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Environmental Defenders Office

*Using the law to protect  
our environment.*

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## Planning Schemes and Other Planning Instruments

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*This Factsheet is for general information purposes and is not legal advice. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your particular circumstances you should contact the EDO or your solicitor.*

### *Factsheet 3*

*This factsheet describes what is meant by planning instruments under the Sustainable Planning Act (SPA) and explains the preparation and operation of planning instruments. See also factsheet 5 on making submissions on the preparation of planning schemes.*

*Factsheets in this series:*

- 1 An introduction to the SPA*
- 2 Ecological sustainability: the purpose of SPA*
- 3 Planning schemes and other planning instruments*
- 4 The South East Queensland Regional Plan and the new planning regime*
- 5 Making effective submissions on planning schemes*
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- 12 The structure and operations of local government*
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## SUMMARY

### **What are the benefits of participating in planning?**

Planning is critical in determining the future use and development of communities, areas and regions, often for generations. If you have participated in

planning processes, it may enhance your ability to have your say on individual development applications.

### **What do I need to know to be involved in planning?**

Effective involvement is enhanced by knowing what is happening or what is proposed for an area. Be aware that State planning instruments prevail over inconsistent local planning instruments so it is important to make submissions on State planning instruments as well as on your local planning scheme. Also, be aware that developers will be in there lobbying local government and the State government to make decisions that increase the value of the developers own land. So to be successful, you need to join with other community members to do your best to lobby elected representatives from a community perspective.

It is also important to keep in mind that mining is not integrated into the land use planning system, so you may need to speak to your local mining registrar to see what new mines are planned for your area as they won't be included your local planning scheme (see *mining factsheet*).

### **What are planning instruments?**

Planning instruments are the documents which set out government (state or local) objectives for an area and the means by which these objectives are to be achieved.

### **What types of planning instruments are there?**

Under *Sustainable Planning Act 2009*, planning instruments include:<sup>1</sup>

- State planning regulatory provision;
- Regional plans (e.g. The South East Queensland Regional Plan);
- State planning policies;
- Standard planning scheme provisions;
- Planning schemes (commonly referred to as local town plans);
- Temporary local planning instruments (these are rare); and
- Planning scheme policies.

### **What elements must be present in planning schemes?**

Planning schemes prepared under the *Sustainable Planning Act* must:<sup>2</sup>

- appropriately reflect the Queensland standard planning scheme provisions;
- identify the strategic outcomes for the planning scheme area;
- include measures that facilitate achieving the strategic outcomes;
- co-ordinate and integrate the matters (including core matters such as land use and development) dealt with by the planning scheme (including any state or regional aspects of those matters);
- include a priority infrastructure plan; and
- include structure plans for any declared master planned areas.

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<sup>1</sup> Schedule 3 *Sustainable Planning Act 2009*

<sup>2</sup> Section 88 *Sustainable Planning Act 2009*

**Temporary local planning instruments** can suspend a planning scheme over an area for up to a year in cases where there is a significant risk of serious environmental, social, economic or cultural degradation.<sup>3</sup>

**Planning scheme policies** support planning schemes by providing guidance in dealing with development applications and the making or amending of planning schemes.<sup>4</sup>

**State Planning instruments** include State planning regulatory provision, a regional plan, a State planning policy, and the standard planning scheme provisions.<sup>5</sup>

**State planning policies** are concerned with matters of State interest and planning schemes must appropriately reflect these policies in the scheme.<sup>6</sup>

**Standard planning scheme provisions** advance the purpose of SPA by providing for a consistent structure for planning schemes across the State and standard provisions for implementing integrated planning at the local level.<sup>7</sup>

**South East Queensland Regional Plan** is a regional plan for population growth and future development covering 11 local government council areas in South East Queensland.

Some plans and planning processes are not planning instruments under the *Sustainable Planning Act 2009*, although they should be taken into account in the preparation of planning schemes. Examples include: catchment management plans; and reports of Regional Planning Advisory Committees.

