

Practice note 14

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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:

- set out the **process** for a delegate of the Minister for Economic Development Queensland (MEDQ) **under the ED Act** for considering state interests in the assessment of a PDA development application, and
- identify when development in a PDA or PPDA may be assessed by a state entity other than the MEDQ or the MEDQ's delegate under:
 - **the *Planning Act 2016*** (Planning Act) and the ***Planning Regulation 2017*** (Planning Regulation), or
 - **other Acts.**

2.0 Legislation and delegation of MEDQ powers and 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 changes the usual local government planning and development processes that apply to land 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 confers on the MEDQ the responsibility 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 which provides that the local law does not apply (ED Act, s 54).

Delegation of MEDQ powers and functions

Under s 169 of the ED Act, the MEDQ may delegate its powers or functions, including development assessment, to various persons or entities, including a:

- departmental employee (DSDMIP delegate)¹;
- local government (local government delegate); and
- a local representative committee (LRC delegate)².

The MEDQ delegate must perform the function or exercise the power subject to:

- the general direction and control of the MEDQ; and
- any specific written direction given to it by the MEDQ (ED Act, s 170).

The MEDQ may give a direction to the MEDQ delegate to comply with this practice note or a guideline published by Economic Development Queensland (EDQ) with respect to identifying and considering state interests for development in a PDA or PPDA.

Preparation of development scheme

A development scheme is a development instrument for a PDA which is prepared to replace the interim land use plan that takes effect when a PDA is declared³. When a development scheme is being prepared, the MEDQ must consider 'State interests', as defined by schedule 1 of the ED Act (ED Act, s 58). Although not bound by them, consideration must also be given to the requirements under assessment benchmarks prescribed by regulation under the Planning Act and other Acts for the Planning Act⁴. The State Development Assessment Provisions (SDAP) is an assessment benchmark and assessment benchmarks may be included in the State Planning Policy (SPP) and relevant regional plan.

Consultation is also required with the local government, and reasonable endeavors must be made to consult with entities likely to be affected by the development scheme (ED Act, s 58). Through collaboration with State agencies during development scheme preparation, relevant state interests are sought to be reconciled to the extent practicable for the circumstances of each PDA. 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.

¹ Employees or officers of Economic Development Queensland (EDQ) in the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) are DSDMIP delegates.

² For the purposes of this practice note, the role of an LRC delegate in the process for consideration of State interests is the same as 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 DSDMIP delegate, local government delegate and LRC delegate.

³ For a PPDA, a provisional land use plan is prepared following a different process from a development scheme that includes public notification of the draft provisional land use plan, which took effect at declaration of the PPDA, and consultation with the relevant local government and other entities.

⁴ For example, the *Environmental Protection Act 1994* which prescribes assessment benchmarks for environmentally relevant activities

Development assessment

Development assessment by the MEDQ delegate

Under the ED Act, an application for PDA development approval is required if a development instrument for a PDA or PPDA identifies the development as PDA assessable development⁵. The development assessment processes under the ED Act and Planning Act differ in a number of ways.

For example, under the Planning Act, the State Assessment and Referral Agency (SARA) is generally responsible for undertaking the State's assessment of proposed development. However, **in many circumstances, PDA-related development is excluded from being assessable development under the Planning Regulation⁶** (refer to the list of development shown shaded in the table at appendix 1) and therefore a development approval under the Planning Act is not required. **In these circumstances, MEDQ is responsible for the consideration of relevant state interests when deciding a PDA development application** (ED Act, s 87(1)(b)).

Schedule 1 of the ED Act defines 'State interest' as including:

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

To address matters of state interest, development instruments may include additional development requirements for particular areas or identify areas where certain uses or works are excluded. These areas are shown on maps which form part of the development instrument.

Sections 3.0 to 6.0 below describe the general process for an MEDQ delegate to follow when considering state interests in development assessment, and the specific steps a local government delegate is to take in consulting with EDQ. This process is summarised in a flow chart on the last page. The local government delegate is to provide a written report to EDQ, in the form required, regarding the steps of the process followed.

The Pre-application part of section 3.0 lists relevant considerations for identifying state interests for an individual development application.

Development assessment by another State entity

There are two different circumstances when development proposed in a PDA also may require assessment by an entity other than the MEDQ delegate:

⁵ Sections 33(3) and 73 of the ED Act. An approval is also needed if a regulation provides that the development is PDA assessable development or if PDA-associated development declared for a PDA under section 40C(1) is identified by the MEDQ to be PDA assessable development: s 33 of the ED Act.

⁶ The *Planning Regulation 2017*, schedule 10 identifies assessable development. 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.

