

Tables 1 – 5 for the Whitsunday Regional Council Planning Scheme – Major Amendment 2021 – State Interest Review

The Department of State Development, Infrastructure, Local Government and Planning has undertaken its assessment of the proposed Whitsunday Regional Council Planning Scheme – Major Amendment 2021. As a result of this assessment the following items in Table 1 - 5 are required to be actioned.

State Interests requiring no further action (**subject to any finalised mapping and further justification of zone changes for land parcels**): Liveable communities, Development and construction, Emissions and hazardous activities, Energy and water supply, Infrastructure integration, Strategic airports and aviation facilities and Strategic ports.

State Interests considered in this document for Council action or consideration: Housing supply and diversity, Agriculture, Mining and Extractive Resources, Tourism, Biodiversity, Coastal Environment, Cultural Heritage and Water Quality, Natural hazards, risk and resilience and Transport infrastructure.

Table 1: Regulated requirements prescribed in the Planning Regulation

State Interest	No.	Planning scheme reference	Policy/Relevant legislation	Recommended Action	Reasons for recommendation	Whitsunday Regional Council action/response
Regulated requirements	1.	Zone Names Part 1 1.2 Table 1.2.1	Section 6 of the Planning Regulation 2017	Review the scheme to ensure the correct terms are consistently applied throughout the scheme. Specifically amend typographical errors: <ul style="list-style-type: none"> From <i>Waterfront industry zone</i> to <i>Waterfront and marine industry zone</i> as per regulated requirements; and From <i>zone code</i> to zone as per the regulated requirements. 	The list of Zones in table 1.2.1 in part 1 of the scheme contains some typographical errors that requires correction. Table 1.2.1 refers to zone codes should just be zone. This looks to be a legacy from when the scheme was first approved.	
	2.	Accepted Development Requirements – Ancillary activities Part 5 Table 5.5.16 Rural zone	Planning Regulation 2017	Food and Drink outlet and Shop are accepted development where ‘ancillary’ to rural activity, Environmental Facility or Nature Based Tourism. The scheme often has a use as accepted subject to complying with AO’s in a code. This would not be in accordance with good drafting principles but this is a pre-existing situation for the most part. It is considered that the use of ‘ancillary’ is not appropriate for determining category of assessment in that it lacks sufficient clarity and certainty. It is considered that the category of assessment should be reconsidered to include more definitive parameters around the acceptability of these uses.	The table of assessment for the Rural zone (table 5.5.16) lists a Food and Drink Outlet and Shop as accepted development where ancillary to Rural Activity, Environmental Facility and Nature Based Tourism. It is noted that AO1.1 of the Rural Tourism code refers to a maximum of 150m ² of TUA for a food and drink outlet or shop. It is noted that that this threshold could be adopted in the TOA where associated with another use instead of referring to ‘ancillary’. In the event that ancillary is still used to determine level of assessment further guidance should be prepared to interpret how to apply this.	
	3.	Schedule 1- Definitions – SC1.2 Administrative terms	Planning Regulation 2017	The scheme seeks to adopt the following administrative terms which either have similar meaning in the regulation or are elsewhere defined in legislation: <ul style="list-style-type: none"> Average building height Engineering work Essential service uses Future State Transport Corridor Isolated Areas Non-tidal artificial waterway Short Term Accommodation (Dwelling) Social Housing Solar Panel Farm Stream order Vulnerable Uses 	Section 8 of the Regulation states that a planning scheme may include additional administrative terms contained in schedule 4 of the Regulation, but only if the term and definition used is consistent with and does not change the effect of the administrative terms and their definitions in the Regulation. There are also a number of new administrative terms which are proposed to be introduced through the amendment which may change the effect of administrative terms and therefore definitions in the regulation OR replicate terms which are elsewhere defined. There has been little to no explanation given as to the reason for the inclusion of these administrative terms and hence further explanation is requestion from Council as to these matters.	

