

Practice note 14

Issued: December 2017 (Appendices reviewed June 2019)

State interests in development assessment in Priority Development Areas

1.0 Purpose

This practice note provides information about the consideration of state interests for proposed development in provisional priority development areas (PPDAs) and priority development areas (PDAs) declared under the *Economic Development Act 2012* (the ED Act).

The purpose of this note is to provide advice about development assessment in a PDA regarding:

- the **process** for considering state interests by the Minister for Economic Development Queensland (MEDQ) or a delegate **under the ED Act**, and
- other **triggers** for consideration of State interests by the relevant state entity:
 - **under the *Planning Act 2016*** (Planning Act) **and the *Planning Regulation 2017*** (Planning Regulation), or
 - **under other Acts.**

2.0 Legislation and delegation of MEDQ functions

Economic Development Act 2012

The ED Act came into effect on 1 February 2013. Its main purpose is to facilitate economic development, and development for community purposes, in the state. The declaration of a PPDA or PDA is one primary way of achieving the ED Act's purpose.

The declaration of a PPDA or PDA removes the subject land from the usual local government planning and development processes under the Planning Act. Development under the ED Act is streamlined through efficient plan making and development assessment processes with shorter timeframes and fewer statutory steps than the statewide system.

The ED Act establishes the role of the MEDQ as responsible for the preparation of development instruments for PPDAs and PDAs, and for most development assessment in those areas, including with respect to state interests. In some circumstances, assessment by the State continues to be triggered under the Planning Act or another Act. Further details are provided below.

A local government's local laws continue to apply unless the matter has been dealt with in an ED Act by-law (ED Act, s 54).

Delegation of MEDQ powers

Under the ED Act, s 169 the MEDQ may delegate its functions or powers, including development assessment, to various persons or entities, including a departmental employee (DSDMIP delegate)¹, a local government (local government delegate) or a local representative committee (LRC delegate)².

Through an instrument of delegation, the MEDQ may also give the delegate directions under the ED Act, s 170 to comply with the process for identifying and considering state interests as identified in this practice note.

Preparation of development scheme

Under the ED Act, s 57 when a development scheme is being prepared, consideration must be given to assessment benchmarks prescribed by regulation under the Planning Act and other Acts for the Planning Act³. These benchmarks include the State Planning Policy, State Development Assessment Provisions (SDAP), and relevant regional plan. Consultation is also required with entities likely to be affected by the development scheme (ED Act, s 58). Accordingly, through collaboration with State agencies during scheme preparation, relevant state interests are sought to be reconciled to the extent practicable. This facilitates streamlined development assessment.

The extent that each relevant state interest has been addressed in a development scheme, and the nature of particular matters considered, provide the context and starting point for consideration of state interests when an application for PDA development approval is assessed.

Development assessment

Development assessment by the MEDQ delegate

Under the ED Act, an application for PDA development approval is required if development is identified as PDA assessable in the development scheme. The development assessment process differs in a number of ways between the ED Act and Planning Act, and features streamlined processes and timeframes.

Under the Planning Act, the State Assessment and Referral Agency (SARA) is generally responsible for undertaking assessment of proposed development for the State. However, **in most circumstances, PDA-related development is excluded from being assessable development under the Planning Regulation⁴** (refer to the list of development shown shaded in the table at appendix 1). **In these circumstances, MEDQ is responsible for the**

¹ Economic Development Queensland is the Department of State development, Manufacturing, Infrastructure and Planning (DSDMIP) delegate.

² For the purposes of this practice note, the role of a LRC delegate in development assessment and consideration of State interests is the same as the role of the local government delegate. For ease of reference, the single term 'local government delegate' will be used to include the LRC delegate, and the term 'MEDQ delegate' will refer collectively to the different types of delegates.

³ For example, such Acts including the *Environmental Protection Act 1994* which prescribes assessment benchmarks for environmentally relevant activities

⁴ The *Planning Regulation 2017*, schedule 10 identifies assessable development for the purpose of considering matters of State interest. In many, but not all circumstances, PDA-related development is excluded from being assessable. 'PDA-related development' is defined as development in a priority development area, or PDA-associated development for a priority development area.

consideration of state interests when deciding a PDA development application (ED Act, s 87(1)(b)). 'state interests' are defined as including:

- an interest relating to the main purpose of the ED Act
- an interest that in MEDQ's opinion, affects an economic, community or environmental interest of the state or a region.

Such consideration is in addition to consideration of any state interests that have been integrated into the development scheme (ED Act, s 87(1)(d)). For example, state interests may have been integrated by mapping areas for a state purpose where additional development requirements apply, or where certain uses or works are excluded within or near identified areas.

The later sections of this guide focus on the process for consideration of state interests by the MEDQ delegate.

Development assessment by another State entity

There are two different circumstances when development proposed in a PDA may require a state interest to be considered by an entity other than the MEDQ delegate:

- the proposal involves **assessable development under the Planning Act and Planning Regulation that is not excluded as PDA-related development** (refer to the list of development shown unshaded in the table at appendix 1)
- the proposal involves **development that requires approval, or the proponent to take an action, under an Act other than the Planning Act** (refer to appendix 2 for examples of such development⁵).

The development proponent is required to take any required action, or obtain any required approval, independently of the development assessment process under the ED Act. The appropriate sequencing of required actions or approvals will depend on the nature of the proposal and be determined by the proponent.

Development prohibited by the state under the Planning Act and Planning Regulation

It should also be noted that as a matter of state interest certain development is prohibited under the Planning Act and Planning Regulation. Appendix 3 identifies prohibited development under the Planning Act and Planning Regulation that is applicable to a PDA.