- the proposal involves **assessable development under the Planning Act and Planning Regulation that is not excluded from assessment under that Act or regulation** (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 development⁷).

To lawfully undertake development a 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 is determined by the proponent.

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

It should also be noted that certain development is prohibited under the Planning Act and Planning Regulation and no development application can be made for it. Appendix 3 identifies prohibited development under the Planning Act and Planning Regulation, including if within a PDA.

3.0 Process for considering state interests in assessment of a PDA development application

Pre-application

When a proponent makes an initial enquiry about proposed development in a PDA or PPDA, the **MEDQ delegate**:

- advises the proponent that relevant state interests need to be considered when preparing a PDA development application; and
- encourages the proponent to consult with the delegate before an application is made.

A **local government delegate** may seek advice from **Economic Development Queensland⁸ (EDQ)** about state interests at the pre-application phase.

In identifying the state interests to be addressed in an application, relevant considerations are:

- the development instrument;
- assessment benchmarks included in the State Planning Policy prepared under the Planning Act;
- the State Planning Policy mapping system;
- the State Development Assessment Provisions;
- the Development Assessment Mapping System;

⁷ 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.

⁸ EDQ is a business unit of the Department of State Development, Infrastructure and Planning, including the employees and officers within that business unit.

- any advice available from **EDQ** regarding consideration of state interests at the time the development instrument was prepared; and
- any other relevant considerations identified by **EDQ** at the time of the enquiry.

Depending on the complexity or sensitivity of relevant state interests, **EDQ** may provide written advice or attend pre-application discussions.

Application

Copy of application to **EDQ**

Within 5 business days of the properly made date for an application under s 82A of the ED Act, the **local government delegate** is to provide a copy of the application to **EDQ**. A longer period may be agreed with **EDQ**.

Consideration by **EDQ**

EDQ will respond within 5 business days of receiving the application (or a longer period agreed with the **local government delegate**) and advise the **local government delegate**:

- that **EDQ** considers there are no matters of state interest that are relevant;
- that **EDQ** considers relevant state interests have been satisfactorily addressed by the application;
- the information **EDQ** considers should be requested for relevant state interests to be adequately considered in deciding the application;
- the conditions which **EDQ** considers are appropriate to adequately address state interests if the local government delegate decides to approve the application; or
- that **EDQ** considers a PDA development approval is not appropriate because:
 - a state interest has not been adequately addressed by the application; or
 - a state interest can not be satisfactorily addressed through one or more conditions of approval.

Information request

Under s 83 of the ED Act, the **MEDQ delegate** may make an information request which is a request for further information required to decide the PDA development application, including in respect of relevant state interests.

After receiving **EDQ's** response, a **local government delegate** is to:

- have regard to the advice given by **EDQ** about state interests;
- advise **EDQ**, at least 5 business days before the last day that a request can be made, if considering not making the information request as suggested in **EDQ's** advice;
- provide **EDQ** with a copy of any information request given in respect of the application within 5 business days of giving the request;
- provide **EDQ** with a copy of the applicant's final response to the information request within 5 business days of receiving that request.

EDQ will advise the **local government delegate** within 5 business days of receiving the applicant's response to an information request whether **EDQ** considers the applicant has complied with the information request in relation to state interests.

After receiving **EDQ's** response, the **local government delegate**:

- is to have regard to the advice given by **EDQ** about compliance with the information request in relation to state interests;
- if satisfied that the applicant has complied with the information request, may give notice to the applicant under s 83B of the ED Act;
- is to provide **EDQ** with a copy of any notice given to the applicant under s 83B of the ED Act within 5 business days of giving the notice.

Decision

Section 85 of the ED Act provides for the **MEDQ delegate** to decide the application once satisfied the requirements in s 85(1) are met. These requirements include that an applicant has been given a notice under s 83B in relation to an information request.

The application may be approved in whole or part, with or without conditions or may be refused.

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 under s 85(4)(c) of the ED Act, to refuse an application having regard to a state interest.

If **EDQ** has been given a copy of a notice under s 83B of the ED Act, within 10 business days (or a longer agreed period) of receiving the copy, **EDQ** will advise the **local government delegate**, one of the following:

- that **EDQ** considers there is no relevant state interest;
- that **EDQ** considers relevant state interests are satisfactorily addressed;
- the conditions which **EDQ** considers are appropriate to adequately address state interests if the **local government delegate** decides to approve the application; or
- that **EDQ** considers a PDA development approval is not appropriate because:
 - a state interest has not been adequately addressed by the application; or
 - a state interest can not be satisfactorily addressed through one or more conditions of approval.

