

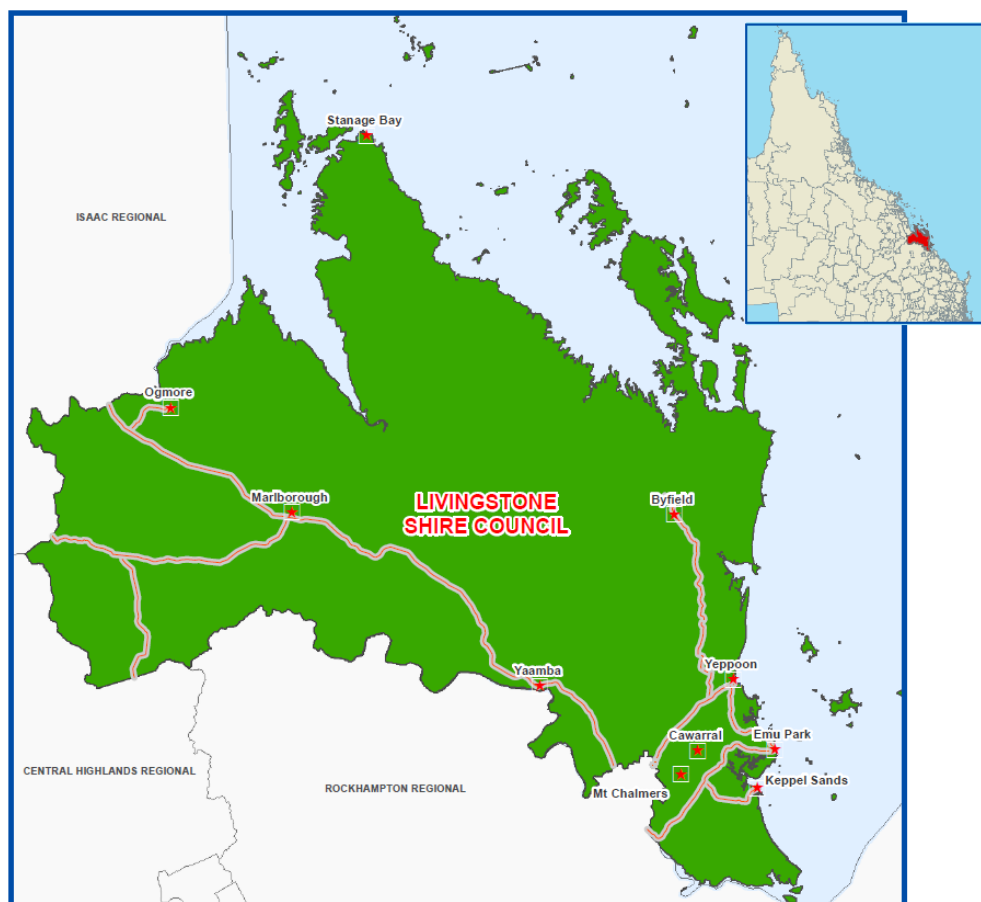
## Part 1. About the Planning Scheme

### 1.1. Introduction

- (1) The Livingstone Planning Scheme 2018 (the 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 planning scheme was amended for alignment with the *Planning Act 2016* (the Act) by the Minister's rules under section 293 of the Act on 6 June 2017.
- (3) In seeking to achieve this purpose, the planning scheme sets out Livingstone Shire Council's intention for the future development in the planning scheme area, over the next ten (10) years.
- (4) The planning scheme seeks to advance state and regional policies, including state planning policies and the Central Queensland regional plan, through more detailed local responses taking into account the local context.
- (5) While the planning scheme has been prepared with a ten (10) 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 planning scheme applies to the planning scheme area of Livingstone Shire Council including all premises, roads, internal waterways and interrelates with the surrounding local government areas illustrated in Map 1.

Editor's note — State legislation may state that the planning scheme does not apply to certain areas, for example, strategic port land under the *Transport Infrastructure Act 1994* and priority development areas.

**Map 1. Local government planning scheme area and context**



## 1.2. Planning scheme components

- (1) The planning scheme comprises the following components:
- (a) About the planning scheme;
  - (b) State planning provisions;
  - (c) The strategic framework;
  - (d) The local government infrastructure plan;
  - (e) Tables of assessment;
  - (f) The following zones:

Zone	Precinct
<b>Centres category zones</b>	
Neighbourhood centre zone	No precincts are identified within this zone
Local centre zone	No precincts are identified within this zone
District centre zone	No precincts are identified within this zone
Major centre zone	No precincts are identified within this zone
<b>Environmental category zones</b>	
Environmental management and conservation zone	No precincts are identified within this zone
<b>Industry category zones</b>	
Low impact industry zone	Tanby Road Local Business Precinct
Medium impact industry zone	No precincts are identified within this zone
<b>Other category zones</b>	
Community facilities zone	No precincts are identified within this zone
Emerging community zone	No precincts are identified within this zone
Limited development zone	No precincts are identified within this zone
Rural zone	Capricorn Coast Rural Precinct
	Yaamba Historic Township Precinct
Rural residential zone	Park Residential Precinct
Special purpose zone	Rosslyn Bay Precinct
Specialised centre zone	No precincts are identified within this zone
Township zone	No precincts are identified within this zone
<b>Recreation category zones</b>	
Open space zone	Yeppoon Foreshore Tourism and Recreation Precinct
Sport and recreation zone	No precincts are identified within this zone
<b>Residential category zones</b>	
Low density residential zone	Tanby Road Commercial Transition Precinct
	Kinka Local Business Precinct
Low-medium density residential zone	Cooee Bay Accommodation Precinct
Medium density residential zone	Rosslyn Bay Accommodation Precinct