The *Sustainable Planning Act 2009* makes provision for compensation to be paid to land owners adversely affected by changes in planning schemes.<sup>8</sup> Such injurious affection provisions might be a barrier to reversing unwise former planning decisions when planning schemes are being devised or updated.

The Minister for Infrastructure and Planning has broad powers to direct a Council to:<sup>9</sup>

- Make, amend or review its planning scheme;
- Make, amend or repeal a planning scheme policy;
- Make or repeal a temporary local planning instrument; and
- Prepare a consolidated planning scheme.<sup>10</sup>

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<sup>3</sup> Section 101 *Sustainable Planning Act 2009*

<sup>4</sup> Section 108 *Sustainable Planning Act 2009*

<sup>5</sup> Section 15 *Sustainable Planning Act 2009*

<sup>6</sup> Section 40 *Sustainable Planning Act 2009*

<sup>7</sup> Section 50 *Sustainable Planning Act 2009*

<sup>8</sup> Section 704 – 705 *Sustainable Planning Act 2009*

<sup>9</sup> Section 126(4) *Sustainable Planning Act 2009*

<sup>10</sup> Section 127 *Sustainable Planning Act 2009*

Designation is a process by which a minister or local government can amend a planning scheme to provide for community infrastructure items.<sup>11</sup> Decision makers under *Sustainable Planning Act 2009* must "seek to achieve ecological sustainability" when preparing, amending or approving planning schemes or policies (see *factsheet 2*).<sup>12</sup>

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# Planning Schemes and Other Planning Instruments

## FULL TEXT

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### Why participate in planning?

Planning is an attempt to guide and control the future use and development of a town or area. The uses to which land is put and how areas are developed are things that affect us all. They might affect us directly, such as in the case of whether a dump should be constructed on bushland near your suburb. They might also affect us indirectly such as in the case of how much space should be allotted for public park or recreation facilities.

By participating in planning, you are able to have your say and influence the planning process. You can either have input yourself or as part of a larger group of people. If you do not participate, then you run the risk that development will occur which will have bad effects on you and your family and possibly future generations.

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<sup>11</sup> Chapter 5 *Sustainable Planning Act 2009*

<sup>12</sup> Section 4 *Sustainable Planning Act 2009*

## How can you insist on knowing what is happening in planning in your area?

You need to have sufficient knowledge of what is happening in or planned for your area before you can provide constructive input into the planning and development occurring there.

Usually in addition to newspaper notices there will be public meetings organised by the council about proposed changes to the planning scheme.

Your local government must keep certain types of documents available for inspection and purchase by the public, such as the planning scheme, planning scheme policies, its State planning policies<sup>13</sup> (see *factsheet 8 Public Access to Information*).

However, there is no requirement that the local government explain all those documents to you. So, you will have to make your own inquiries in order to become familiar with what is happening in planning in your area. Try the following:

- You could establish contacts with local groups active in planning and environmental matters. Tell them you are keen and ask them to show you the ropes;
- Ask your local government councillor (you can find out who this is and what their contact details are by phoning your local government's general enquiries line);
- Ask your local government's planning division (again, phone the general enquiries line of your council and ask to be put through to the planning area). Alternatively, there may be a direct listing for the planning area in the phone book or on the website. You could also find out the contact details and write to the person in charge of the planning area;
- Ask your local government to send you a copy of its corporate plan. This should give a broad guideline about what the local government plans for the future;
- Put yourself on local government mailing lists or check local government web sites regularly for information (you could ask your local councillor or the planning division about which lists exist);
- Look at State government websites about opportunities to influence State planning instruments that are relevant to your area, as these State planning instruments prevail over inconsistent local planning schemes; and
- You could also attend meetings of the local government or its planning committee to see how decisions are made.

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<sup>13</sup> Section 724 *Sustainable Planning Act 2009*

## **What is a planning instrument?**

By 'instruments' we mean formal legal documents which have undergone a process of approval.