A **local government delegate** is to:

- have regard to the advice given by **EDQ** about deciding the application in relation to state interests including any response provided after being given a copy of the notice under s 83B of the ED Act;
- at least 10 business days before deciding the application, advise **EDQ** if considering deciding the application differently from the way **EDQ** considers it should be decided, including conditions; and
- provide a copy of the final decision notice and any approved plans and documents to **EDQ** within 5 business days of giving the notice.

Change to an application

If the applicant changes an application in response to an information request under s 83 of the ED Act, or has given notice to change an application under s 92 of the ED Act and the local government delegate has agreed, the local government delegate is to give a copy of the changed application to **EDQ** within 5 business days of receiving it.

EDQ will respond within 10 business days of receiving the changed application (or a longer period agreed with the **local government delegate**) and will advise one of the following:

- that **EDQ** considers there is no relevant state interest;
- that **EDQ** considers relevant state interests are satisfactorily addressed;
- the conditions which **EDQ** considers are appropriate to adequately address state interests if the local government delegate decides to approve the changed application;
or
- the information which **EDQ** considers is necessary to address relevant state interests;
or
- that **EDQ** considers that a PDA development approval is not appropriate because:
 - a state interest has not been adequately addressed by the application; or
 - a state interest can not be satisfactorily addressed through one or more conditions of approval

After receiving **EDQ's** response, a **local government delegate** is to:

- have regard to the advice given by **EDQ** about deciding the changed application in relation to state interests;
- at least 10 business days before deciding the application, advise **EDQ** if considering deciding the application differently from the way **EDQ** considers it should be decided; and
- provide a copy of the final decision notice and any approved plans and documents to **EDQ** within 5 business days of giving the notice.

4.0 Process for considering state interests in assessment of an application to change an approval

For an application to change an approval under the ED Act, s 99, the process described in section 3.0 of this practice note applies.

5.0 Process for considering state interests in assessment of an application to extend the currency period of an approval

For an application to extend the currency period of an approval under s 101 of the ED Act, the **local government delegate** is to provide a copy of the application to **EDQ** within 5 business days of receiving the extension application.

EDQ will respond within 5 business days of receiving the extension application (or a longer period agreed with the **local government delegate**) and advise one of the following:

- that **EDQ** considers there is no relevant state interest;
- that **EDQ** considers relevant state interests are not adversely impacted by extension of the currency period;
- that **EDQ** considers the extension of the currency period is not appropriate because of an adverse impact on a state interest.

After receiving **EDQ's** response, a **local government delegate** is to:

- have regard to the advice given by **EDQ** about deciding the application in relation to state interests;
- at least 5 business days before deciding the application, advise **EDQ** if considering deciding the application differently from the way **EDQ** considers it should be decided; and
- provide a copy of the final decision notice to **EDQ** within 5 business days of making the decision.

6.0 Process for considering state interests in deciding to give a PDA exemption certificate

For a request to the **local government delegate** to give an exemption certificate under s 71A of the ED Act, the **local government delegate** is to provide a copy of the request to **EDQ** within 5 business days of receiving the request.

