



# Environmental Defenders Office

## What are Priority Development Areas?

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### What is this factsheet about?

This factsheet provides an overview of the effect of declaring Provisional Priority Development Areas (**Provisional PDAs**) and Priority Development Areas (**PDAs**) under the *Economic Development Act 2012* (Qld). It will also explore how the public can get involved with respect to development within PDAs and Provisional PDAs.

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### What is a Priority Development area? What is a Provisional Priority Development Area?

Provisional PDAs or PDAs are areas of land within Queensland where development is prioritised by the Minister for Economic Development Queensland because the project is expected to deliver significant economic or community benefit.

Depending on the size and nature of the area and project, the Minister will declare the area a Provisional PDA or PDA:

- Provisional PDAs only apply in very limited circumstances, where the area is a discrete site proposed to be used for discrete purposes and there is an overriding economic or community need to start the proposed development quickly.
- If the site is larger, and the project is more complex, a PDA may be more suitable than a Provisional PDA.<sup>1</sup>

## Why are declarations made?

PDAs and Provisional PDAs are made under the *Economic Development Act 2012* (Qld). The purpose of this Act is to advance economic development in Queensland, and the Act achieves this purpose by accelerating the application and approval process for development projects which are especially beneficial to the community and the economy. Declaring an area as a PDA or a Provisional PDA provides a much quicker alternative to the State's standard planning approval process under the *Planning Act 2016* (Qld).<sup>2</sup>

## How is a declaration made?

The Minister for Economic Development Queensland (and anyone delegated their powers and functions)<sup>3</sup> is tasked with identifying and declaring PDAs in Queensland.<sup>4</sup>

In declaring a Provisional PDA or PDA, the Minister must have regard to:

- the main purpose of the *Economic Development Act 2012* (Qld);
- any proposed development for land in the area;
- the economic and community benefits that may be gained by the proposed development;
- the impact the *Planning Act 2016* (Qld) may have on the delivery of the proposed development if it were to apply to development in the area.<sup>5</sup>

## Declaring a PDA

Once the Minister has declared an area a PDA, the Minister must make an interim land use plan (**ILUP**), which is required to be replaced by a development scheme as soon as practicable after the declaration.<sup>6</sup> Development decisions will be made under an ILUP until a permanent development scheme is created.<sup>7</sup> An ILUP can only be in effect for 24 months, and will expire after 12 months unless another date is specified.<sup>8</sup>

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<sup>1</sup> Department of State Development, Infrastructure, Local Government, and Planning, '[Introduction to priority development areas](#)', *Economic Development Queensland* (Factsheet, June 2019) 6.

<sup>2</sup> Department of State Development, Infrastructure, Local Government, and Planning, '[Introduction to priority development areas](#)', *Economic Development Queensland* (Factsheet, June 2019) 4.

<sup>3</sup> *Economic Development Act 2012* (Qld) s 169.

<sup>4</sup> Department of State Development, Infrastructure, Local Government, and Planning, '[Introduction to priority development areas](#)', *Economic Development Queensland* (Factsheet, June 2019) 6; see *Economic Development Act 2012* (Qld) ch 3.

<sup>5</sup> *Economic Development Act 2012* (Qld) ss 34(2) (for PPDAs), 37(2) (for PDAs).

<sup>6</sup> *Economic Development Act 2012* (Qld) s 56.

<sup>7</sup> *Economic Development Act 2012* (Qld) ss 35(2), 38(2), 56

<sup>8</sup> *Economic Development Act 2012* (Qld) ss 37(3)-(4),

### Public opportunities to be involved in a PDA declaration

The public will have a minimum of 30 business days to comment on the proposed development scheme for a PDA once it is published.<sup>9</sup> The Minister must consider the submissions and may make changes to the proposed development scheme.<sup>10</sup>

If significant changes are made, the Minister is required to repeat the process of publishing the draft for public comment.<sup>11</sup> When the development scheme takes effect, the Minister must notify the public.<sup>12</sup>

### **Declaring a Provisional PDA**

Once the Minister declares an area a Provisional PDA, the Minister must make a draft provisional land use plan (**PLUP**) regulating development in the area, which is effective immediately on declaration.<sup>13</sup> The Minister must publish the draft PLUP on the department's website as soon as possible and invite public comment.<sup>14</sup>

### Public opportunities to be involved in a Provisional PDA declaration

The public will have 15 business days to comment on a draft PLUP once it is published on the department's website.<sup>15</sup> The Minister must take public submissions into consideration when finalising the PLUP.<sup>16</sup>