3.0 Considering state interests in assessment of a PDA development application

Pre-application

When an initial enquiry is made about proposed development in a PDA, the **MEDQ delegate** must advise the proponent that relevant state interests need to be considered when preparing

⁵ The table in appendix 2 provides some examples of Acts that may be applicable to proposed development in a PDA. Any proposal requires the applicant to undertake a comprehensive appraisal to identify any approvals that may be required under an Act in addition to any approval under the Planning Act or ED Act.

a PDA development application, and encourage consultation with the delegate before an application is made.

In identifying the state interests to be addressed in an application, regard must be given to:

- the development scheme
- the State Planning Policy, to the extent any changes have been made to the SPP since the development scheme took effect
- the State Development Assessment Provisions
- any advice available from the DSDMIP delegate regarding consideration of state interests at the time the development scheme was prepared, and
- any other relevant considerations identified by the DSDMIP delegate at the time of the enquiry.

There is no requirement for a local government delegate to seek advice from the DSDMIP delegate about state interests at the pre-application phase. Advice may be sought at the discretion of the local government delegate. Depending on the complexity or sensitivity of relevant state interests, the DSDMIP delegate may provide written advice or attend pre-application discussions.

Application

If development assessment has been delegated to a local government, the **local government delegate** must refer a properly made application to the DSDMIP delegate within 5 business days of receiving the application. For an individual application, a longer period may be agreed with the DSDMIP delegate.

The **DSDMIP delegate** will respond within 5 business days of receiving the application (or a longer period agreed with the local government delegate) in one of the following ways:

- advise that relevant state interests have been satisfactorily addressed
- advise that one or more conditions must be applied to the approval to adequately address state interests
- advise that an information request is required to adequately consider the relevant state interests
- give a direction on how a state interest should be addressed by the application.

Information request

The **MEDQ delegate** may make an information request under the ED Act, s 83 for any further information required to assess relevant state interests.

The **local government delegate** must request the applicant provide any additional information the DSDMIP delegate has advised the local government is required. This information must be requested in addition to any information requirements identified by the local government delegate regarding local matters.

A **local government delegate** must provide a copy of the final information request to the DSDMIP delegate.

Decision

The **MEDQ delegate** may decide the application once satisfied the applicant has met applicable requirements:

- any information request has been complied with
- if the application required notification, the requirements for notification have been complied with and the submission period for the application has ended (ED Act, s 85(1)).

If appropriate, state interests may be addressed in one or more conditions of approval, including the nomination of an entity to be a nominated assessing authority for a condition. The MEDQ delegate may also decide to refuse an application because of a state interest.

If the response of the DSDMIP delegate at the application phase was to give a direction or require an information request, a **local government delegate** must refer the applicant's final information response to the DSDMIP delegate for consideration.

If the **DSDMIP delegate** is not satisfied the information response complies with the request, the local government delegate will be advised within 5 business days of receiving the response.

If the **DSDMIP delegate** is satisfied that the response with respect to state interests complies with the information request, the DSDMIP delegate will respond⁶ within 10 business days (or a longer agreed period) in one of the following ways:

- there is no requirement for any PDA development approval granted by the local government delegate to impose a condition of approval to address a state interest because:
 - there are no matters of state interest that are relevant, or
 - all relevant state interests are satisfactorily addressed by the proposed development.
- any PDA development approval granted by the local government delegate must address state interests by imposing stated PDA development conditions
- the local government delegate must refuse to give a PDA development approval because:
 - a state interest has not been adequately addressed by the application
 - a state interest can not be satisfactorily addressed through one or more conditions of approval.

A **local government delegate** must provide a copy of the final decision notice and any approved plans and documents to the DSDMIP delegate.

Change to an application or change to an approval

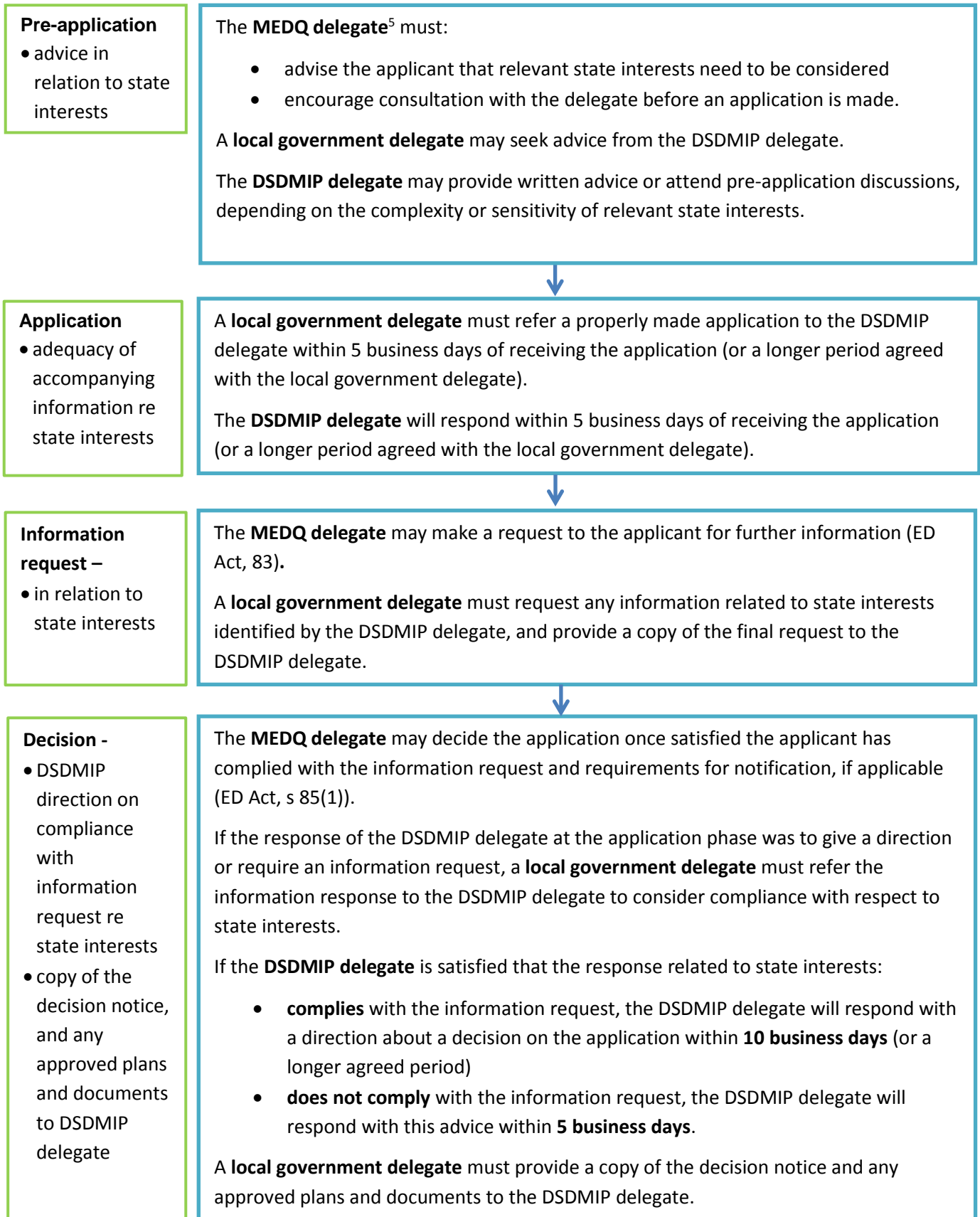
The same process for consideration of state interests applies again to an application if an applicant:

- changes an application in response to an information request under ED Act, s 83
- gives notice to change an application under ED Act, s 92
- makes an application to change an approval under ED Act, section 99.

⁶ A Schedule of Directions attached to the Instrument of Delegation to the local government delegate may state that the delegate must comply with any direction given by MEDQ.

For an application to extend the currency period of an approval under ED Act, section 101, the application stage of the process applies.

Process for consideration of state interests in PDA development assessment⁷



⁷ The MEDQ delegate is the DSDMIP delegate or local government delegate, as applicable. Also refer to footnote 1.

Appendix 1: Development in priority development areas assessable under the *Planning Act 2016* – June 2019

- The information in this table is a guide only and should not be relied upon as a complete guide to development in a priority development area (PDA). Only the *Planning Regulation 2017* has been reviewed in the preparation of this table. Blue shaded items are exempt under the *Planning Regulation 2017*.
- Specialist legal and planning advice should be obtained for each development, to ensure that all necessary approvals are obtained. The specific legislative provision should be consulted to obtain a full understanding of the provision, and also to check whether any part of the legislation has changed since the creation of this document.
- A local categorising instrument under the *Planning Act 2016* (planning scheme, temporary local planning instrument or variation approval) cannot make PDA-related development assessable (see Schedule 6, part 5, section 28 of the *Planning Regulation 2017*).

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
Airport land				
1.	Development on airport land	<i>Planning Regulation 2017</i> Schedule 10, Part 1, Division 1, section 1(a) <i>Airport Assets (Restructuring and Disposal) Act 2008</i> .	Development on airport land is assessable development, if the land use plan for the airport land states the development is assessable development.	Department of State Development, Manufacturing, Infrastructure and Planning Queensland Treasury
2.	A material change of use on airport land	<i>Planning Regulation 2017</i> Schedule 10, Part 1, Division 1, section 1(b) <i>Airport Assets (Restructuring and Disposal) Act 2008</i>	Development on airport land is assessable development, if the development is a material change of use that is inconsistent with the land use plan for the airport land.	Department of State Development, Manufacturing, Infrastructure and Planning Queensland Treasury