Zone	Precinct
	Major Centre Commercial Transition Precinct
<b>Tourism category zones</b>	
Major tourism zone	Capricorn International Resort Precinct
	Great Keppel Island Precinct

(g) The following local plans:

(i) Seaspray Local Plan:

- (A) Local Plan Precinct LPP-01 – Seaspray Residential Low Density Precinct
- (B) Local Plan Precinct LPP-02 – Seaspray Residential Medium Density Precinct
- (C) Local Plan Precinct LPP-03 – Seaspray Community and Recreation Precinct

(h) The following are the overlays with codes:

Mapping overlays	Overlay codes
Acid sulfate soils overlays <ul style="list-style-type: none"> <li>• Acid Sulfate Soils (ASS) – Known actual or potential</li> <li>• Acid Sulfate Soils (ASS) – Potential Assessment Area</li> </ul>	Acid sulphate soils overlay code
Airport environs overlays <ul style="list-style-type: none"> <li>• Australian Noise Exposure Forecast</li> <li>• Distance to runways               <ul style="list-style-type: none"> <li>- Lighting area</li> <li>- Light restriction zone</li> <li>- Wildlife hazard buffer zone</li> </ul> </li> <li>• Obstacle Limitation Surface</li> </ul>	Airport environs overlay code
Biodiversity overlays <ul style="list-style-type: none"> <li>• MSES - declared fish habitat</li> <li>• MSES - high ecological significance wetlands</li> <li>• MSES - high ecological value waters (watercourses)</li> <li>• MSES - high ecological value waters (wetlands)</li> <li>• MSES - marine park</li> <li>• MSES - protected area</li> <li>• MSES - regulated vegetation</li> <li>• MSES - wildlife habitat</li> <li>• MLES - habitat and vegetation</li> <li>• MLES - local and regional biodiversity corridors</li> <li>• MLES - wetlands</li> <li>• Stream order</li> <li>• Waterways</li> <li>• Waterway potential assessment area</li> </ul>	Biodiversity overlay code
Bushfire hazard area overlays	Bushfire hazard overlay code

Mapping overlays	Overlay codes
<ul style="list-style-type: none"> <li>Very high potential bushfire intensity</li> <li>High potential bushfire intensity</li> <li>Medium potential bushfire intensity</li> <li>Potential impact buffer</li> </ul>	
Coastal hazard area overlays <ul style="list-style-type: none"> <li>Erosion prone area</li> <li>Storm tide hazard area</li> </ul>	Coastal hazard overlay code
Extractive and mining resource area overlays <ul style="list-style-type: none"> <li>Key Resource Area: resource and processing area</li> <li>Key Resource Area: separation area</li> <li>Key Resource Area: transport route</li> </ul>	Extractive resources overlay code
Flood hazard area overlay	Flood hazard overlay code
Heritage register overlays <ul style="list-style-type: none"> <li>State Heritage site</li> <li>State Heritage site potential assessment area</li> <li>Local Heritage site</li> <li>Local Heritage Site potential assessment area</li> </ul>	Heritage place overlay code
Landslide hazard area overlay	Landslide hazard overlay code
Scenic amenity overlays <ul style="list-style-type: none"> <li>Coastal scenic transport route</li> <li>Coastal scenic transport route potential assessment area</li> <li>Coastline foreshore</li> <li>Coastline foreshore potential assessment area</li> <li>Coastal green break</li> <li>Scenic amenity (Management Area A)</li> <li>Scenic amenity (Management Area B)</li> </ul>	Scenic amenity overlay code
Water resource area overlay	Water resource area overlay code

(i) The following are the overlays which do not have overlay codes:

Overlays without codes	
Agricultural land Class A and Class B overlay	These overlays do not have an overlay code; however, they may be referred to in the tables of assessment or in the assessment criteria contained within a zone code, local plan code, or development code, or they may be for general information purposes.
Drainage problem area overlay	
Extractive and mining resource area overlays <ul style="list-style-type: none"> <li>Historic, current or potential mining and extractive resources</li> </ul>	
Regional infrastructure overlays <ul style="list-style-type: none"> <li>Declared stock route</li> <li>Major electricity infrastructure</li> </ul>	
Road hierarchy overlays	
Transport infrastructure overlays <ul style="list-style-type: none"> <li>State controlled road</li> <li>Railway</li> </ul>	

Transport noise corridor overlays <ul style="list-style-type: none"> <li>State controlled road noise corridor</li> <li>Railway noise corridor</li> </ul>	
Height limits overlay	

(j) The following development codes:

<b>Development codes</b>
<b>Use codes:</b>
Accommodation activities code
<b>Other development codes:</b>
General development code
Development works code
Reconfiguring a lot code

(k) Schedules and appendices.