After considering submissions and consulting with the local government and other bodies likely to be affected by the draft PLUP, the Minister must finalise the PLUP, which will then remain in effect for 3 years.<sup>17</sup>

#### **Important!**

If you are concerned about a possible or planned Provisional PDA or PDA declaration over an area, we recommend you get in contact with your local government and clearly detail your concerns **as early in the process as possible.**

### **What is the effect of a PDA or Provisional PRD declaration?**

When an area is declared to be a PDA or a Provisional PDA, development within the area will cease to be assessed under the standard process prescribed under the *Planning Act 2016* (Qld). Development will instead be subject to the **faster process** provided by the *Economic Development Act 2012* (Qld).<sup>18</sup>

<sup>9</sup> *Economic Development Act 2012* (Qld) s 59.

<sup>10</sup> *Economic Development Act 2012* (Qld) ss 61 and 62(1).

<sup>11</sup> *Economic Development Act 2012* (Qld) s 62(2).

<sup>12</sup> *Economic Development Act 2012* (Qld) s 65.

<sup>13</sup> *Economic Development Act 2012* (Qld) ss 35(2) and 36(a).

<sup>14</sup> *Economic Development Act 2012* (Qld) s 36A.

<sup>15</sup> *Economic Development Act 2012* (Qld) s 36A.

<sup>16</sup> *Economic Development Act 2012* (Qld) ss 36A to 36E.

<sup>17</sup> *Economic Development Act 2012* (Qld) ss 36A to 36G.

<sup>18</sup> Department of State Development, Infrastructure, Local Government, and Planning, '[Introduction to priority development areas](#)', *Economic Development Queensland* (Factsheet, June 2019) 4.

This means that developments will not need to be referred to other state agencies for interest checks and **third parties will not have the opportunity to appeal the development**.<sup>19</sup> An applicant can only appeal against a nominated assessing authority condition.<sup>20</sup> If necessary, the Minister can introduce by-laws that apply within PDAs which would replace existing local laws.<sup>21</sup>

### How are development applications assessed in a PDA?

If development is proposed in a PDA or a Provisional PDA, the development application must be lodged with the Minister or a delegate for assessment.<sup>22</sup> Development will be assessed as follows:

- If the development is in a Provisional PDA, it will be assessed under the draft PLUP until the PLUP takes effect.
- If the development is in a PDA, it will be assessed under the ILUP until the development scheme takes effect.

A development application must be decided within 40 business days after the Minister is satisfied that the applicant has complied with all obligations, including responding to information requests or publicly notifying the application for at least 20 business days.<sup>23</sup> Upon deciding the application, the Minister has 5 business days to give notice of the decision to the applicant.<sup>24</sup> A copy of the decision is not required to be given to submitters.

Visit: The Queensland Government's [website](#) to view current applications and approvals.

#### **Important!**

If an inconsistency occurs between a PDA development scheme or land use plan and another local or state planning instrument, the PDA development scheme/land use plan will prevail to the extent of the inconsistency.<sup>25</sup>

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<sup>19</sup> Department of State Development, Infrastructure, Local Government, and Planning, '[Introduction to priority development areas](#)', *Economic Development Queensland* (Factsheet, June 2019) 4, 17.

<sup>20</sup> *Economic Development Act 2012* (Qld) s 90. Nominated assessing authority conditions may be imposed if the project raises issues which fall within the scope of local government or state agencies. The relevant department will be the nominated assessing authority, which will monitor that condition.

<sup>21</sup> *Economic Development Act 2012* (Qld) s 54(3).

<sup>22</sup> *Economic Development Act 2012* (Qld) ss 10, 13, 82, 169.

<sup>23</sup> *Economic Development Act 2012* (Qld) s 85.

<sup>24</sup> *Economic Development Act 2012* (Qld) s 89.

<sup>25</sup> *Economic Development Act 2012* (Qld) s 71.

## What are the public consultation and appeal rights for development in a PDA?

### Public consultation

#### Consultation during PDA declaration process

As noted above, there may be public consultation opportunities during the PDA declaration process, as follows:

**For declaration of PDAs** - members of the public will have a minimum of 30 business days to comment on the proposed development scheme for a PDA once it is published.<sup>26</sup> See the '[How is a declaration made](#)' section above for further information.