In the most general sense, planning instruments are documents which set out the government's (whether it be local or State) objectives for an area and the means by which those objectives are to be achieved. Their purpose is to give effect to the framework laid down by the *Sustainable Planning Act 2009*.

The *Sustainable Planning Act 2009* sets out the basic elements of planning schemes and other planning instruments and the processes (including in most cases public consultation) by which planning instruments now come into force in your area.

There are a number of types of planning instruments under the *Sustainable Planning Act 2009*:<sup>14</sup>

- State planning regulatory provision;
- Regional plans (e.g. The South East Queensland Regional Plan);
- State planning policies;
- Standard planning scheme provisions;
- Planning schemes (commonly referred to as local town plans);
- Temporary local planning instruments (these are rare); and
- Planning scheme policies.

## **Are catchment management plans planning instruments?**

No. Be aware that many plans, such as catchment management plans, even if drawn up by government with public input are not planning instruments and do not have the force of law. If you are going to spend time contributing to such plans it is therefore vital that you spend an equivalent amount of time ensuring that their contents are incorporated into planning schemes, such as by an amendment to the planning scheme.

## **What about the Wet Tropics Management Plan?**

The Wet Tropics Management Plan is made under its own Act of Parliament which provides that if there is any inconsistency between the Wet Tropics Management Plan and a planning scheme (whether made before or after the plan), the plan prevails over the planning scheme to the extent of the inconsistency. A local government must not issue or give any approval, consent, permit or other authority in relation to development on land in the wet tropics area, that is inconsistent with the management plan, (ss49 and 50 of the *Wet Tropics World Heritage Protection and Management Act 1993*).

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<sup>14</sup> Schedule 3 *Sustainable Planning Act 2009*

## Planning schemes

### What are the contents of planning schemes?

Traditionally, the planning scheme has been the local government's plan for the future development of an area. This was aided by the *Local Government (Planning and Environment) Act 1990*, which used zoning which allowed certain types of development in certain areas and prohibited other types of development.

In contrast, any planning schemes made under the repealed *Integrated Planning Act 1997* did not require tables of zones or areas but required certain elements. This has largely been retained under the SPA. Under the SPA, planning schemes must:<sup>15</sup>

- appropriately reflect the Queensland standard planning scheme provisions;
- co-ordinate and integrate the matters dealt with by the scheme, including the core matters, and any State and regional dimensions of the matters. Core matters include land use and development, infrastructure and valuable features of social, heritage, economic and ecological significance;<sup>16</sup>
- identify the strategic outcomes for the planning scheme area;
- include measures that facilitate achieving the strategic outcomes;
- include structure plans for any declared master planned areas; and
- include a priority infrastructure plan.

The *Sustainable Planning Act 2009* allows some types of development to be prohibited by planning instruments. An application requiring impact assessment must also be refused if its approval would conflict with any other provision of the planning scheme or other applicable planning instrument where there are insufficient planning grounds to justify approval.

Planning schemes can regulate clearing vegetation on freehold land as the definition of 'operational work' was expanded in consequence of the *Vegetation Management Act 1999*.

### What is the process for making or amending a planning scheme?

A planning scheme must be created or amended using the process in *Sustainable Planning Act 2009* and the *Statutory Guideline 02/09: Making or amending local planning instruments*.<sup>17</sup> The *Statutory Guideline 02/09: Making or amending local planning instruments* is legally binding.<sup>18</sup> A planning scheme will either need to be prepared or amended where no planning scheme currently

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<sup>15</sup> Section 88 *Sustainable Planning Act 2009*

<sup>16</sup> Section 89 *Sustainable Planning Act 2009*

<sup>17</sup> Section 117 *Sustainable Planning Act 2009*

<sup>18</sup> Section 119 *Sustainable Planning Act 2009*

exists or where changes are needed to the existing scheme. The five stages for making or amending a planning scheme are:

- Planning and preparation
- First State interest review
- Preliminary public consultation;
- Second State interest review - consideration by State government of whether State interests are adversely affected by the draft planning; and
- Adoption by local government.