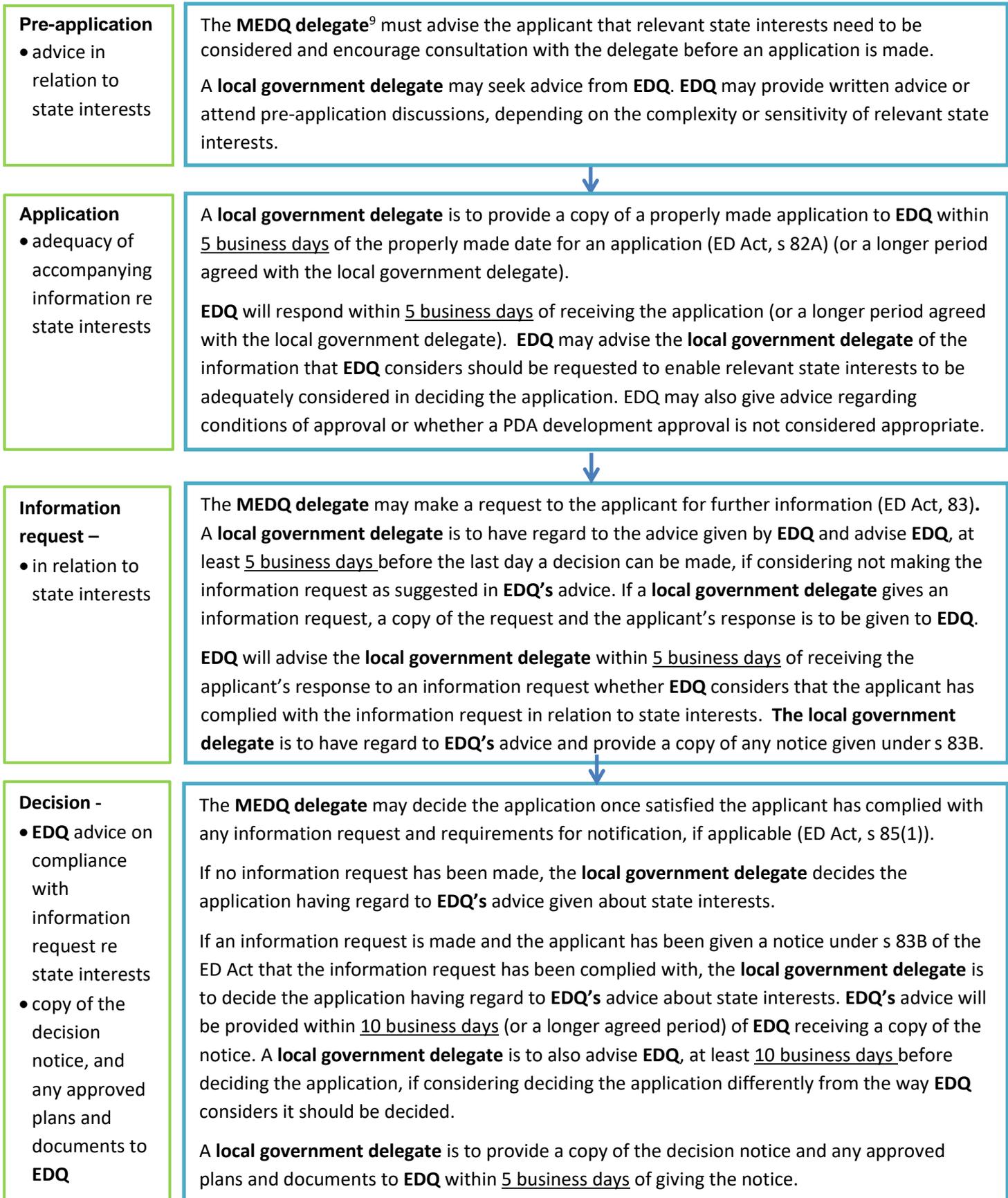
EDQ will respond within 10 business days of receiving the request (or a longer period agreed with the **local government delegate**) and advise one of the following:

- that **EDQ** considers there is no relevant state interest;
- that **EDQ** considers all relevant state interests are satisfactorily addressed by the proposed development;
- the requirements which **EDQ** considers are appropriate to adequately address state interests if the local government delegate decides to give a PDA exemption certificate;
- that **EDQ** considers a PDA exemption certificate is not appropriate because:
 - a state interest has not been adequately addressed by the proposed development; or
 - a state interest can not be satisfactorily addressed through one or more requirements.

After receiving **EDQ's** response, a **local government delegate** is to:

- have regard to the advice given by **EDQ** about deciding whether to give a PDA exemption certificate in relation to state interests;
- at least 10 business days before deciding the application, advise **EDQ** if considering deciding the request differently from the way **EDQ** considers it should be decided; and
- provide a copy of the PDA exemption certificate and documents to **EDQ**.

Process for consideration of state interests in PDA development assessment⁹



⁹ 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* – September 2020

- 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.	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.	Queensland Treasury
Aquaculture				

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
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> ”	Queensland Treasury 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.	Queensland Treasury 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> .	Queensland Treasury
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 the premises are not being used for a sensitive land use; and 	Queensland Treasury Department of Environment and Science

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
			<ul style="list-style-type: none"> • 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. 	
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> ”	Queensland Treasury 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 <i>Environmental Protection Regulation 2008.</i>	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:	Queensland Treasury Department of Environment and Science

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
			<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. 	
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>Queensland Treasury</p> <p>Department of Education</p>
Koala habitat in SEQ region				
10.	Development interfering with koala habitat in koala habitat areas outside koala priority areas	<i>Planning Regulation 2017</i> Schedule 10, part 10, section 16B	Exemption applies for "exempted development", which includes PDA-related development (Schedule 24).	Queensland Treasury
11.	Development for extractive industries in key resource areas	<i>Planning Regulation 2017</i> Schedule 10, part 10, section 16C	Exemption applies for "exempted development", which includes PDA-related development (Schedule 24).	Queensland Treasury
Levees				