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
Aquaculture				
3.	Making a material change of use of premises for aquaculture	<i>Planning Regulation 2017</i> Schedule 10, Part 6, Division 1, Subdivision 1, section 9 <i>Fisheries Act 1994.</i>	A material change of use of premises for aquaculture is assessable development, unless the material change of use is accepted development under schedule 7, part 2, section 3 of the <i>Planning Regulation 2017</i> . This item makes the following accepted development: "A material change of use for prescribed aquaculture, if requirements for the material change of use are prescribed under the <i>Fisheries Act, section 23 and the material change of use complies with the requirements.</i> "	Department of State Development, Manufacturing, Infrastructure and Planning Department of Agriculture and Fisheries
Brothel				
4.	A material change of use for a brothel	<i>Planning Regulation 2017</i> Schedule 10, Part 2, Division 2, section 3 <i>Prostitution Act 1999</i>	A material change of use of premises for a brothel.	Department of State Development, Manufacturing, Infrastructure and Planning Queensland Police Service
Building work				
5.	Carrying out building work (assessable under the <i>Building Act 1975</i>)	<i>Planning Regulation 2017</i> Schedule 9, Part 1, section 1	Building work under the Building Act is assessable development, unless the building work is accepted development under schedule 7 of the <i>Planning Regulation 2017</i> .	Department of State Development, Manufacturing, Infrastructure and Planning
Contaminated land				
6.	A material change of use (with certain credentials) if all or part of the premises are on the contaminated land register or the environmental management register.	<i>Planning Regulation 2017</i> Schedule 10, Part 4, Division 1, section 6 <i>Environmental Protection Act 1994</i>	A material change of use of premises, where: <ul style="list-style-type: none"> all or part of the premises are on the contaminated land register or the environmental management register under the <i>Environmental Protection Act 1994</i>; and 	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
			<ul style="list-style-type: none"> • the premises are not being used for a sensitive land use; and • the material change of use involves: <ul style="list-style-type: none"> ○ a sensitive land use; or ○ a commercial use involving an accessible underground facility, including, for example, a basement car park, workshop or office; and • neither the contaminated land register nor the environmental management register state that the premises are suitable for the proposed use in accordance with a site suitability statement for the premises. 	Department of Environment and Science
Declared fish habitat area				
7.	Operational work that is completely or partly in a declared fish habitat area	<i>Planning Regulation 2017</i> Schedule 10, Part 6, division 2, subdivision 1, section 10 <i>Fisheries Act 1994.</i>	Operational work completely or partly in a declared fish habitat area is assessable development, unless the work is accepted development under schedule 7, part 3, section 7 of the <i>Planning Regulation 2017</i> . This item makes the following accepted development: “ <i>Operational work completely or partly within a declared fish habitat area, if requirements for the work are prescribed under the Fisheries Act, section 23 and the work complies with the requirements.</i> ”	Department of State Development, Manufacturing, Infrastructure and Planning Department of Environment and Science
Environmentally relevant activities				
8.	Making a material change of use of premises for an environmentally relevant activity (ERA)	<i>Planning Regulation 2017</i> Schedule 10, Part 5, Division 2, section 8	A material change of use of premises for an ERA is assessable development, if the activity is a concurrence ERA (the relevant ERA). However, this does not apply if:	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
		<i>Environmental Protection Regulation 2008.</i>	<ul style="list-style-type: none"> • an environmental authority to carry out a concurrence ERA has been approved for the premises; and • the relevant ERA and concurrence ERA are to be carried out under the environmental authority; and • the relevant ERA has a lower aggregate environmental score than the concurrence ERA. 	Department of Environment and Science
Hazardous chemical facility				
9.	<p>Making a material change of use for a hazardous chemical facility</p> <p><i>hazardous chemical facility</i> means the use of premises for a facility at which a prescribed hazardous chemical is present or likely to be present in a quantity that exceeds 10% of the chemical's threshold quantity under the <i>Work Health and Safety Regulation 2011</i>, schedule 15.</p>	<p><i>Planning Regulation 2017</i> Schedule 10, part 7, division 1, section 13</p> <p><i>Work Health and Safety Regulation 2011</i></p>	A material change of use for a hazardous chemical facility is assessable development.	<p>Department of State Development, Manufacturing, Infrastructure and Planning</p> <p>Department of Education</p>
Levees				
10.	Operational work for construction or modification of levees (category 2 and 3)	<p><i>Planning Regulation 2017</i> Schedule 10, part 19, division 4, subdivision 1, section 32</p> <p><i>Water Regulation 2016.</i></p>	<p>The following operational work is assessable development:</p> <ul style="list-style-type: none"> • construction of a new category 2 levee; • construction of a new category 3 levee; 	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
			<ul style="list-style-type: none"> modification of an existing levee if, after the modification, the levee will fulfil the requirements for a category 2 levee; modification of an existing levee if, after the modification, the levee will fulfil the requirements for a category 3 levee. 	Department of Natural Resources, Mines and Energy
Ports				
11.	Development in a priority port's master planned area "Priority Port" means each of the following: (a) Port of Abbot Point; (b) Port of Gladstone; (c) the ports of Hay Point and Mackay; (d) Port of Townsville.	<i>Planning Regulation 2017</i> Schedule 10, Part 13, Division 4, Subdivision 1, section 19	Exemption applies where development is in a PDA.	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
12.	Development on strategic port land	<p><i>Planning Regulation 2017</i> Schedule 10, part 13, division 5, subdivision 1, section 20</p> <p><i>Transport Infrastructure Act 1994.</i></p>	<p>Development on strategic port land is assessable development, if:</p> <ul style="list-style-type: none"> • either: <ul style="list-style-type: none"> ○ the land use plan for the strategic port land states the development is assessable development; or ○ the development is a material change of use that is inconsistent with the land use plan; and • for premises in a priority port's master planned area - the port overlay for the master planned area does not state a different category of development for the development. 	<p>Department of State Development, Manufacturing, Infrastructure and Planning</p> <p>Department of Transport and Main Roads</p>
Reconfiguring a lot				
13.	Reconfiguring a lot under the <i>Land Title Act 1994</i>	<i>Planning Regulation 2017</i> Schedule 10, Part 14, Division 1, section 21	Exemption applies if the reconfiguration is of a lot that is in a PDA, or that is PDA-associated land for a PDA.	Department of State Development, Manufacturing, Infrastructure and Planning
14.	Operational work for reconfiguring a lot	<i>Planning Regulation 2017</i> Schedule 10, Part 12, Division 1, section 18	<p>Operational work for reconfiguring a lot is only assessable development where the reconfiguring a lot is also assessable development.</p> <p>Reconfiguring a lot under the <i>Land Title Act 1994</i> where the lot is (in amongst other things) in a PDA, or that is PDA-associated land for a PDA is exempt. Therefore, an exemption applies to operational work for reconfiguring a lot under the <i>Land Title Act 1994</i> that is in a PDA, or that is PDA-associated land for a PDA.</p>	<i>Planning Regulation 2017:</i> Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
Referable dams				
15.	<p>Operational work for referable dams</p> <p>The definition of referable dam in the <i>Planning Regulation</i> references the definition in the <i>Water Supply (Safety and Reliability) Act 2008</i>, section 341:</p> <p>A dam is, or a proposed dam after its construction will be, a referable dam if—</p> <p>(a) a failure impact assessment of the dam, or the proposed dam, is carried out under Chapter 4, Part 1 of the <i>Water Supply (Safety and Reliability) Act 2008</i>; and</p> <p>(b) the assessment states the dam has, or the proposed dam after its construction will have, a category 1 or category 2 failure impact rating; and</p> <p>(c) the chief executive has, under section 349, accepted the assessment.</p>	<p><i>Planning Regulation 2017</i> Schedule 10, part 19, division 3, subdivision 1, section 31</p> <p><i>Water Supply (Safety and Reliability) Act 2008</i></p>	<p>Operational work that is the construction of a dam, or relates to a dam, is assessable development, if:</p> <ul style="list-style-type: none"> because of the work, the dam must be failure impact assessed; and the accepted failure impact assessment for the dam states the dam has a category 1 failure impact rating or a category 2 failure impact rating. 	<p>Department of State Development, Manufacturing, Infrastructure and Planning</p> <p>Department of Natural Resources, Mines and Energy</p>