(2) The following planning scheme policies support the planning scheme:

<b>Planning scheme policies</b>
Advertising devices planning scheme policy
Bushfire hazard planning scheme policy
Carpark planning scheme policy
Coastal hazard planning scheme policy
Environmental management planning scheme policy
Flood hazard planning scheme policy
Laneways planning scheme policy
Local heritage register planning scheme policy
Local parks planning scheme policy
Scenic amenity planning scheme policy
Sewerage and waste water infrastructure planning scheme policy
Slope stability assessment report planning scheme policy
Stormwater management planning scheme policy
Structure planning and urban design planning scheme policy
Water supply infrastructure planning scheme policy
Landscaping planning scheme policy
Road infrastructure and hierarchy planning scheme policy

## 1.3. Interpretation

### 1.3.1. Definitions

- (1) A term used in the planning scheme has the meaning assigned to that term by one of the following:
  - (a) the *Planning Act 2016* (the Act); or
  - (b) the *Planning Regulation 2017* (the Regulation), other than the regulated requirements; or
  - (c) the definitions in Schedule 1 of the planning scheme; or
  - (d) the *Acts Interpretation Act 1954*; or
  - (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 clause 1.3.1(1), the meaning contained in the instrument highest on the list will prevail.
- (3) A reference in the planning scheme to any act includes any regulation or instrument made under it, and where amended or replaced, if the context permits, means the amended or replaced act.
- (4) A reference in the planning scheme 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 planning scheme.

Editor's note — the regulated requirements do not apply to this planning scheme.

### 1.3.2. Standard drawings, maps, notes, editor's notes and footnotes

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

Note — this is an example of a note.

Editor's note — this is an example of an editor's note.

Footnote<sup>1</sup> — this is an example of a footnote.

### 1.3.3. 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.

### 1.3.4. Zones for roads, closed roads, waterways and reclaimed land

- (1) The following applies to a road, closed road, waterway or reclaimed land in the planning scheme 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

<sup>1</sup> Footnote — this is an example of a footnote

## 1.4. 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. Under section 44(6)(a) of the Act, if a categorising instrument does not apply a category of development to a particular development, the development is accepted development. Schedule 7 of the Regulation also prescribes accepted development.

- (b) assessable development:

- (i) code assessment  
(ii) impact assessment

Editor's note — a development approval is required for assessable development. Schedules 9, 10 and 12 of the Regulation also prescribe assessable development.

- (c) prohibited development.

Editor's note — a development application may not be made for prohibited development. Schedule 10, part 4 of the Regulation prescribes prohibited development.

- (2) The planning scheme states the category of development for certain types of development, and specifies the category of assessment for assessable development in the planning scheme area in Part 5.

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

## 1.5. Hierarchy of assessment benchmarks

- (1) Where there is inconsistency between provisions within the planning scheme, the following rules apply:

- (a) relevant assessment benchmarks or requirements for accepted development specified in the Planning Regulation prevail over the planning scheme 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) local plan codes prevail over zone codes, use codes and other development codes to the extent of the inconsistency
- (e) zone codes prevail over use codes and other development codes to the extent of the inconsistency

## 1.6. Building work regulated under the planning scheme

- (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 planning scheme, 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 planning schemes 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 MP 1.1, 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 this planning scheme:
- (a) Categories of development and assessment – building work;
  - (b) Categories of development and assessment – overlays;
  - (c) Relevant zone codes;
  - (d) Overlay codes; and
  - (e) Seaspray Local Plan.

## 1.7. Local government administrative matters

There are no local government administrative matters for the planning scheme.



- (c) if the road, closed road, waterway or reclaimed land is adjoined on one side only by land in a zone — the entire road, closed road, waterway or reclaimed land is in the same zone as the adjoining land
- (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*.

## 1.4. 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. Under section 44(6)(a) of the Act, if a categorising instrument does not apply a category of development to a particular development, the development is accepted development. Schedule 7 of the Regulation also prescribes accepted development.

- (b) assessable development:

- (i) code assessment  
(ii) impact assessment

Editor's note — a development approval is required for assessable development. Schedules 9, 10 and 12 of the Regulation also prescribe assessable development.

- (c) prohibited development.

Editor's note — a development application may not be made for prohibited development. Schedule 10, part 4 of the Regulation prescribes prohibited development.

- (2) The planning scheme states the category of development for certain types of development, and specifies the category of assessment for assessable development in the planning scheme area in Part 5.

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

## 1.5. Hierarchy of assessment benchmarks

- (1) Where there is inconsistency between provisions within the planning scheme, the following rules apply:

- (a) relevant assessment benchmarks or requirements for accepted development specified in the Planning Regulation prevail over the planning scheme 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) local plan codes prevail over zone codes, use codes and other development codes to the extent of the inconsistency
- (e) zone codes prevail over use codes and other development codes to the extent of the inconsistency

## 1.6. Building work regulated under the planning scheme

- (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 planning scheme, 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 planning schemes 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 MP 1.1, MP