
Urban Land Development Authority Act 2007

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.

New legislation

This legislation created a new authority, the Urban Land Development Authority (**ULDA**) to plan, carry out, promote or coordinate and control development in declared areas. The purpose of that Act focuses on housing creation.

When an area is declared an urban development area (“**UDA**”) by regulation, the declaration must make an interim land use plan for the area. The Authority must make a new development scheme for the area which is like a planning scheme. There is mandatory public notification of the new planning scheme and public submissions must be taken into account. The development schemes must be published on the ULDA website. The development scheme sets out if any individual development applications must be publicly notified. The development scheme prevails over plans, policies and codes made under SPA or another Act.

Effectively, the Urban Land Development Authority becomes the decision maker in lieu of council. Only the Authority may go to the Planning and Environment Court to seek enforcement orders or declarations – whereas under *Sustainable Planning Act 2009* (“**SPA**”) any person has that entitlement.

Examples of areas declared urban development areas include Andergrove at Mackay, Caloundra South, Yarrabilba, Ripley and Greater Flagstone.

Can I lodge a submission on the proposed scheme of development?

Yes, the due date for submissions on proposed development schemes for each of Caloundra South, Yarrabilba, and Greater Flagstone is 20 May 2011.

See http://www.ulda.qld.gov.au/01_cms/details.asp?ID=386

Will I have the chance to lodge a submission on development applications in the Urban Development Area (“UDA**”)?**

Maybe, maybe not, the ULDA can choose to include public notice provisions for UDA development applications in the development scheme or not.

But even if they do, you have no right of appeal to Court if you disagree with the ULDA’s decision on a development application.

Does the Vegetation Protection Act 1999 apply to protect vegetation in an ULDA?

No, even endangered remnant vegetation may be cleared.

DERM is often a concurrence agency under SPA if endangered vegetation is proposed to be cleared.

If the land is declared an UDA, the ULDA must consider a relevant requirements in plans, policies and codes made under the *Vegetation Management Act 1999* when preparing the Development Scheme¹ and

¹ See section 23(5)(b) of the *Urban Land Development Authority Act 2007*.

DERM would expect to be consulted in the preparation of the Development Scheme.² DERM may also make a submission in respect of a proposed development scheme³ or a publicly notifiable UDA development application.⁴

A UDA development approval cannot be inconsistent with the land use plan part of a Development Scheme for the urban development area unless authorised by an existing preliminary approval under SPA.⁵ However there is no absolute protection for vegetation and endangered vegetation may be cleared if permitted by a Development Scheme. Therefore it is critical that remnant endangered regional ecosystems are protected at the Development Scheme stage.

Does the SEQ Regional Plan apply to an UDA?

No. The development scheme prevails over plans, policies and codes made under SPA or another Act.

Will any development in the ULDA be low cost housing?

Not necessarily: affordable housing is only one aim of the ULDA and it is not defined what it means.

If there was a new government, could they overturn a declaration of an UDA?

They could change anything by fresh legislation.

But often when governments come in, they make rules that apply to new projects, but do not interfere if a declaration of an area as an Urban Land Development Area has been made and plans are in train for a development scheme.

Decisions by the ULDA on development applications may be called in and decided by the State Planning Minister but this is unlikely to occur as it will be politically controversial.

Can the State Planning Minister or local council overrule the ULDA's decisions?

Council has no ability to overrule such decisions although like any other person they could lodge a submission on the development scheme.

The State Planning Minister has the power to amend the development scheme submitted to the Minister by the Authority at the request of an affected owner of land.

The State Planning Minister also can "call in" and decide a UDA development application.

Can I get a copy of a development application or approval?

The ULDA is obliged to keep a register open to the public the same way a local authority is and to provide copies on request at a reasonable cost

For more information contact:

Environmental Defenders Office (Qld) Inc.

Phone: (07) 3211 4466

Website: www.edo.org.au/edoqld

UDA website http://www.ulda.qld.gov.au/01_cms/details.asp?ID=386

² See section 24(2)(b)(i) of the *Urban Land Development Authority Act 2007*.

³ See section 26 of the *Urban Land Development Authority Act 2007*.

⁴ See section 54 of the *Urban Land Development Authority Act 2007*.

⁵ See section 56 of the *Urban Land Development Authority Act 2007*.