

Draft Sunshine Coast Planning Scheme
Review of Submissions
Region Wide Key Issues Paper No. 5:
Use and application of Limited development (constrained land) zone

Key Issue:	Use and application of Limited development (constrained land) zone
No. of submissions:	105
Major issues raised:	Zone should be removed from planning scheme Zone is incorrectly applied to subject land Zone does not recognise existing development approval Zone is supported

1.0 INTRODUCTION

The draft planning scheme includes the Limited development (constrained land) zone as a means of identifying land within urban and rural residential settings which is highly constrained and considered to be unsuitable for further subdivision or development for other than a single dwelling house.

A significant number of submissions have expressed concern that the Limited development (constrained land) zone has been erroneously applied to particular sites such that the development potential of these sites has been effectively extinguished or significantly diminished without sufficient grounds.

Some submissions have also expressed concern that in applying the Limited development (constrained land) zone the Council has not appropriately recognised current development approvals which may be in place over particular sites.

A small number of submissions have indicated support for the Limited development (constrained land) zone and advocate for its retention in the final planning scheme.

2.0 EXISTING PLANNING SCHEME PROVISIONS

There is no zone comparable to the Limited development (constrained land) zone in the current planning schemes.

Most land proposed to be included in the Limited development (constrained land) zone is currently included in a Rural, Rural residential or Low density residential zone (or equivalent) and subject to one or more overlays relating to flood hazard, steep land/landslip hazard or habitat and biodiversity values. This overlays limit the opportunity for development or subdivision on the sites under the existing planning schemes.

3.0 DRAFT SUNSHINE COAST PLANNING SCHEME

The Limited development (constrained land) zone has been applied to land within the urban growth management boundary or rural residential growth management boundary that is entirely or almost entirely affected by one or a combination of the following critical biophysical constraints:-

- (a) Flooding and inundation;
- (b) steep land (and landslide hazard);
- (c) significant environmental values (i.e. native vegetation area or natural waterway or wetland).

A mapping algorithm was used to identify the lots subject to these constraints using overlay data incorporated in the planning scheme¹. The result of this mapping process was then reviewed by Council officers with site inspections and other investigations used to confirm the provisional zoning allocation.

The largest areas affected by the Limited development (constrained land) zone are located on the Buderim escarpment and in the rural residential areas in the former Maroochy Shire. However, the zone can also be found in smaller patches throughout other parts of the region.

The effect of the Limited development (constrained land) zone is to limit the development potential of land which is considered to be significantly constrained by biophysical constraints. Whilst this limitation might be implicit in the current planning schemes through the application of zone/precinct intent statements and overlays, the application of the Limited development (constrained land) zone makes this policy position clear and removes any ambiguity.

Relevant provisions in the draft planning scheme include a requirement that no additional lots be created in the Limited development (constrained land) zone and that only allows for the development of a single dwelling house on each site within this zone.

4.0 CONSIDERATION OF ISSUES

Use of Limited development (constrained land) zone

The Limited development (constrained land) zone is considered to have an important role in the planning scheme and is valuable in removing uncertainty about the suitability of highly constrained land for urban or rural residential development.

The uncertainty that exists in current planning schemes can create an expectation that sites or areas have significant development potential based on the zoning when this is actually not the case once overlay provision and zone/precinct intents are examined in further detail.

Council has fought a number of planning appeals where significant conflicts between zone and overlay provisions have been a key issue, resulting in time consuming and expensive legal proceedings that could have been avoided by the use of the Limited development (constrained land) zone.

Whilst it is appropriate that overlays should be used as a tool to determine the form of development on many sites subject to biophysical constraints, this is not the case when critical constraints affect all or most of a site and the most appropriate development outcome is in fact no or only limited development.

¹ See also **Region Wide Key Issues Discussion Paper No.6 (Application and accuracy of overlays)**.

On this basis, it is considered appropriate that the draft planning scheme includes land which is significantly affected by constraints in the limited development (constrained land) zone.

Application of Limited development (constrained land) zone

Whilst there is a strong case to retain the Limited development (constrained land) zone in the final planning scheme it is important that it be applied correctly and consistently, and that only land which is critically constrained to development be included within the zone.

Accordingly, it is recommended that a technical review of those sites that have been included in the Limited development (constrained land) zone and are subject to a submission, is intended to be undertaken to confirm that the level of constraint identified is of sufficient weight to justify inclusion of the subject land in the zone.

This review has considered the criteria used to identify land to be included in the Limited development (constrained land) zone and the additional information contained in submissions. The review has been undertaken in concert with the review of overlay mapping recommended in **Region Wide Key Issues Discussion Paper No.6 (Application and accuracy of overlays)**.

Recognition of existing development approvals

The presence of pre-existing development approvals is something that is intended to be considered as part of the technical review process to determine whether particular sites should be retained in the Limited development (constrained land) zone.

Each development approval will be considered on its merits taking account of such matters as the age of the approval, the extent to which the approval reflects the biophysical characteristics of the subject site and other appropriate matters.

It is pertinent to note that existing development approvals will not be affected by the new planning scheme and that even when not reflected through a change in the zoning of land they continue to have effect in accordance with the *Sustainable Planning Act 2009*.

Name of Limited development (constrained land) zone

It is acknowledged that whilst accurate, the name 'Limited development (constrained land) zone' is of concern to some submitters. This zone name and its related intent are derived from the QPP. An alternative name for this zone is the 'Landscape residential zone'. However, the change in zone name could only be made if the QPP were amended to allow this name change or QPP are removed

This issue will be discussed with the State government to confirm whether it can be given effect in the final planning scheme.

Dwelling houses in Limited development (constrained land) zone

Dwelling house is currently made code assessable development in the Limited development (constrained land) zone. This is considered inconsistent when compared with the level of assessment identified for the same use in the Rural zone (self-assessment).

A reduction in assessment level would substantially address the concerns of some submitters and is otherwise considered to be compatible with the intent of the zone. It is recommended that this change should be given effect in the final planning scheme.

Rural uses in Limited development (constrained land) zone

Certain rural uses (i.e. animal husbandry, cropping and wholesale nursery) are currently made self-assessable or code-assessable in the Limited development (constrained land) zone.

These uses are considered to be inconsistent with the intent of the zone and should not be accommodated in the zone as these uses are not appropriate on significantly constrained land. It is recommended that this change should be given effect in the final planning scheme.

5.0 DIRECTION

That:-

- (a) the technical review of land included in the Limited development (constrained land) zone is undertaken and considered as part of the review of submissions by local plan area;**
- (b) Council request the Planning Minister allow the name 'Limited development (constrained land) zone' (as specified in the Queensland Planning Provisions) to be substituted with the name 'Landscape residential zone';**
- (c) dwelling house be made self-assessable development in the Limited development (constrained land) zone; and**
- (d) animal husbandry, cropping and wholesale nursery be made impact assessable development in the Limited development (constrained land) zone.**