

Part 1 About the City Plan

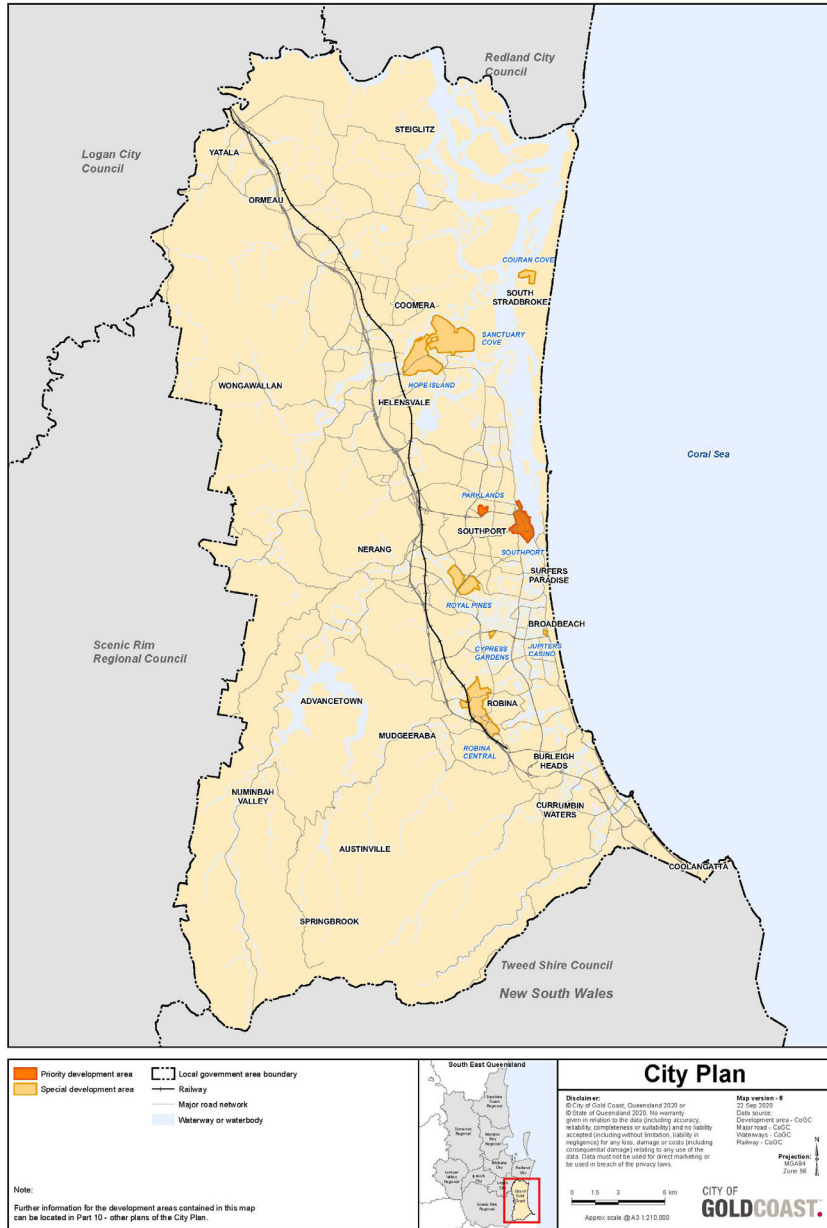
1.1 Introduction

- (1) The City Plan (planning scheme) has been prepared in accordance with the *Sustainable Planning Act 2009* (the SP Act) as a framework for managing development in a way that advances the purpose of the SP Act.
- (2) The City Plan was amended for alignment with the *Planning Act 2016* (the Act) by the Minister's rules under section 293 of the Act (endorsed by Council of the City of Gold Coast on 17 May 2017) to commence on 3 July 2017.
- (3) In seeking to achieve this purpose, the City Plan sets out the City of Gold Coast's intention for the future development in the City Plan area, over the next 20 years.
- (4) The City Plan seeks to advance state and regional strategies, including state planning policies and the *South East Queensland Regional Plan 2009 – 2031*, through more detailed local responses, taking into account the local context.
- (5) While the City Plan 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.
- (6) The City Plan applies to the City Plan area of the City of Gold Coast including all premises, roads, internal waterways and tidal areas and interrelates with the surrounding local government areas illustrated in **Map 1-1**.

