



Explanatory Memorandum

Proposed Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9

Draft for Council Consideration

May 2017



1. Short title

The amendment instrument to which this explanatory memorandum relates is the proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9*.

2. Type of amendment

The proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9* is an 'alignment amendment' made under section 293(5) (Rules about amending local planning instruments consistent with Act) of the *Planning Act 2016*.

3. Entity making the proposed Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9

The entity making the proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9* is the Sunshine Coast Regional Council.

4. Land affected by the proposed Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9

The proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9* applies to the whole of the planning scheme area.

5. Purpose of the proposed Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9

In accordance with the Alignment Amendment Rules (Minister's rules under section 293 of the *Planning Act 2016*), the purpose of the proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9* is to make alignment amendments to the planning scheme to:

- (a) improve and clarify assessment benchmarks, notably codes, to ensure they are sufficiently robust to permit assessment as required by the decision rules for code assessment under the *Planning Act 2016*, and taking into account the matters referred to in section 43(2) of the *Planning Act 2016*;
- (b) reformat or revise the structure of the planning scheme to improve its clarity or operation, including but not limited to removing or altering certain sections of a QPP – compliant planning scheme which may be redundant;
- (c) replace terminology or language from repealed or soon-to-be-repealed legislation (e.g. the *Sustainable Planning Act 2009*) with terminology consistent with the *Planning Act 2016*, including but not limited to names of categories of development or categories of assessment and content for the regulated requirements in the *Planning Regulation 2017*; and
- (d) implement changes of form not involving substantial changes of substance.

6. Reasons for the proposed Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9

Council has prepared the proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9* in response to new planning legislation (the *Planning Act 2016* and *Planning Regulation 2017*) which commences on 3 July 2017. The *Planning Act 2016* will replace the current *Sustainable Planning Act 2009* (SPA) and the *Planning Regulation 2017* will replace the current *Sustainable Planning Regulation 2009*.

The *Planning Act 2016* and *Planning Regulation 2017* establish a new planning system for Queensland and introduce several changes which impact on the operation of the *Sunshine Coast Planning Scheme 2014*, including:

- new terminology relating to new categories of development (i.e. accepted development, assessable development and prohibited development) and categories of assessment (i.e. code assessment and impact assessment);
- other changes in terminology including 'assessment benchmarks' for assessable development (i.e. codes or provisions within codes) and 'requirements for acceptable development' (i.e. acceptable outcomes currently applicable to self assessable development);
- new assessment rules for assessable development requiring code assessment;
- new 'regulated requirements' (including zone purpose statements, use definitions and administrative definitions) which replace the Queensland Planning Provisions (QPP) as the basis for drafting planning schemes. The regulated requirements are optional for transitional planning schemes;
- Statewide codes and prescribed levels of assessment currently contained in the QPP are now addressed/contained within the new Regulation; and
- the State Planning Regulatory Provision (Adult Stores), which the planning scheme currently relies upon to ensure adult stores are located an appropriate distance from sensitive uses, is not proposed to be carried forward into the new Regulation.

The Planning Minister has made specific rules (referred to as the Alignment Amendment Rules (Minister's rules under section 293 of the Planning Act 2016), Version 01 made 25 November 2016) which provide for local governments to make operational amendments (alignment amendments) to align their planning schemes with the new legislation. Alignment amendments made under the Minister's rules do not contain any policy changes and do not require public consultation or Ministerial review.

The key terminology changes between the current legislative framework and the new legislative framework are outlined in **Table 6.1** below:

Table 6.1 – Key terminology changes between current and new legislative framework

Current terminology	New terminology
Exempt development	Accepted development
Self-assessable development	Accepted development (subject to requirements)
Compliance assessment	N/A – not included as a category of development in the new Act
Code assessable development	Assessable development subject to code assessment
Impact assessable development	Assessable development subject to impact assessment
Prohibited development	Prohibited development
Codes, Assessment criteria	Assessment benchmarks for assessable development
	Requirements for accepted development

These terms are used extensively throughout the *Sunshine Coast Planning Scheme 2014*, particularly in the tables of assessment in Part 5 (Tables of assessment) and Part 10 (Other plans) and table and section headings within the planning scheme codes in Part 6 (Zones), Part 7 (Local plans), Part 8 (Overlays) and Part 9 (Development codes). The proposed alignment amendment seeks to replace terms as necessary with the equivalent new term in order to promote a smooth transition to the new *Planning Act 2016*.

