

# Supporting and improving the operation of Development Control Plans

Consultation paper – April 2023

The Department of State Development, Infrastructure, Local Government and Planning connects industries, businesses, communities and government (at all levels) to leverage regions' strengths to generate sustainable and enduring economic growth that supports well-planned, inclusive and resilient communities.

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## Contact us

☎ +61 7 3328 4811 or 13 QGOV (13 74 68)

✉ [info@dsgmip.qld.gov.au](mailto:info@dsgmip.qld.gov.au)

🌐 [www.statedevelopment.qld.gov.au](http://www.statedevelopment.qld.gov.au)

✉ PO Box 15009, City East, Queensland 4002

🏠 1 William Street, Brisbane 4000

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# Summary

The Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) is seeking your views about proposed changes to the planning framework to support and improve the operation of Development Control Plans.

Development Control Plans (DCPs) are historical mechanisms by which the planning intent for larger planned areas, such as suburbs or neighbourhoods, were formalised through the assessment and approval of a series of increasingly specific plans. DCPs were created in the 1990s to address deficiencies in the repealed *Local Government (Planning and Environment Act) 1990* that did not allow for the formal consideration of larger or staged development.

DCPs have been carried forward in three local government areas - Ipswich City Council, Moreton Bay Regional Council and Sunshine Coast Regional Council - as part of their respective planning schemes. The DCP areas are identified in:

- the Development Control Plan 1 Kawana Waters (Sunshine Coast Regional Council)
- the Mango Hill Infrastructure Development Control Plan (Moreton Bay Regional Council) and
- the Springfield Structure Plan (Ipswich City Council).

In those three areas, the DCP plan approval process is separate to the development assessment process under Queensland's primary planning legislation, the *Planning Act 2016* (Planning Act).

It is proposed to make changes to the Planning Act, and to the operation of associated instruments (for example the Ministers' Guidelines and Rules), to respond to emergent circumstances and ensure the pragmatic application of government policy.

The following changes are proposed in this consultation paper:

- **Emergent circumstances:** A significant number of development approvals have been given in DCP areas since their inception, under successively modernised planning legislation. The Planning and Environment Court's (the Court) 2022 decision in *JH Northlakes Pty Ltd v Moreton Bay Regional Council [2022] QPEC 18* determined that development in DCP areas must use an out-dated application process created under the repealed *Integrated Planning Act 1997*, and as such, should not benefit from improvements made to the planning and development framework made since that time. This was not the intention when that planning legislation was repealed and the current Planning Act was drafted. As such, changes are now proposed to ensure the modernised assessment system created under the Planning Act applies to development in DCP areas, and any existing approvals and applications in progress are validated.
- **Improvements:** Under the Planning Act, certain development that may impact upon a state interest, such as biodiversity, transport infrastructure or agriculture, is required to be referred to the state, represented by the State Assessment and Referral Agency (SARA). SARA assesses the development and can impose conditions to protect the state interest(s). In DCPs, referral to SARA generally occurs after the planning intent for an area is already approved through the DCP plan approval process, which can create conflict. The proposed change recognises that there is an opportunity to better consider state interests and allow for more integrated development to occur by moving the referral of development that would impact certain state interests to the DCP plan approval process itself.

Consequential changes to the Planning Regulation 2017 will be required to facilitate the changes to the referral process under the Planning Act. The scope of these changes is being determined through consultation, which is ongoing with affected entities including local governments. Given the highly technical nature of the proposed amendments and their highly limited area of effect, a broad overview of the amendments is provided below.

## Summary of proposed changes

Proposed change	Reason for the change
<p><b>Proposal 1</b></p> <ul style="list-style-type: none"> <li>- Include provision in Planning Act to validate prior approvals given since 2009 in DCP areas</li> <li>- Include transitional provisions in Planning Act to support application processes underway</li> </ul>	<ul style="list-style-type: none"> <li>• Gives certainty to current and past applicants and removes unreasonable burden on applicants to reapply for approval of existing development</li> <li>• Provides certainty for the local government for approvals granted.</li> </ul>
<p><b>Proposal 2</b></p> <ul style="list-style-type: none"> <li>- Remove legislative linkages relating to DCPs between repealed planning legislation and the Planning Act</li> </ul>	<ul style="list-style-type: none"> <li>• Provides certainty that current Planning Act process is valid.</li> <li>• Removes burden on applicants, local governments and the state to use outdated process.</li> </ul>
<p><b>Proposal 3</b></p> <ul style="list-style-type: none"> <li>- Include a mechanism for the referral of DCP plan applications to the state for assessment</li> <li>- The mechanism should include referral and assessment processes and timeframes, matters for assessment, powers to impose conditions or direct refusal, appeal and enforcement arrangements.</li> </ul>	<ul style="list-style-type: none"> <li>• Allows for greater integration of state interests into DCP area planning.</li> <li>• Allows for appropriate conditioning of development to balance state interests.</li> </ul>
<p><b>Proposal 4</b></p> <ul style="list-style-type: none"> <li>- Correct a cross reference between two chapters and parts within the Planning Act by amending section 316 to refer to the Minister's powers under chapter 3, part 6 of the Planning Act.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensures the Planning Act is correct and operates effectively.</li> </ul>

## How to have your say

We want to hear what you think of the proposals.

Your feedback will help shape the changes we make to the planning framework to support and improve the operation of Development Control Plans.

Have your say by providing feedback through the 'Have your say' portal at the website [haveyoursay.dsdilgp.qld.gov.au/improvements-to-queenslands-planning-framework](https://haveyoursay.dsdilgp.qld.gov.au/improvements-to-queenslands-planning-framework). Feedback will be accepted until 5pm on 5 May 2023.

If you have any questions about this paper, please contact [BestPlanning@dsdilgp.qld.gov.au](mailto:BestPlanning@dsdilgp.qld.gov.au).

Department of State Development,  
Infrastructure, Local Government and Planning  
PO Box 15009 City East Qld 4002 Australia  
Tel 13 QGOV (13 74 68)  
info@dsdilgp.qld.gov.au  
www.statedevelopment.qld.gov.au  
Connect with us @GrowingQld