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	<p>A dam is also a referable dam if:</p> <ul style="list-style-type: none"> (a) under section 342B, the dam becomes a referable dam; and (b) the chief executive has not, under section 349, accepted a failure impact assessment of the dam. <p>The following are not referable dams—</p> <ul style="list-style-type: none"> (a) a hazardous waste dam; (b) a weir, unless the weir has a variable flow control structure on the crest of the weir. 			
Removal, destruction or damage of marine plants				
16.	Operational work that is the removal, destruction or damage of a marine plant	<i>Planning Regulation 2017</i> Schedule 10, Part 6, Division 3, Subdivision 1, section 11	Exemption is for operational work for PDA-related development.	Department of State Development, Manufacturing, Infrastructure and Planning
Removal of quarry material from a watercourse or lake				
17.	Development for removing quarry material from a watercourse or lake.	<i>Planning Regulation 2017</i> Schedule 10, Part 19, Division 2, Subdivision 1, section 30	Exemption applies to PDA-related development.	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
SEQ development area				
18.	Material change of use of premises that are completely or partly in an SEQ development area	<i>Planning Regulation 2017</i> Schedule 10, Part 15, Division 2, Subdivision 1, section 22	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28). SEQ development area means an area in the SEQ region identified in a gazette notice by the Minister as a major development area.	Department of State Development, Manufacturing, Infrastructure and Planning
SEQ regional landscape and rural production area or the SEQ rural living area				
19.	Making a material change of use of premises for a tourist activity or sport and recreation activity (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 2, Subdivision 1, section 24	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Manufacturing, Infrastructure and Planning
20.	Making a material change of use of premises for a residential care facility (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 3, Subdivision 2, section 26	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Manufacturing, Infrastructure and Planning
21.	Making a material change of use of premises for a community activity,	<i>Planning Regulation 2017</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6,	Department of State Development,

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	other than a residential care facility, (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, Part 16, Division 3, Subdivision 2, section 27	relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Manufacturing, Infrastructure and Planning
22.	Making a material change of use of premises for indoor recreation (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 4, Subdivision 1, section 27A	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Manufacturing, Infrastructure and Planning
23.	Making a material change of use of premises for a biotechnology industry (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 6, Subdivision 2, section 27D	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Manufacturing, Infrastructure and Planning
24.	Making a material change of use of premises for a service station (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 6, Subdivision 2, section 27E	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
25.	Making a material change of use of premises for an urban activity, other than a biotechnology industry or service station (with certain credentials), and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 6, Subdivision 2, section 27F	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Manufacturing, Infrastructure and Planning
26.	Making a material change of use of premises for two or more of the uses noted in 27G(1)(b) (with certain credentials), and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 7, Subdivision 1, section 27G	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Manufacturing, Infrastructure and Planning
State and local heritage places				
27.	Development on a local heritage place (other than a Queensland heritage place)	<i>Planning Regulation 2017</i> Schedule 10, Part 8, Division 1, Subdivision 1, section 14	Exemption applies to development that is stated in Schedule 6 of the <i>Planning Regulation 2017</i> , which includes development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Manufacturing, Infrastructure and Planning
28.	Development on a Queensland heritage place	<i>Planning Regulation 2017</i> Schedule 10, Part 8, Division 2, Subdivision 1, section 15(1)(d)	Exemption applies if development is PDA-related development.	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
29.	A material change of use of premises on a lot that shares a common boundary with another lot that is or contains a Queensland heritage place	<i>Planning Regulation 2017</i> Schedule 10, Part 8, Division 2, Subdivision 1, section 15(3)(g)	Exemption applies if the material change of use is PDA-related development.	Department of State Development, Manufacturing, Infrastructure and Planning
30.	A material change of use of premises on a lot that contains a Queensland heritage place, but is not carried out on the Queensland heritage place	<i>Planning Regulation 2017</i> Schedule 10, Part 8, Division 2, Subdivision 1, section 15(3)(g)	Exemption applies if the material change of use is PDA-related development.	Department of State Development, Manufacturing, Infrastructure and Planning
Taking or interfering with water				
31.	<p>Operational work that involves taking or interfering with, water.</p> <p>Operational work covered by this item:</p> <p>(a) taking or interfering with water in—</p> <p>(i) a watercourse, lake or spring; or</p> <p>(ii) a dam constructed on a watercourse or lake;</p> <p>(b) taking or interfering with underground water through an artesian bore, as defined under the <i>Water Act 2000</i>, schedule 4, other than through a monitoring bore;</p> <p>(c) taking or interfering with underground water through a subartesian bore, if the works</p>	<i>Planning Regulation 2017</i> Schedule 10, Part 19, Division 1, Subdivision 1, section 29	Exemption applies to PDA-related development.	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	<p>are prescribed as assessable development under the <i>Water Act 2000</i>, section 39(f);</p> <p>(d) taking or interfering with underground water in a part of an underground water area, if the work is prescribed as assessable development for the part under the <i>Water Act 2000</i>, section 1046(2)(b);</p> <p>(e) taking or interfering with underground water through a subartesian bore if the work does not comply with the requirements that are prescribed under the <i>Water Act 2000</i>, section 1014(2)(g) for the work to be characterised as accepted development;</p> <p>(f) taking overland flow water, if the works are prescribed as assessable development under the <i>Water Act 2000</i>, section 39(f);</p> <p>(g) taking overland flow water if the work does not comply with the requirements that are prescribed under the <i>Water Act</i>, section 1014(2)(g) for the work to be characterised as accepted development.</p>			