Editor's note – State legislation may state that the City Plan does not apply to certain areas, e.g. strategic port land under the *Transport Infrastructure Act 1994* and priority development areas under the *Economic Development Act 2012*.

Editor's note – Part 10 of the City Plan identifies areas of the City of Gold Coast that are affected by other planning legislation, e.g. Hope Island Resort under the *Integrated Resort Development Act 1987*, Jupiters Casino under the *Jupiters Casino Agreement Act 1983*.

City of Gold Coast context map



CM1

Map 1-1
Local government City Plan area and context

1.2 Interpretation

1.2.1 Definitions

- (1) A term used in the City Plan has the meaning assigned to that term by one of the following:
 - (a) the *Planning Act 2016* (the Act);
 - (b) the *Planning Regulation 2017* (the Regulation);
 - (c) the definitions in **Schedule 1** of the City Plan;
 - (d) the *Acts Interpretation Act 1954*;
 - (e) the ordinary meaning where that term is not defined in any of the above.
- (2) In the event a term has been assigned a meaning in more than one of the instruments listed in **subsection 1.2.1(1)**, the meaning contained in the instrument highest on the list will prevail.
- (3) A reference in the City Plan 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 City Plan 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 City Plan.

1.2.2 Standard drawings, maps, notes, editor's notes and footnotes

- (1) Standard drawings contained in codes or schedules are part of the City Plan.
- (2) Maps provide information to support the outcomes and are part of the City Plan.
- (3) Notes are identified by the title "note" and are part of the City Plan.
- (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 City Plan; they do not have the force of law.

1.2.3 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.

1.2.4 ~~Zones for roads, closed roads, waterways and reclaimed land~~ Unzoned areas

- (1) This section applies for determining the zone, zone precinct and overlays that apply over unzoned areas for the purposes of determining the category of development, the categories of assessment and the assessment benchmarks that apply to applications.
- (2) For zoning, the unzoned area adopts the closest zone and zone precinct (if any). Where there are multiple zones or zone precincts in proximity, the extent to which the zone and zone precinct (if any) apply is determined by measuring to a point equidistant from the edge of each zone and zone precinct (if any) (note: this may result in adopting multiple zones/zone precincts).
- (3) For overlays, in addition to any overlay mapping applying over the unzoned area, the unzoned area also adopts the overlay map designation applying over the closest zoned area (with overlay mapping applying in association with the zone and zone precinct (if any) as determined under subsection (2)) for any of the following overlay maps:
 - (a) Building height overlay map;
 - (b) Coastal erosion hazard overlay map;
 - (c) Dwelling house overlay map;
 - (d) Industry, community infrastructure and agriculture land interface area overlay map;
 - (e) Mudgeeraba Village character overlay map;
 - (f) Party house area overlay map; and
 - (g) Ridges and significant hills protection overlay map.
- ~~(1) The following applies to a road, closed road, waterway or reclaimed land in the City Plan area:~~
 - ~~(a) if adjoined on both sides by land in the same zone—the road, closed road, waterway or reclaimed land is in the same 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 or reclaimed land is in the same zone as the adjoining land when measured from a point equidistant from the adjoining boundaries;~~
 - ~~(c) if the road, closed road, waterway or reclaimed land is adjoined on one side only by land in a zone—the entire waterway or reclaimed land is in the same zone as the adjoining land; or~~
 - ~~(d) if the road, closed road, waterway or reclaimed land is covered by a zone then that zone applies.~~

Editor's note – The boundaries of the local government area are described by the maps referred to in the *Local Government Regulation 2012*.

Note – In relation to The Spit Master Plan elements overlay area, a reference in section 1.2.4 to a zone is to be read as including a precinct of a zone.

Commented [OCOP1]: Not significantly different
Submission/s

1.3 Categories of development

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

(a) accepted development;

Editor's note – A development approval is not required for development that is accepted development. Schedule 7 of the Regulation also prescribes accepted development.

(b) assessable development:

(i) code assessment; and

(ii) impact assessment;

Editor's note – A development approval is required for assessable development. Schedule 10 of the Regulation may also prescribe assessable development.

(c) prohibited development.