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
12.	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; • 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. 	<p>Queensland Treasury</p> <p>Department of Natural Resources, Mines and Energy</p>
Ports				
13.	<p>Development in a priority port's master planned area</p> <p>“Priority Port” means each of the following:</p> <p>(a) Port of Abbot Point;</p> <p>(b) Port of Gladstone;</p> <p>(c) the ports of Hay Point and Mackay;</p> <p>(d) Port of Townsville.</p>	<p><i>Planning Regulation 2017</i> Schedule 10, Part 13, Division 4, Subdivision 1, section 19</p>	<p>Development is assessable if the port overlay for the master planned areas states that the development is assessable development.</p>	<p>Queensland Treasury</p>

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
14.	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>Queensland Treasury</p> <p>Department of Transport and Main Roads</p>
Reconfiguring a lot				
15.	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.	Queensland Treasury
16.	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>	Queensland Treasury
Referable dams				

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
17.	<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>A dam is also a referable dam if:</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>Queensland Treasury</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) 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> <p>The following are not referable dams— (a) a hazardous waste dam; (b) a weir, unless the weir has a variable flow control structure on the crest of the weir.</p>			
Removal, destruction or damage of marine plants				
18.	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.	Queensland Treasury
Removal of quarry material from a watercourse or lake				
19.	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.	Queensland Treasury
SEQ development area				

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
20.	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.	Queensland Treasury
SEQ regional landscape and rural production area or the SEQ rural living area				
21.	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).	Queensland Treasury
22.	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).	Queensland Treasury
23.	Making a material change of use of premises for a community activity, other than a residential care facility,	<i>Planning Regulation 2017</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-	Queensland Treasury

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	(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	related development (Schedule 6, Part 5, section 28).	
24.	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).	Queensland Treasury
25.	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).	Queensland Treasury
26.	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).	Queensland Treasury

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
27.	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).	Queensland Treasury
28.	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).	Queensland Treasury
State and local heritage places				
29.	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).	Queensland Treasury
30.	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.	Queensland Treasury
31.	A material change of use of premises on a lot that shares a	<i>Planning Regulation 2017</i>	Exemption applies if the material change of use is PDA-related development.	Queensland Treasury

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	common boundary with another lot that is or contains a Queensland heritage place	Schedule 10, Part 8, Division 2, Subdivision 1, section 15(3)(g)		
32.	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.	Queensland Treasury
Taking or interfering with water				
33.	Operational work that involves taking or interfering with, water. Operational work covered by this item: (a) taking or interfering with water in— (i) a watercourse, lake or spring; or (ii) a dam constructed on a watercourse or lake; (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; (c) taking or interfering with underground water through a subartesian bore, if the works are prescribed as assessable	<i>Planning Regulation 2017</i> Schedule 10, Part 19, Division 1, Subdivision 1, section 29	Exemption applies to PDA-related development.	Queensland Treasury

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	<p>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				
34.	<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>Queensland Treasury</p> <p>Department of Environment and Science</p>
Vegetation clearing				
35.	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:	Queensland Treasury

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>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				
36.	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>	Queensland Treasury Department of Agriculture and

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> ”	Fisheries
Wetland protection area				
37.	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 	Queensland Treasury 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				
38.	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.	Queensland Treasury

Appendix 2: Other legislation that applies in a PDA – examples September 2020

- 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* – September 2020

- 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: (a) more than 5 rooms in the proposed brothel are to be used to provide prostitution; or (b) the premises are – (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 – (i) the local government for the town has prohibited all material changes of use for a brothel within the local government area; and

No.	Development type	Legislation and relevant section	Prohibited development
			<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 • any of the following under the <i>Land Act 1994</i>: <ul style="list-style-type: none"> ○ leased land; 	<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><i>Vegetation Management Act 1999</i></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 <i>Vegetation Management Act</i>, 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> <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>

No.	Development type	Legislation and relevant section	Prohibited development
	<ul style="list-style-type: none"> ○ 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> <p>(a) grass or non-woody herbage;</p>		

No.	Development type	Legislation and relevant section	Prohibited development
	(b) a plant within a grassland regional ecosystem prescribed under a regulation; (c) a mangrove.		
3.	Material change of use	<i>Planning Regulation 2017</i> , Schedule 10, Part 3, Division 1, section 4(2)	A material change of use that is assessable development under a local categorising instrument if and to the extent – (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 (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.
Koala habitat in SEQ Region			
4.	Development interfering with koala habitat in koala priority area and koala habitat area	<i>Planning Regulation 2017</i> , Schedule 10, Part 10, Division 1, section 16A	Exemption applies for “exempted development”, which includes PDA-related development (Schedule 24).
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.