## **Making or amending a planning scheme**

### **Step 1 – Planning and Preparation Stage**

- Local government proposes to prepare a planning scheme or planning scheme amendment
- Agreement on priority infrastructure plan (if applicable)
- Preparation of draft planning scheme (option public consultation)
- Draft planning scheme or proposed amendment supplied to the Minister

### **Step 2 – First State Interest Review**

- Minister considers proposed planning scheme for adverse effects on State interests
- Minister to notify local government of outcome of review

### **Step 3 – Public Consultation**

- Local Government publicly notifies the proposed planning scheme or amendment and commences public consultation
- Local government reviews submission and decides how to proceed
- The Minister decides what the next stage of the process will be (it may not require a second State interest review)

### **Step 4 – Second State interest review (optional)**

- The Minister may decide this is not necessary
- Minister considers whether State interests may be adversely affected

### **Step 5 - Adoption Stage**

- Resolution to adopt proposed planning scheme
- Public notice of adoption of, and access to, planning schemes
- Copy of notice and planning scheme to chief executive

## Changes to planning schemes

A local government must review a planning scheme every 10 years (section 91 SPA) and review its priority infrastructure plan every five years (section 628 SPA).

The review of the planning scheme must include an assessment of the achievement of the strategic outcomes stated in the planning scheme.<sup>19</sup> After the planning scheme review the government may prepare a new scheme, amend the scheme, or take no further action (s 92 SPA). If it decides to take no further action, a local government must prepare a report stating its reasons for that decision and make that report available for public inspection and purchase.<sup>20</sup>

A local government may also initiate an amendment to a planning scheme at any time. You could request the Council to propose an amendment to address an issue of importance to you.

## What are temporary local planning instruments?

A local government may make a temporary local planning instrument that will suspend or alter the effect of the current planning scheme for a period of not more than 1 year.<sup>21</sup> A temporary local planning instrument must be made in accordance with the procedure outlined in the *Statutory Guideline 02/09: Making or amending local planning instruments*.

A temporary local planning instrument can only be made if the Minister for Infrastructure and Planning is satisfied of four things:<sup>22</sup>

- There is a significant risk of serious environmental harm (as defined in the Environmental Protection Act 1994 s17) or serious adverse cultural, economic or social conditions occurring in the scheme's area; and
- The time taken to amend the planning scheme by the normal procedure would increase the risk; and
- State interests would not be adversely affected by the proposed temporary local planning instrument; and
- The proposed temporary local planning instrument appropriately reflects the standard planning scheme provisions.

Because it is designed for use in urgent situations only, public consultation is not part of the preparation of a temporary local planning instrument. However, you could try approaching the Minister and your local government asking that one is

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<sup>19</sup> Section 91(2) *Sustainable Planning Act 2009*

<sup>20</sup> Section 93 and 94 *Sustainable Planning Act 2009*

<sup>21</sup> Section 104 *Sustainable Planning Act 2009*

<sup>22</sup> Section 105 *Sustainable Planning Act 2009*

made if you detect a significant risk of serious environmental harm or adverse conditions.

Remember, ordinarily you must convince both your local government and the Minister for Infrastructure and Planning that a temporary local planning instrument is required.

## **What are planning scheme policies?**

A planning scheme policy is an instrument made by the local government to support the local dimensions of the planning scheme. It is used in conjunction with the planning scheme to provide guidance in deciding or dealing with local development applications and for making or amending the planning scheme.<sup>23</sup>

Planning scheme policies cannot regulate development or the use of premises and can only support the local dimension of a scheme. Generally they will deal with procedural and information requirements and aspects of detailed interpretation of the planning scheme. For example, the Brisbane City Council Planning Scheme includes (amongst other things) an Environmental Impact Assessment Planning Scheme Policy and a Consultation Planning Scheme Policy. To the extent a planning scheme policy is inconsistent with another planning instrument, the other planning instrument prevails (section 112 *SPA*).