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
Tidal works or work in a coastal management district				
32.	<p>Operational work that is tidal works or work completely or partly in a coastal management district.</p> <p>Apart from tidal works, this item also covers any of the following carried out completely or partly in a coastal management district—</p> <ul style="list-style-type: none"> (i) interfering with quarry material, as defined under the <i>Coastal Protection and Management Act 1995</i>, on State coastal land above high-water mark; (ii) disposing of dredge spoil, or other solid waste material, in tidal water; (iii) constructing an artificial waterway; (iv) removing or interfering with coastal dunes on land, other than State coastal land, that is in an erosion prone area. 	<p><i>Planning Regulation 2017</i> Schedule 10, Part 17, Division 1, section 28</p> <p><i>Coastal Protection and Management Act 1995</i>.</p>	Exemption applies to PDA-related development.	<p>Department of State Development, Manufacturing, Infrastructure and Planning</p> <p>Department of Environment and Science</p>
Vegetation clearing				
33.	Operational work for the clearing of native vegetation on prescribed land	<i>Planning Regulation 2017</i> Schedule 10, Part 3, Division 2, sections 4 and 5	Exemption applies to “exempt clearing work” which includes clearing vegetation that is PDA-related development on:	Department of State Development,

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	<p>“Prescribed land” means—</p> <ul style="list-style-type: none"> • freehold land; or • indigenous land; or • any of the following under the <i>Land Act 1994</i>: <ul style="list-style-type: none"> ○ leased land; ○ land dedicated as a road; ○ trust land, other than indigenous land; ○ unallocated State land; ○ land subject to a licence or permit; ○ non-tidal watercourse land. <p>“Native vegetation” means vegetation under <i>the Vegetation Management Act 1999</i> (VMA).</p> <p>However, the VMA does not define “native vegetation”. The VMA defines vegetation in section 8 as follows:</p> <p>Vegetation is a native tree or plant other than the following—</p> <ol style="list-style-type: none"> (a) grass or non-woody herbage; (b) a plant within a grassland regional ecosystem prescribed under a regulation; (c) a mangrove. 	<p>Schedule 21 of the <i>Planning Regulation 2017</i> - exempt clearing work</p> <p><i>Vegetation Management Act 1999</i>.</p>	<ul style="list-style-type: none"> • freehold land; • indigenous land; • unallocated State land, if the clearing is carried out, or allowed to be carried out, by the chief executive of the department in which the Land Act is administered; • land subject to a licence or permit under the Land Act, if the clearing is carried out by the licensee or permittee. <p>If none of the above exemptions apply, then the remainder of the general non-PDA specific exemptions in schedule 21 of the <i>Planning Regulation 2017</i> need to be reviewed to determine if any other exemptions apply. For example:</p> <ul style="list-style-type: none"> • the exemption in schedule 21, part 1, item 1(3), about areas declared under the VMA, if carried out under the management plan for the area and for establishing a necessary fence, firebreak, road or vehicular track where the clearing cannot reasonably be avoided or minimised; • the exemption in schedule 21, part 1, item 1(13), about certain land stated in the <i>Forestry Act 1959</i> and to the extent the clearing is for accessing and extracting quarry material for road works under the <i>Transport Infrastructure Act 1994</i>; 	<p>Manufacturing, Infrastructure and Planning</p> <p>Department of Natural Resources, Mines and Energy</p>

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
			<ul style="list-style-type: none"> any of the exemptions listed in schedule 21, part 2, item 5, about land dedicated as a road under the <i>Land Act 1994</i>. <p>In addition, no approval is required if the clearing is accepted development under schedule 7, part 3, section 12. This item makes the following accepted development: “Operational work that is clearing native vegetation to which an accepted development vegetation clearing code applies if the work complies with the code.” An “accepted development vegetation clearing code” is defined by reference to the VMA, section 19O(1) and (2).</p> <p>If none of the exemptions in schedule 21 apply (i.e. it is not ‘exempt clearing work’), and the clearing is not accepted development under schedule 7, Part 3, section 12, the clearing will be assessable. Generally, this will arise where the clearing is PDA-related development and is to occur on the following types of land under the <i>Land Act</i>:</p> <ul style="list-style-type: none"> leased land; land dedicated as a road; and trust land, other than indigenous land. 	
Waterway barrier works				
34.	Operational work that is constructing or raising waterway barrier works.	<i>Planning Regulation 2017</i> Schedule 10, part 6, division 4, subdivision 1, section 12	Operational work that is constructing or raising waterway barrier works is assessable development, unless the work is accepted development under schedule 7, part 3, section 6 of the <i>Planning</i>	Department of State Development, Manufacturing, Infrastructure and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	The schedule to the <i>Fisheries Act 1994</i> defines waterway barrier works as a dam, weir or other barrier across a waterway if the barrier limits fish stock access and movement along a waterway.	<i>Fisheries Act 1994.</i>	<i>Regulation 2017.</i> This item makes the following accepted development: “ <i>Operational work for constructing or raising waterway barrier works, if requirements for the work are prescribed under the Fisheries Act, section 23 and the work complies with the requirements.</i> ”	Department of Agriculture and Fisheries
Wetland protection area				
35.	Operational work that is high impact earthworks in a wetland protection area “High impact earthworks” is defined in schedule 24 of the <i>Planning Regulation 2017</i> .	<i>Planning Regulation 2017</i> Schedule 10, part 20, division 2, section 34 <i>Environmental Protection Regulation 2008</i>	Operational work that is high impact earthworks in a wetland protection area is assessable development, unless the operational work: <ul style="list-style-type: none"> • is for a domestic housing activity; or • is the natural and ordinary consequence of development that is a material change of use, or reconfiguring a lot, and all of the following apply: <ul style="list-style-type: none"> ○ the material change of use or reconfiguration involves high impact earthworks in a wetland protection area; ○ a development permit is in effect for the material change of use or reconfiguration; ○ the chief executive, or the chief executive (environment), had functions and powers as a referral agency or prescribed assessment manager in relation to the earthworks for the development application for the development permit; or • is accepted development under schedule 7, part 3, section 9. Schedule 7, part 3, section 9 of the <i>Planning Regulation 2017</i> makes the 	Department of State Development, Manufacturing, Infrastructure and Planning Department of Environment and Science