Another key change relates to the new assessment rules for assessable development requiring code assessment. Under the new *Planning Act 2016*, code assessment will be a "bounded assessment", which means that a code assessable development application is only assessed against the applicable planning requirements (assessment benchmarks) in the relevant planning scheme codes. These new

decision rules mean that the assessment manager must determine the application solely on the basis of the content of codes (i.e. the 'assessment benchmarks') and other limited considerations allowed for under the Act and Regulation. The proposed alignment amendment clarifies which provisions of the codes comprise the assessment benchmarks for assessable development, and includes other minor changes to ensure the codes within the *Sunshine Coast Planning Scheme 2014* operate effectively under the new assessment rules for code assessment.

Further detail on the proposed alignment amendment to the *Sunshine Coast Planning Scheme 2014* are outlined in **section 7** below.

7. Details of the proposed Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9

The proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9* involves amendments to most parts and schedules of the planning scheme. Whilst the changes appear extensive in some parts, they are primarily due to changes in terminology and involve no changes to policy positions within the planning scheme. **Table 7.1** provides a summary of the proposed alignment amendment to the planning scheme.

Table 7.1 – Summary of proposed planning scheme amendment

Planning Scheme Part	Summary of Amendment
Part 1 (About the planning scheme)	<ul style="list-style-type: none"> Minor changes to section 1.1 (Introduction), section 1.3.1 (Definitions), section 1.3.4 (Zones for roads, waterways and reclaimed land), section 1.4 (Categories of development), section 1.5 (Hierarchy of assessment criteria) and section 1.6 (Building work regulated under the planning scheme) to update references to legislation and to reflect new terminology relating to the new categories of development and assessment.
Part 2 (State planning provisions)	<ul style="list-style-type: none"> Amend section 2.4 (Standard planning scheme provisions) to 'Regulated requirements' and to clarify that the regulated requirements are not reflected in the planning scheme.
Part 3 (Strategic framework)	<ul style="list-style-type: none"> Minor changes to relevant sections within the Strategic framework to reflect the inclusion of a new definition for 'Sunshine Coast activity centre network' in Schedule 1 (Definitions).
Part 4 (Priority infrastructure plan)	<ul style="list-style-type: none"> Amend references to the Sustainable Planning Act 2009 in section 4.1.1 (Sustainable Planning Act 2009) of Section 4.1 (Preliminary) to refer to the 'repealed' Sustainable Planning Act.
Part 5 (Tables of assessment)	<ul style="list-style-type: none"> Amend all sections and tables within Part 5 (Tables of assessment) to reflect changes in terminology relating to the new categories of development and assessment, and the matters which development is to be assessed against (assessment benchmarks for assessable development and requirements for accepted development). Remove content from section 5.4 (Prescribed levels of assessment) and include an Editor's note which refers to the Planning Regulation, which is proposed to contain the content relating to prescribed levels of assessment. Amend Table 5.5.6 (Major centre zone), Table 5.5.7 (District centre zone), Table 5.5.8 (Local centre zone) and Table 5.9.5 (Kawana Waters local plan: material change of use) for community residence to refer to requirements contained within the Planning Regulation to account for the removal of the State Community residence code from section 9.2 (Statewide codes).