The process for a council to make or amend a planning scheme policy requires public notification and the opportunity for public submissions (*Statutory Guideline 02/09: Making or amending local planning instruments*). Minor amendments to planning scheme policies do not allow for public comment.

## **State planning instrument**

A State planning instrument includes:<sup>24</sup>

- State planning regulatory provisions;
- Regional plans;
- State planning policy;
- The standard planning scheme provisions.

The process for making, amending or repealing a State planning instrument is set out in Chapter 2, Part 6 *SPA*. The process for preparing a State planning instrument includes public notification and consideration of submissions. Non-compliance with the process is allowed as long as the non-compliance has not:<sup>25</sup>

- adversely affected the awareness of the public of the existence and nature of the proposed State planning instrument or amendment; or
- restricted the opportunity of the public to comment.

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<sup>23</sup> Section 108 *Sustainable Planning Act 2009*

<sup>24</sup> Section 15 *Sustainable Planning Act 2009*

<sup>25</sup> Section 57 *Sustainable Planning Act 2009*

## What are State planning policies?

A State planning policy is a State planning instrument made by the Minister for Infrastructure and Planning about matters of State interest. State interest is defined very broadly to mean:<sup>26</sup>

- an interest that the Minister considers affects an economic or environmental interest of the State, including sustainable development; or
- an interest in ensuring there is an efficient, effective and accountable planning and development assessment system.

The reference to sustainable development was introduced under the SPA. It is very significant that a State interest now makes reference to sustainable development as it suggests the Minister's powers to make State planning provisions are broader than they were under the *Integrated Planning Act 1997*.

In effect, relevant State planning policies must be reflected in planning schemes and regard must be had to them for some decisions on development applications. Where there is inconsistency between a State planning policy and the local planning scheme, the policy will prevail.<sup>27</sup>

The process for preparing a State planning policy is the process outlined above for the State planning instrument.

The Minister has the power to make temporary State planning policies if the policy is urgently required to protect or give effect to a State interest.<sup>28</sup>

There are a number of State planning policies in force in Queensland, including:

- SPP 2/10 - South East Queensland Koala Conservation South East Queensland Koala Conservation.
- SPP 1/92 - Development and the Conservation of Agricultural Land 1.0.
- SPP 1/10 - Protecting wetlands of high ecological significance in Great Barrier Reef catchments (temporary SPP).

The State & Regional Coastal Management Plans are considered State planning policies for the purpose of making and amending planning schemes and assessing and deciding development applications. Check the DERM website for more information.

For a list of current State planning policies, see:  
<http://www.dip.qld.gov.au/policies/state-planning-policies.html>

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<sup>26</sup> Schedule 3 *Sustainable Planning Act 2009*

<sup>27</sup> Section 43 *Sustainable Planning Act 2009*

<sup>28</sup> Section 46 *Sustainable Planning Act 2009*

For a list of repealed and lapsed State planning policies, see:  
<http://www.dip.qld.gov.au/policies/lapsed-or-repealed-state-planning-policies.html>

## Standard Planning Scheme Provisions

Standard planning scheme provisions advance the purpose of SPA by providing for a consistent structure for planning schemes across the State and standard provisions for implementing integrated planning at the local level.<sup>29</sup> The Minister compiles the standard planning scheme provisions and local governments amend planning schemes to reflect them.<sup>30</sup> The standard planning scheme provisions prevail over local planning instruments to the extent of any inconsistency.<sup>31</sup>

The process for preparing the standard planning scheme provisions is the process outlined above for the State planning instrument.