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
			<p>following accepted development: “<i>Operational work in a wetland protection area that—</i> <i>(a) is high impact earthworks; and</i> <i>(b) is carried out for electricity operating works or government supported transport infrastructure; and</i> <i>(c) complies with schedule 14.”</i></p>	
Wind farm				
36.	Making a material change of use of premises for a wind farm	<i>Planning Regulation 2017</i> Schedule 10, part 21, division 1, section 35	A material change of use of premises for a wind farm is assessable development, unless the whole of the premises are subject to a designation for infrastructure for electricity operating works for a wind farm.	Department of State Development, Manufacturing, Infrastructure and Planning

Appendix 2: Other legislation that applies in a PDA - examples

- 1. Approvals under local government local laws:** approvals required as specified in a local law unless an exemption in the local law applies or a by-law made under the *Economic Development Act 2012* applies which specifies that it replaces or varies a local law with respect to a PDA (*City of Brisbane Act 2010, Local Government Act 2009*).
- 2. Approval for works within a State-Controlled Road:** A person must not, without lawful excuse or the written approval of the chief executive, carry out road works on a State-controlled road or interfere with a State-controlled road or its operation (*Transport Infrastructure Act 1994*).
- 3. Environmental Authority to carry out an Environmentally Relevant Activity:** Carrying out one or more environmentally relevant activities (*Environmental Protection Act 1994*).
- 4. Water approval for a connection:** For a PDA or PDA-associated land, water approvals are not a complete assessment of a connection and related works, and the connection and related works can also be assessed or authorised under a local law or State law (e.g. the *Economic Development Act 2012, South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*).
- 5. Authorities to take or interfere with the flow of water:** A water licence, water permit, water allocation, resource operations licence, distribution operations licence or operations licence may be granted to take or interfere with the flow of water (*Water Act 2000*).
- 6. Allocation of quarry materials in tidal water:** A person may apply to the chief executive for an allocation (removal) of quarry materials in tidal water. This includes removal of quarry materials from tidal water and placement of quarry materials in a coastal management district (*Coastal Protection and Management Act 1995*).
- 7. Taking protected species:** A person must not take a protected animal, or a protected plant that is in the wild, unless the taking is authorised under a licence, permit or other authority, or a conservation plan (*Nature Conservation Act 1992*).
- 8. Activities in an area of regional interest:** A regional interests development approval is required in order to carry out a regulated activity (i.e. broadacre cropping or water storage in a dam, in a strategic environmental area), in an area of regional interest (*Regional Planning Interests Act 2014*).

Appendix 3: Development in priority development areas prohibited under the *Planning Act 2016* – June 2019

- The information in this table is a guide only and should not be relied upon as a complete guide to prohibited development in a priority development area (PDA). Only the *Planning Regulation 2017* has been reviewed in the preparation of this table.
- Specialist legal and planning advice should be obtained for each development, to ensure that all necessary approvals are obtained. The specific legislative provision should be consulted to obtain a full understanding of the provision, and also to check whether any part of the legislation has changed since the creation of this document.
- A local categorising instrument under the *Planning Act 2016* (planning scheme, temporary local planning instrument or variation approval) cannot make PDA-related development assessable (see Schedule 6, Part 5, Section 28 of the *Planning Regulation 2017*). Nevertheless, certain types of development may be prohibited, including within a PDA.

No.	Development type	Legislation and relevant section	Prohibited development
Brothel			
1.	Material change of use for a brothel	<i>Planning Regulation 2017</i> , Schedule 10, Part 2, Division 1, section 2	A material change of use of premises for a brothel if: <ul style="list-style-type: none"> (a) more than 5 rooms in the proposed brothel are to be used to provide prostitution; or (b) the premises are – <ul style="list-style-type: none"> (i) in, or within 200m of the closest point on any boundary of, a residential area, measured by the shortest route a person may reasonably and lawfully take, on foot or by vehicle; or (ii) within 200m of the closest point on any boundary of land on which there is a residential building or public building; or (iii) within 100m of the closest point on any boundary of land on which there is a residential building or public building, measured in a straight line; or (c) for premises in a town with a population of less than 25,000 –