Planning Scheme Part	Summary of Amendment
	<ul style="list-style-type: none"> Amend Table 5.5.6 (Major centre zone), Table 5.5.7 (District centre zone) and Table 5.5.21 (Specialised centre zone) to include new provisions to account for the removal of the State Planning Regulatory Provision (Adult store).
Part 6 (Zones)	<ul style="list-style-type: none"> Amend section 6.1 (Preliminary) to reflect changes in the terminology relating to 'levels of assessment' to 'category of development' and 'assessment criteria' to 'assessment benchmarks'. Amend the Application section of all codes to clarify that all provisions of the code are assessment benchmarks. Amend section 6.2.4.2 (Purpose and overall outcomes) of section 6.2.4 (Tourist accommodation zone code), section 6.2.6.2 (Purpose and overall outcomes) of section 6.2.6 (Major centre zone code), section 6.2.7.2 (Purpose and overall outcomes) of section 6.2.7 (District centre zone code), section 6.2.8.2 (Purpose and overall outcomes) of section 6.2.8 (Local centre zone code) and section 6.2.22.2 (Purpose and overall outcomes) of section 6.2.22 (Tourism zone code) to make minor changes to reflect the inclusion of a new definition for 'Sunshine Coast activity centre network' in Schedule 1 (Definitions). Amend section 6.2.17.2 (Purpose and overall outcomes) of section 6.2.17 (Emerging community zone code) to update the reference to 'preliminary approval pursuant to section 242 of the Act' to 'variation approval pursuant to the Act'. Amend section 6.2.21.2 (Purpose and overall outcomes) of section 6.2.21 (Specialised centre zone code) to include a new overall outcome relating to the Sunshine Coast activity centre network and a new Editor's note to ensure the code can operate effectively under the new rules for code assessment. Amend Table 6.2.6.2.1 (Consistent uses and potentially consistent uses in the Major centre zone), Table 6.2.7.2.1 (Consistent uses and potentially consistent uses in the District centre zone) and Table 6.2.21.2.1 (Consistent uses and potentially consistent uses in the Specialised centre zone) to include new provisions to account for the removal of the State Planning Regulatory Provision (Adult Stores).
Part 7 (Local plans)	<ul style="list-style-type: none"> Amend section 7.1 (Preliminary) to reflect changes in the terminology relating to 'levels of assessment' to 'category of development' and 'assessment criteria' to 'assessment benchmarks'. Amend the Application section of all codes to clarify that all provisions of the code are assessment benchmarks. Amend the majority of the table and section headings in Part 7 (Local plans) to reflect the changes in terminology relating to the new categories of development and assessment and the matters against which assessment is to be carried out. Amend section 7.2.14.3 (Purpose and overall outcomes) and Table 7.2.14.4.1 (Criteria for assessable development) of section 7.2.14 (Kawana Waters local plan code) to include reference to and make minor changes to reflect the inclusion of a new definition for 'Sunshine Coast activity centre network' in Schedule 1 (Definitions).