**For declaration of Provisional PDAs** - members of the public will have 15 business days to comment on a draft PLUP once it is published on the department's website.<sup>27</sup> See the '[How is a declaration made](#)' section above for further information.

#### Consultation once development is proposed in a PDA

Whether a particular development application requires public notification will depend on the relevant development instrument that regulates the PDA (e.g. the PLUP, the ILUP, the development scheme).

If public notification is required, then the applicant must publish a notice about the development application in a relevant local newspaper, inviting anyone to make submissions within a period of at least 20 business days.<sup>28</sup>

Read: The Queensland Government's [website](#) for a guide to making a submission about a development application in a PDA.

### Appeal rights

The *Economic Development Act 2012* (Qld) does not provide a general right to appeal a decision to approve a development application in a PDA.<sup>29</sup> The absence of appeal rights is a significant change from the standard state planning process under the *Planning Act 2016* (Qld), which allows the public to appeal decisions to the Planning and Environment Court.<sup>30</sup> There is, however, a limited right for an applicant to appeal a decision by a nominated assessing authority to impose a condition.<sup>31</sup>

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<sup>26</sup> *Economic Development Act 2012* (Qld) s 59.

<sup>27</sup> *Economic Development Act 2012* (Qld) s 36A.

<sup>28</sup> *Economic Development Act 2012* (Qld) s 84.

<sup>29</sup> *Economic Development Act 2012* (Qld) s 84(4)(e).

<sup>30</sup> *Planning Act 2016* (Qld) s 229.

<sup>31</sup> *Economic Development Act 2012* (Qld) s 90.

## **Judicial review rights**

While the *Economic Development Act 2012* (Qld) does not provide general rights to appeal against a decision to approve a development application in a PDA, the *Judicial Review Act 1991* (Qld) still applies to allow a person who is “aggrieved” to seek reasons for the decision, and to apply to the Supreme Court for judicial review of the decision.<sup>32</sup> This process looks at whether the correct legal process was undertaken by the decision maker in making the decision, it does not look at the merits of the decision e.g. whether a development should have been approved on the evidence of the application.

These rights to seek reasons and to apply for judicial review of a decision exist for people who are considered ‘aggrieved’ by a decision, which can include public interest groups who represent a particular issue of relevance to the decision.

There are timeframes for seeking reasons or applying for judicial review – typically a request for reasons or an application for judicial review should be made within 28 days of being notified of the decision.

However, if reasons are obtained, the person receiving the reasons then has 28 days from receipt of the reasons to apply for judicial review, extending the time frame.

## **Complaints**

It is important to note that other environmental protection legislation may also apply to PDAs (and Provisional PDAs), such as:

- the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
- the *Environmental Protection Act 1994* (Qld);
- the *Nature Conservation Act 1992* (Qld).

If you think there may be unlawful activity (such as an environmental offence, unlawful clearing, etc.), you can report your concerns to authorities such as:

- the Commonwealth Department of Climate Change, Energy,
- the Environment and Water;
- the Queensland Department of Environment and Science.

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<sup>32</sup> Explanatory Notes, *Economic Development Bill 2012*, 13.

### **Example PDA: Toondah Harbour, Cleveland**

The Toondah Harbour PDA was declared in June 2013 at the request of the Redland City Council. Located approximately 1km east of the Cleveland CBD, the PDA encompasses an area of 67 hectares – 17.5 hectares of land and 49.5 hectares within the Moreton Bay Marine Park.

The PDA seeks to encourage economic development, with a focus on consolidating Toondah Harbour as a regional gateway to Moreton Bay and North Stradbroke Island. Development within the PDA will focus on medium density mixed-use residential, tourism and retail-based developments with the opportunity to establish a private berth marina.

The proposed development scheme was opened for public notification between 10 January 2014 and 24 February 2014. Public consultation on the proposed development scheme was conducted via a variety of mediums by both the Redland City Council and Economic Development Queensland.

The [development scheme](#) was approved by the Queensland Government in May 2014.

In the interim period, development within the PDA was regulated under the Toondah Harbour Priority Development Area Interim Land Use Plan, which took effect immediately following declaration in June 2013.

In 2018 the Toondah Harbour PDA was declared a ‘controlled action’ which required referral and assessment under the EPBC Act, with assessment via environmental impact statement. This process is currently underway.

Under the *Environmental Protection Act 1994 (Qld)* other discrete permits are also required for this development, with respect to dredging.

More information on the Toondah Harbour PDA can be accessed [here](#).

### **Evaluate this resource**

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