## Regional planning

Under IPA regional planning, advisory committees were established at the discretion of the Minister. Any existing regional planning advisory committees remain in existence despite the introduction of SPA.<sup>32</sup> Under SPA the Minister can establish what are known as regional planning committees.<sup>33</sup> There are no fixed geographical areas of the State constituting regions.<sup>34</sup> The Minister decides upon the region, the local governments that are likely to be affected, the terms of reference of the committee and membership of the committee.<sup>35</sup>

Prior to establishing the committee, the Minister must consult with local governments and interest groups the Minister considers appropriate about aspects of the committee. After establishing the committee, the Minister may change any aspect of the committee, including membership, after consulting the committee and other entities that the Minister considers appropriate.<sup>36</sup>

If you have relevant points to make to the committee, it is reasonable to expect the committee to receive and consider your submissions even if it did not ask for them. It is also reasonable for you to be allowed to address the committee on some matter within its terms of reference, to listen in as a quiet observer and to inspect copies of minutes of meetings of the committee.

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<sup>29</sup> Section 50 *Sustainable Planning Act 2009*

<sup>30</sup> Section 54 and 55 *Sustainable Planning Act 2009*

<sup>31</sup> Section 53 *Sustainable Planning Act 2009*

<sup>32</sup> Section 771 *Sustainable Planning Act 2009*

<sup>33</sup> Section 31 *Sustainable Planning Act 2009*

<sup>34</sup> Section 30 *Sustainable Planning Act 2009*

<sup>35</sup> Section 31 *Sustainable Planning Act 2009*

<sup>36</sup> Section 34 *Sustainable Planning Act 2009*

The report of a regional planning committee must outline its findings under its terms of reference to the Minister and the local governments of its region<sup>37</sup>.

## **The SEQ Regional Plan**

The South East Queensland (“SEQ”) Regional Plan includes the area of 11 local government councils in South East Queensland. The original SEQ Regional Plan took effect on 30 June 2005. The most recent SEQ Regional Plan 2009-2031 took effect on 28 July 2009. This plan supersedes the previous South East Queensland Regional Plan 2005-2026 as a result of an extensive review and consultation process.

A copy of the SEQ Regional Plan 2009-2031 is available online at: <http://www.dip.qld.gov.au/resources/plan/SEQ/regional-plan-2009/seq-regional-plan-2009.pdf>.

The primary purpose of the SEQ Regional Plan is to manage regional growth and change in the most sustainable way to protect and enhance quality of life in the region. The plan identifies trends in population growth (4.4 million more people by 2031) and attempts to provide for this growth by identifying urban land for growth and protecting regional landscape and rural production areas.

The SEQ plan divides land into three regional land use categories, including regional landscape and rural production areas, urban footprint and rural living areas, and identifies desired regional outcomes, principals, policies and programs to address growth and management issues in SEQ.

The SEQ plan contains regulatory provisions which have the capacity to directly regulate development, for example, by prohibiting aspects of development in specified locations. The SEQ Regional Plan, has the power to prohibit development.

Where the SEQ Regional Plan conflicts with a planning scheme, the SEQ Regional Plan prevails.<sup>38</sup> Local governments within the area of the SEQ Regional Plan must amend their planning schemes to reflect the SEQ Regional Plan.

## **How do the laws of compensation apply to changing a planning scheme?**

The *Sustainable Planning Act 2009* provides a procedure for awarding compensation to those owners of an interest in land affected by changes to a planning scheme.<sup>39</sup>

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<sup>37</sup> Section 39 *Sustainable Planning Act 2009*

<sup>38</sup> Section 26(3) *Sustainable Planning Act 2009*

<sup>39</sup> Chapter 9, Part 3 *Sustainable Planning Act 2009*

This is commonly referred to as *injurious affection*.

A person who believes they have been *injuriously affected* by the introduction of a new planning scheme or an amendment to a planning scheme, must first make a 'request' to a local government to apply a superseded planning scheme to any proposed development.<sup>40</sup> The request must be made within 12 months of the change.

The owner is entitled to reasonable compensation if:<sup>41</sup>

- the value of the land is reduced because of a change to a planning scheme or planning scheme policy affecting land; and
- they have made a request, within 12 months of the change, for development under the superseded planning scheme; and
- the request is refused; and
- a development application or a request for compliance assessment has been made under the new planning scheme and that application has been refused or approved with conditions (this is not required in the case of prohibited development).