Planning Scheme Part	Summary of Amendment
	<ul style="list-style-type: none"> Amend section 7.2.18.3 (Purpose and overall outcomes) and Table 7.2.18.4.1 (Criteria for assessable development) of section 7.2.18 (Maroochy North Shore local plan code) to make minor changes to reflect the inclusion of a new definition for 'Sunshine Coast activity centre network' in Schedule 1 (Definitions). Amend Table 7.2.23.4.1 (Criteria for assessable development) of section 7.2.23 (Palmwoods local plan code) to update the reference to 'preliminary approval pursuant to section 242 of the Act' to 'variation approval pursuant to the Act'. Amend Table 7.2.25.4.2 (Additional criteria for assessable development in Precinct SID LPP-1 (Sippy Downs Town Centre)) of section 7.2.25 (Sippy Downs local plan code) to make minor changes to reflect the inclusion of a new definition for 'Sunshine Coast activity centre network' in Schedule 1 (Definitions). Amend the supplementary table of consistent uses and potentially consistent uses in the Major centre zone of section 7.2.22 (Nambour local plan code) and section 7.2.25 (Sippy Downs local plan code) to include new provisions to account for the removal of the State Planning Regulatory Provision (Adult Stores).
Part 8 (Overlays)	<ul style="list-style-type: none"> Amend section 8.1 (Preliminary) to reflect changes in the terminology relating to 'levels of assessment' to 'category of development' and 'assessment criteria' and to refer to the requirements for accepted development and assessment benchmarks for assessable development. Amend the Application section of all codes to clarify which sections of the codes provide the requirements for accepted development (where applicable) and the assessment benchmarks for assessable development. Amend the majority of the table and section headings in Section 8.2 (Overlay codes) to reflect the changes in terminology relating to the new categories of development and assessment and the matters against which assessment is to be carried out. Amend section 8.2.2.2 (Purpose and overall outcomes) of section 8.2.2 (Airport environs overlay code) to clarify that the term 'airport' refers collectively to the Sunshine Coast Airport and the Caloundra Aerodrome.
Part 9 (Development codes)	<ul style="list-style-type: none"> Amend section 9.1 (Preliminary) to remove references to Statewide codes. Remove content from section 9.2 (Statewide codes) and change the name of the section to 'Development that cannot be made assessable in accordance with schedule 6 of the Planning Regulation 2017' and include an Editor's note, which refers to the relevant schedules in the Planning Regulation. Amend the Application section of all codes to clarify which sections of the codes provide the requirements for accepted development (where applicable) and the assessment benchmarks for assessable development. Amend the majority of the table and section headings in Part 9 (Development codes) to reflect the changes in terminology relating to the new categories of development and assessment and the matters against which assessment is to be carried out. Amend Section 9.3.1.2 (Purpose and overall outcomes) and Table 9.3.1.3.1 (Criteria for assessable development) of section 9.3.1

Planning Scheme Part	Summary of Amendment
	<p>(Business uses and centre design code) to include new provisions to account for the removal of the State Planning Regulatory Provisions (Adult Stores).</p> <ul style="list-style-type: none"> Amend Table 9.3.1.3.1 (Criteria for assessable development) of section 9.3.1 (Business uses and centre design code) to make minor changes to reflect the inclusion of a new definition for 'Sunshine Coast activity centre network' in Schedule 1 (Definitions). Amend Editor's note in section 9.3.5 (Dual occupancy code) and section 9.3.6 (Dwelling house code) and Note in section 9.3.9 (Industry uses code) and section 9.4.8 (Transport and Parking code), to reflect the changes in terminology relating to a 'variation approval pursuant to the Act' and 'requirements for accepted development or performance outcomes and acceptable outcomes for assessable development'. Amend the Notes in Table 9.3.12.3.1 (Criteria for assessable development) of section 9.3.12 (Nature and rural based tourism code) and in Table 9.3.15.3.2 (Criteria for assessable development) of section 9.3.15 (Rural industries code) to refer to the State Planning Policy (rather than the Strategic Framework) in relation to the agricultural land mapping. Amend Table 9.4.1.4.1 (Criteria for self assessable and assessable development) and Table 9.4.1.4.2 (Specific requirements for types of advertising device) of section 9.4.1 (Advertising devices code) to reflect the changes in terminology relating to 'accepted development' and to include a new Note relating to types of advertising devices. Amend Table 9.4.8.3.3 (Minimum on-site parking requirements) of section 9.4.8 (Transport and parking code) to reflect the changes in terminology relating to 'accepted development' and remove an erroneous reference to 'Detention facility'.
<p>Part 10 (Other plans)</p>	<ul style="list-style-type: none"> Changes to terminology in various sections within the Maroochydore Principal Regional Activity Centre (PRAC) Structure Plan and the Palmview Structure Plan to reflect the new categories of development and assessment, and the matters to which development is to be assessed against (assessment benchmarks for assessable development and requirements for accepted development). Amend section 10.2.3.3.2 (Tables of Assessment for Material Change of Use), section 10.2.4.2 (Overall outcomes for the whole of the Master Planned Area) and section 10.2.4.3 (Performance outcomes and acceptable outcomes for the Whole of the Master Planned Area) of Section 10.2 (Maroochydore Principal Regional Activity Centre (PRAC) Structure Plan) to include new provisions to account for the removal of the State Planning Regulatory Provisions (Adult Stores). Amend relevant tables in section 10.2.3.3.2 (Tables of Assessment for Material Change of Use) of Section 10.2 (Maroochydore Principal Regional Activity Centre (PRAC) Structure Plan) and Table 10.3.3.3B (Mixed Density Residential Precinct Table of Assessment) and Table 10.3.3.3C (Medium Density Residential Precinct Table of Assessment) of Section 10.3 (Palmview Structure Plan) for community residence to refer to requirements contained within the Planning Regulation to account for the