No.	Development type	Legislation and relevant section	Prohibited development
			<p>(i) the local government for the town has prohibited all material changes of use for a brothel within the local government area; and</p> <p>(ii) the Minister has agreed that the development should be prohibited.</p> <p>In this section –</p> <p>Public building means –</p> <p>(a) a hospital; or</p> <p>(b) a kindergarten; or</p> <p>(c) a place of worship; or</p> <p>(d) a school; or</p> <p>(e) another place regularly frequented by children for recreational or cultural activities.</p> <p>Residential area means –</p> <p>(a) an area that is mainly residential; or</p> <p>(b) an area approved for residential uses; or</p> <p>(c) an area intended to be residential in character.</p> <p>Residential building means a building, or part of a building, mainly used for private residential use, other than a building, or part of a building, used only for caretaker's accommodation on premises in an industrial area.</p>
Clearing native vegetation other than for a relevant purpose			
2.	<p>Operational work for the clearing of native vegetation on prescribed land</p> <p>Prescribed land” means—</p> <ul style="list-style-type: none"> • freehold land; or • indigenous land; or 	<p><i>Planning Regulation 2017</i>, Schedule 10, Part 3, Division 1, section 4(1)</p> <p>Schedule 21 of the <i>Planning Regulation 2017</i> - exempt clearing work</p>	<p>Operational work that is the clearing of native vegetation on prescribed land to the extent the work-</p> <p>(a) is not for a relevant purpose under the Vegetation Management Act, section 22A; and</p> <p>(b) is not exempt clearing work; and</p> <p>(c) is not accepted development under Schedule 7, part 3, section 12.</p>

No.	Development type	Legislation and relevant section	Prohibited development
	<ul style="list-style-type: none"> • any of the following under the <i>Land Act 1994</i>: <ul style="list-style-type: none"> ○ leased land; ○ land dedicated as a road; ○ trust land, other than indigenous land; ○ unallocated State land; ○ land subject to a licence or permit; ○ non-tidal watercourse land. <p>“Native vegetation” means vegetation under <i>the Vegetation Management Act 1999</i> (VMA).</p> <p>However, the VMA does not define “native vegetation”. The VMA defines vegetation in section 8 as follows:</p> <p>Vegetation is a native tree or plant other than the following—</p> <ul style="list-style-type: none"> (a) grass or non-woody herbage; (b) a plant within a grassland regional ecosystem prescribed under a regulation; (c) a mangrove. 	<p><i>Vegetation Management Act 1999</i></p>	<p>To check if it is ‘exempt clearing work’, the exemptions in Schedule 21 of the <i>Planning Regulation 2017</i> need to be reviewed carefully.</p>
3.	Material change of use	<p><i>Planning Regulation 2017</i>, Schedule 10, Part 3, Division 1, section 4(2)</p>	<p>A material change of use that is assessable development under a local categorising instrument if and to the extent –</p>

No.	Development type	Legislation and relevant section	Prohibited development
			<p>(a) the material change of use involves operational work that is prohibited development under Schedule 10, Part 3, Division 1, section 4(1), other than operational work approved under a development approval; and</p> <p>(b) the chief executive would, because of the clearing, be a referral agency for the material change of use under division 4, table 3 if a development application were made for the material change of use.</p>
Koala habitat area			
4.	Material change of use	<i>Planning Regulation 2017</i> , Schedule 10, Part 10, Division 1, section 16	<p>A material change of use of premises for an urban activity to the extent the premises are in:</p> <p>(a) a priority koala assessable development area; and</p> <p>(b) a koala habitat area; and</p> <p>(c) an area designated under a local categorising instrument for conservation, open space, rural or rural residential purposes.</p> <p>“Urban activity” is defined as follows: urban activity—</p> <p>(a) means the use of premises for a residential, industrial, retail or commercial activity; but</p> <p>(b) does not include—</p> <ul style="list-style-type: none"> (i) an aeronautical facility; or (ii) animal keeping; or (iii) an activity that relies on the tourist trade; or (iv) a cemetery; or (v) a childcare centre; or (vi) a community hall; or (vii) a crematorium; or (viii) a detention facility; or (ix) an educational establishment; or (x) emergency services; or (xi) a forestry or primary industry activity; or

No.	Development type	Legislation and relevant section	Prohibited development
			<p>(xii) an activity that is reasonably associated with a forestry or primary industry activity; or</p> <p>(xiii) a hospital; or</p> <p>(xiv) infrastructure for water, waste management, telecommunications or electricity; or</p> <p>(xv) outdoor sport and recreation; or</p> <p>(xvi) a clubhouse, grandstand or tourist accommodation relating to outdoor sport and recreation; or</p> <p>(xvii) a place of worship; or</p> <p>(xviii) tourist accommodation that is part of a use mentioned in subparagraph (v), (vi), (viii), (ix), (xiii) or (xvii); or</p> <p>(xix) a commercial or retail activity that is ancillary to a use mentioned in subparagraph (iii), (v), (vi), (viii), (ix), (xiii) or (xvii).</p> <p>However, the material change of use will not be prohibited development if the development is –</p> <p>(a) accepted development; or</p> <p>(b) exempted development; or</p> <p>(c) for a single dwelling on a lot larger than 2000m²; or</p> <p>(d) that, if a development application were made for the material change of use, must be assessed against the assessment benchmarks prescribed under schedule 11, part 2, section 2,3,4 or 5.</p> <p>Accepted development is listed in Schedule 7 of the Planning Regulation. Exempted development is defined as:</p> <p>(a) development for a coordinated project; or</p> <p>(b) development in a State development area; or</p> <p>(c) development in the area of a development control plan that the Sustainable Planning Act, section 857 applies to; or</p>

No.	Development type	Legislation and relevant section	Prohibited development
			(d) development for infrastructure stated in schedule 5 , if the development is carried out by or for the State or a public sector entity; or (e) development that results in— (i) a total area of 500m ² or less being cleared of native vegetation; and (ii) a development footprint of 500m ² or less; and (iii) a total area of 5,000m ² or less of gravel, rock or sand being extracted; and (iv) a total area of 5,000m ² or less being excavated or filled.
Wetland protection area			
5.	Operational work in a wetland protection area	<i>Planning Regulation 2017</i> , Schedule 10, Part 20, Division 1, section 33	Operational work that is high impact earthworks in a wetland protection area if – (a) the development is carried out for: (i) electricity operating works; or (ii) government supported transport infrastructure; and (b) the development is not accepted development under Schedule 7, part 3, section 9.