Compensation cannot be claimed where the change is made to allow compliance with the standard planning scheme provisions.

The potential for compensation claims may be a barrier to convincing the local government to make the changes to the planning scheme. However, the effect of the requirement to make a request within 12 months of the change as well as the additional steps required will reduce the likely compensation liability compared to a similar change under the previous IPA system. It also improves the local governments' capacity to efficiently manage the level of compensation liability. If your local government is proposing to make major changes to its scheme, ask it how it is intending to deal with the compensation issue.

An owner of land is also entitled to compensation where their land under a new planning scheme may only be used for a public purpose (Section 705 SPA).

## **What are the powers of the Minister for Infrastructure and Planning?**

The Minister for Infrastructure and Planning has broad powers to oversee the operations of local government. Specifically, in order to protect or give effect to a State interest the Minister may direct a local government to:<sup>42</sup>

- Make, amend or review its planning scheme;
- Make, amend or repeal a planning scheme policy;
- Make or repeal a temporary local planning instrument; and

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<sup>40</sup> Chapter 3, Part 2, Division 5 *Sustainable Planning Act 2009*

<sup>41</sup> Section 703 *Sustainable Planning Act 2009*

<sup>42</sup> Section 126(4) *Sustainable Planning Act 2009*

- Prepare a consolidated planning scheme.<sup>43</sup>

Where the local government fails to comply with the Minister's direction, the Minister may take the directed action at the local government's cost.<sup>44</sup> The Minister can take action about a local planning instrument without previously directing the local government, where the Minister is satisfied urgent action is necessary to protect or give effect to a State interest.<sup>45</sup>

## How does designation change a planning scheme?

Designation is a process allowing a Minister or a relevant local government to change a planning scheme by designating land within the planning scheme for various items of community infrastructure, such as parks, railway lines, powerlines or hospitals.

The local government may only designate by the process of preparing or making an amendment to a planning scheme and by complying with extra procedural obligations, such as notifying the owner of the land.<sup>46</sup>

A Minister follows a different process to that generally undertaken for assessable development when the designation process is carried out. This process includes (amongst other things) public notification and opportunities for public submissions.<sup>47</sup> The Minister may only proceed with designation if satisfied that there has been adequate environmental assessment and public consultation.<sup>48</sup> Adequate environmental assessment and public consultation is assumed to have been complied with where:

- the environmental effects of the community infrastructure or construction of the infrastructure have been assessed under the *State Development and Public Works Organisation Act 1971*;<sup>49</sup> or
- the impacts of the infrastructure or the construction of the infrastructure have been assessed under Chapter 6 (IDAS).<sup>50</sup>

## What can I do about a bad planning?

If you are not happy with the application of the planning scheme or a planning scheme policy to an area you could try to convince the council to amend its planning instruments.

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<sup>43</sup> Section 127 *Sustainable Planning Act 2009*

<sup>44</sup> Section 128 *Sustainable Planning Act 2009*

<sup>45</sup> Section 129 *Sustainable Planning Act 2009*

<sup>46</sup> Section 213 *Sustainable Planning Act 2009*

<sup>47</sup> Section 207(1) *Sustainable Planning Act 2009*

<sup>48</sup> Section 207(3) *Sustainable Planning Act 2009*

<sup>49</sup> Section 207(3)(f) *Sustainable Planning Act 2009*

<sup>50</sup> Section 207 (3)(b) *Sustainable Planning Act 2009*

## **Further information and references**

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Web: <http://www.dip.qld.gov.au/>

Your local government

Your local non-government environment council

### ***Relevant laws***

*Integrated Planning Act 1997 (repealed)*

*South East Queensland Regional Plan*

*Statutory Guideline 02/09: Making or amending local planning instruments*

*Statutory Guideline 04/09: Preliminary approvals that affect a local planning instrument*

*Sustainable Planning Act 2009*

*Sustainable Planning Regulation 2009*