Editor's note – A development application may not be made for prohibited development. Schedule 10 of the Regulation prescribes prohibited development.

(2) The City Plan states the category of development for certain types of development, and specifies the category of assessment for assessable development in the City Plan area in **Part 5**.

Editor's note – Section 43 of the Act identifies that a categorising instrument categorises development and specifies categories of assessment, and may be a regulation or local categorising instrument. A local categorising instrument includes a planning scheme, a Temporary Local Planning Instrument (TLPI) or a variation approval.

1.4 Hierarchy of assessment benchmarks

(1) Where there is inconsistency between provisions within the City Plan, the following rules apply:

(a) relevant assessment benchmarks specified in the Regulation prevail over the City Plan to the extent of any inconsistency;

(b) the strategic framework prevails over all other components to the extent of the inconsistency for impact assessment;

(c) overlays prevail over all other components (other than the matters mentioned in (a) and (b)) to the extent of the inconsistency;

(d) zone codes prevail over use codes and other development codes to the extent of the inconsistency; and

(e) provisions of **Part 10** may override any of the above.

1.5 Building work regulated under the City Plan

(1) Section 17(b) of the Regulation identifies that a local planning instrument must not be inconsistent with the effect of the building assessment provisions stated in the *Building Act 1975*.

(2) The building assessment provisions are listed in section 30 of the *Building Act 1975*.

Editor's note – The building assessment provisions are stated in section 30 of the *Building Act 1975* and are assessment benchmarks for the carrying out of building assessment work or building work that is accepted development subject to any requirements (see also section 31 of the *Building Act 1975*).

(3) This City Plan, 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 City Plan to:

- regulate, for the *Building Code of Australia (BCA)* or the *Queensland Development Code (QDC)*, matters prescribed under a regulation under the *Building Act 1975* (section 32). These include variations to provisions contained in parts MP1.1, MP 1.2 and MP 1.3 of the QDC such as heights of buildings related to obstruction and overshadowing, siting and design of buildings to provide visual privacy and adequate sight lines, on-site parking and outdoor living spaces. It may also regulate other matters, such as designating land liable to flooding, designating land as bushfire prone areas and transport noise corridors;
- deal with an aspect of, or matter related or incidental to building work prescribed under a regulation under section 32 of the *Building Act 1975*;
- specify alternative boundary clearances and site cover provisions for Class 1 and 10 structures under section 33 of the *Building Act 1975*.

Refer to Schedule 9 of the Regulation to determine assessable development, the type of assessment and any referrals applying to the building work.

(4) The building assessment provisions are contained in the following parts of the City Plan:

Table 1.5-1: Building assessment provisions

Description	City Plan assessment benchmarks	Building Act 1975 (BA) and Building Regulation 2006 (BR) reference
Flood hazard		
Designation of natural hazard management area (flood)	Flood overlay map	Section 32(a) BA and section 13(1)(a) BR
Design requirements within the natural hazard management area (flood)	Flood overlay code	Section 32(a) BA and section 13(1)(b) BR
Bushfire prone areas		
Designation of bushfire prone areas for the BCA or QDC	Bushfire hazard overlay map	Section 32(a) BA and section 12 BR
Queensland Development Code (QDC) alternative provisions		
Alternatives to QDC boundary clearance provisions	<p>Buildings: Relevant zone code, and the following overlay codes:</p> <ul style="list-style-type: none"> Coastal erosion hazard overlay code, if in a 'Waterfront development control area' or 'Foreshore seawall' on the Coastal erosion hazard overlay map Light rail urban renewal area overlay code, if in a 'Light rail urban renewal area' on the Light rail urban renewal area overlay map Mudgeeraba Village character overlay code, if within the 'Mudgeeraba Village character' area on the Mudgeeraba Village character overlay map Water resource catchment overlay code, if in the 'Water supply buffer area' on the Water catchments and dual supply system reticulation overlay map <p>Note: In the event of an inconsistency between the zone code and an overlay code, the overlay code prevails.</p> <p>Structures: Coastal erosion hazard overlay code, if in a 'Waterfront development control area' or 'Foreshore seawall' area on the Coastal erosion hazard overlay map.</p> <p>Note: QDC setbacks will apply to any building or structure where an alternative setback is not provided in the above codes.</p>	Section 33(2) BA

