access strips. • Vegetation management code - amendments to remove reference to urban area and refer to the specific zones to which this relates and to delete outdated legislative references. • other various amendments to resolve any identified errors and administrative matters.
15.	Part 10	Revised wording to clarify the assessment managers role in Cairns Airport Land Use Plan and Ports North Land Use Plan and inclusion of a new section State Development Areas and Wet Tropics Management Plan.
16.	Schedule 1	A number of changes to definitions, including additional definitions, delete definitions and amend definitions. Additionally, as part of the Alignment amendment definitions have been amended to align with the Planning Regulation 2017.

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17.	Schedule 2	<p>A number of changes have been made to the mapping, including but not limited to:</p> <ul style="list-style-type: none"> • Strategic framework maps – amendments to ensure urban areas are appropriately reflected, removal of the transport investigation corridor, inclusion of new strategic maps for Wet Topics World Heritage Area and inclusion of State Development Areas on all strategic framework maps. • Zone maps – amendments to remove zones from roads, inclusion of State Development Areas, amendments to align the zone to property boundaries to reflect cadastre updates, amendments to zones over land where development approvals have taken effect, amendments to zones over land where current zoning is no longer reflective of land use occurring over the site and provide new zones where tenure around roads, closed roads, waterways, foreshores and reclaimed land has changed. • City centre local plan maps – amendment to include Wharf Street within the City centre core – Precinct 1. • Airport environs overlay maps – amendments to reflect the current version of the SPP mapping, include the dimensions of the light restriction zone and include updated PANS-OPS mapping. • Building height overlay maps - Amendments to the Building height overlay to include the properties located along eastern side of Sheridan Street between Minnie and Upward Street in Precinct 3 instead of Precinct 2. • Bushfire hazard overlay maps and Extractive resources overlay maps - amendments to update terminology in the mapping to reflect to the SPP. • Extractive resources overlay mapping - amendments to update terminology in the mapping and code to be consistent with the SPP. • Flood hazard and inundation overlay mapping – amendments to split the Flood inundation trigger areas into “Designated flood hazard area – Flood inundation trigger area” and “Inundation hazard area and a new layer has been added to identify the areas of Storm tide hazard within the Cairns local government area. This layer is called the “Storm tide inundation hazard area” and is the 1% AEP Storm tide inundation based on 2100 projections including 0.8m SLR. • Hazardous and Explosives Facilities overlay mapping – update Hazardous and explosives facilities overlay mapping as required by the Minister’s conditions. • Hillslopes overlay – remove mapping from areas where hillslopes are no longer relevant and updates to the alignment of DCDB. • Natural areas overlay maps – amendments to: <ul style="list-style-type: none"> ○ Include new Matters of State environmental significance (MSES) layers from the State Planning Policy; and ○ Include the existing waterway trigger area mapping (with no changes) as a matter of local environmental significance (MLES); ○ Apply a buffer area to the MSES – High ecological significance wetlands layer; ○ Remove administrative errors from the waterway trigger area mapping; ○ include missing waterway trigger areas; ○ remove small slithers of waterway trigger area. ○ Waterways have been removed where the waterway does exist on the ground.

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		<ul style="list-style-type: none"> Places of significance overlay mapping - amendments to reflect the updated SPP mapping, removal and amendments of specific sites, removal of the trigger for premises where adjoining a State heritage place layer and updates to the alignment of DCDB. Potential landslip hazard overlay mapping - amendments to the Potential landslip hazard overlay to remove lots where the layer no longer applies. Transport network overlay mapping - amendments to reflect the current version of the SPP mapping and update local road hierarchy and pedestrian and cycle networks. Other Plans - amendments to include the State Development Areas (SDA's) and the Wet Tropics of Queensland World Heritage Area. Other various amendments to resolve any identified errors and administrative matters.
18.	Schedule 4	Update to Schedule 4 to ensure the list of Notations are up to date.
19.	Schedule 5	Update to Schedule 5 to ensure the list of Infrastructure designations are up to date.
20.	Schedule 6	Inclusion of a new Schedule 6 to clarify the role and function of centres within the hierarchy of centres.
21.	Appendix 1	Update to include the acronym and description for MLES and to align with the terminology of the <i>Planning Act 2016</i> .
22.	Appendix 2	Update the Tables of amendments to include the CairnsPlan 2016 Major amendment.