Planning Scheme Part	Summary of Amendment
	removal of the State Community residence code from section 9.2 (Statewide codes).
Schedule 1 (Definitions)	<ul style="list-style-type: none"> Changes to existing use definitions (i.e. Rooming accommodation) in Table SC1.1.2 (Use definitions) and administrative definitions (i.e. Basement) in SC1.2.2 (Administrative definitions) to align with the latest version of the Queensland Planning Provisions (version 4). The inclusion of a new administrative definition for the term 'adult store sensitive area' in Table SC1.2.1 (Index of administrative definitions) and Table SC1.2.2 (Administrative definitions) in response to new provisions included in the planning scheme to account for the removal of the State Planning Regulatory Provisions (Adult Stores). The inclusion of a new administrative definition for the term 'Sunshine Coast activity centre network' in Table SC1.2.1 (Index of administrative definitions) and Table SC1.2.2 (Administrative definitions) and the inclusion of a new Table SC1.2.3 (Sunshine Coast Activity Centre Network) which describes the Sunshine Coast activity centre network, to ensure codes which reference this term can continue to operate effectively given the new assessment rules for code assessment.
Schedule 4 (Notations required under the Sustainable Planning Act 2009)	<ul style="list-style-type: none"> Changes to all sections within Schedule 4 to update references to legislation and to reflect new terminology, including new Editor's notes.
Schedule 5 (Land designated for community infrastructure)	<ul style="list-style-type: none"> Changes to headings to update references to legislation and reflect new terminology.
Schedule 6 (Planning scheme policies)	<ul style="list-style-type: none"> Changes to various sections within the Planning scheme policies to update cross references to tables within the planning scheme codes, references to legislation and terminology, including terminology relating to 'benchmarks for assessable development', 'requirements for accepted development', 'performance outcomes and acceptable outcomes' and 'variation approval'.
Appendix 1 (Index and glossary of abbreviations and acronyms)	<ul style="list-style-type: none"> Minor changes to Table AP1.1 to abbreviations and acronyms, primarily to update references to legislation.

8. Compliance with the Planning Act 2016

The proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9* has been prepared in accordance with:

- section 293 of the *Planning Act 2016*; and
- the Alignment Amendment Rules (Minister's rules under section 293 of the *Planning Act 2016*), Version 01 made 25 November 2016.

9. Compliance with State planning instruments

At the time of the gazettal of the *Sunshine Coast Planning Scheme 2014* in May 2014, the Minister identified that the *South East Queensland Regional Plan 2009-2031* and the *State Planning Policy* were appropriately reflected in the planning scheme. The proposed *Sunshine Coast Planning Scheme 2014*

(Alignment Amendment) No. 9 does not affect the planning scheme's compliance with State planning instruments.

10. Consultation with government agencies

Consultation with relevant state agencies is not a mandatory requirement for an alignment amendment under the Alignment Amendment Rules (Minister's rules under section 293 of the Planning Act 2016).

Preliminary discussions occurred with representatives from the Department of Infrastructure, Local Government and Planning (DILGP), including a meeting with relevant officers on 3 April 2017, in relation to the proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9*.

11. Public consultation

No public consultation has been undertaken during the preparation of the proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9*. Such an amendment does not incorporate any policy changes and does not require any public consultation to be undertaken in accordance with the Alignment Amendment Rules (Minister's rules under section 293 of the *Planning Act 2016*),

12. Background studies and reports

No background studies and reports have been prepared during the preparation of the proposed *Sunshine Coast Planning Scheme 2014 (Alignment Amendment) No. 9*.