Commented [OCOP2]: R1 - Theme: Built form and urban design - the importance of a well-designed city;
Item 11 – Existing Light rail urban renewal area overlay review

Commented [OCOP3]: R1 – Theme: Other land use changes - improving clarity, consistency and alignment within the City Plan;
Item 27 – Dual supply system

Description	City Plan assessment benchmarks	Building Act 1975 (BA) and Building Regulation 2006 (BR) reference
Alternatives to QDC site cover provisions	<p>Relevant zone code or the following overlay codes:</p> <ul style="list-style-type: none"> • Light rail urban renewal area overlay code, if in a 'Light rail urban renewal area' on the Light rail urban renewal area overlay map • Ridges and significant hills protection overlay code, if in the 'Ridges and significant hills' area on the Ridges and significant hills protection overlay map <p>Note: In the event of an inconsistency between the zone code and an overlay code, the overlay code prevails.</p>	Section 33(2) BA
Alternative to QDC building height provisions (performance criterion 4)	<p>Relevant zone code <u>or the following overlay code:</u></p> <ul style="list-style-type: none"> • Light rail urban renewal area overlay code, if in a 'Light rail urban renewal area' on the Light rail urban renewal area overlay map 	Section 32(b) BA and section 10(2)(b) BR
Alternative to QDC car parking provisions (performance criterion 8)	Transport code	Section 32(b) BA and section 10(2)(b) BR

Commented [OCOP4]: R1 - Theme: Built form and urban design - the importance of a well-designed city;
Item 11 - Existing Light rail urban renewal area overlay review

Commented [OCOP5]: R1 - Theme: Built form and urban design - the importance of a well-designed city;
Item 11 - Existing Light rail urban renewal area overlay review

Commented [OCOP6]: R1 - Theme: Other land use changes – improving clarity, consistency and alignment within the City Plan;
Item 34 – Changes in response to Ministerial conditions – The Spit Master Plan

Note:

The provisions identified in the table above are limited to those referenced in section 30(1)(f) of the *Building Act 1975*, being provisions made under sections 32 and 33 of the *Building Act 1975*. The City Plan contains other provisions which apply to building work, including:

- (a) building works for any structure that will have permanent external lighting where identified in 5.7 – Categories of development and assessment – Building work
- (b) the following overlays, where identified in 5.10 – Categories of development and assessment – Overlays:
 - Airport environs;
 - Coastal erosion hazard;
 - Flood overlay code;
 - Heritage;
 - Mudgeeraba Village character;
 - Regional infrastructure overlay code; **and**
 - Ridges and significant hills protection; **and**
 - [The Spit Master Plan height sensitive area - building height overlay](#).

Editor's note – A decision in relation to building work that is assessable development under the City Plan should only be issued as a preliminary approval. See section 83(b) of the *Building Act 1975*.

Editor's note – In a development application the applicant may request preliminary approval for building work. The decision on that development application can also be taken to be a referral agency's response under section 56 of the Act, for building work assessable against the *Building Act 1975*. The decision notice must state this.

- (5) For performance criteria 5, 7 and 9 under QDC part 1.1 or part 1.2, unless an alternative City Plan provision applies pursuant to section 1.6(4), the QDC provisions will apply (pursuant to section 10(2)(a) of the *Building Act 1975*).

1.6 Local government administrative matters

- (1) City Plan means this City Plan, being a local planning instrument for the City of Gold Coast.
- (2) For the purpose of the City Plan, 'film production' is exempt from material change of use, provided it:
 - (a) does not require the erection of permanent buildings;
 - (b) occurs for no more than twelve months in any two year period;
 - (c) does not result in any adverse impacts beyond the boundary of the site; and
 - (d) is undertaken in accordance with all State government requirements and City of Gold Coast Local Laws.
- (3) For the purpose of the City Plan, 'Ancillary office' (as defined in **Schedule 1**), is exempt from material change of use.
- (4) City of Gold Coast 'Declared malls' are:
 - (a) Cavill Avenue, Surfers Paradise; and
 - (b) Victoria Avenue, Broadbeach.
- (5) For the purpose of the City Plan, pursuant to section 276(1)(c) of the Act, the whole of the planning scheme area is identified as a party house restriction area.