				It is noted that where a term is elsewhere defined (for example in the Planning Act, Regulation or State Planning Policy) it is recommended that this is not replicated in the administrative definitions on the basis that any change to these terms would result in inconsistency with the administrative terms as noted in the scheme.		
	4.	Definitions – administrative terms	Planning Regulation 2017	The scheme seeks to introduce a new administrative definition new use being <i>Short Term Accommodation (dwelling)</i> . Provide further clarification around its intended application for the scheme.	It is unclear what is trying to be achieved by the inclusion of this term.	
	5.	Definitions – administrative terms	Planning Regulation 2017	The amendment also seeks to include a new administrative definition for ‘average building height’. Provide further justification, (include examples of scenario testing) which supports why the new ‘average building height’ definition is required.	Rather than creating a whole new definition, it is preferable that the current building height definition only is used and that the code be amended to make allowance for those sites with significant slope.	
	6.	Schedule 1 Definitions – Administrative Definitions Table SC1.2.2	Regulated Requirements	Reconsider administrative definition coastal environment work	Definitions can only be added if it is not defined in other legislation.	
	7.	Schedule 1 Definitions – Administrative Definitions Table SC1.2.2	Regulated Requirements / Workability	Reconsider administrative definition coastal hazard area	Definitions can only be added if it is not defined in other legislation.	
	8.	Sched 1 Definitions Administrative definitions Table SC1.2.2	Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016 ABCB	Review administrative definitions for natural hazard matters to ensure alignment with terminology used throughout the scheme and for building provisions. Examples- Flood hazard area and Flood hazard Level (FHL)	The administrative definitions must align with Schedule 4 of the Planning Regulation and building provisions.	
Workability and structure	9.	Coastal Hazard overlay provisions	Scheme approach and Structure	Provide additional commentary on how provisions of the coastal hazard overlay code provisions are aligned with LUS 3.2.4.2 of the scheme which requires that “risks to people and property are minimised in areas within or adjacent to natural hazard”	Further commentary required to demonstrate alignment of strategic framework and Amended coastal hazard overlay provisions. The amended coastal hazard overlay provisions are permissive of new development and re-development where in the erosion prone area.	
	10.	Level of assessment determinations	Scheme approach and Structure	The intent to facilitate innovative land uses through reductions in the level of assessment for uses in some zones is supported in principle but the scheme provisions may need some adjustment. In particular, where a level of assessment determination hinges upon whether a proposed use is “ancillary”. Provide further clarification how these provisions are intended to operate. It is not clear how an applicant would make a determination about	Further commentary required to demonstrate alignment of strategic intent with scheme structure.	

			whether a proposed activity is 'ancillary' for the purpose of determining level of assessment. It is noted that AO1.1 of the Rural Tourism code refers to a maximum of 150m ² of TUA for a food and drink outlet or shop. It is recommended that this threshold be adopted in the table of assessment instead of referring to 'ancillary'.		
11.	Short-term accommodation and multi-unit uses	Scheme approach and Structure-Clarity and transparency in the plan making process	Council to provide further commentary in regards to the rationale for the proposed changes short-term accommodation and multi-unit dwellings (i.e. what is the existing issue that needs to be addressed) and the desired effect that these changes with respect to the regulation of land use that these changes are intended to achieve.	Further commentary required to demonstrate alignment of strategic intent with scheme structure. A number of changes have been made to the scheme structure around multi-unit dwellings and short-term accommodation including: <ul style="list-style-type: none"> the inclusion of a new use definition – Short Term Accommodation (Dwelling); changes to the existing multi-unit use administrative definition; and new provisions included in the Short-term accommodation and Multi-units uses code around the regulation of short-term accommodation (dwelling). There is limited justification provided as to the reason these provisions are being introduced, the intended scope of the provisions what they are trying to achieve in a broader strategic sense.	
12.	The Planning Scheme	Scheme approach and Structure-Clarity and transparency in the plan making process	Clarify if any scenario testing has been undertaken to test how these provisions would function. If no testing of these provisions has taken place it is recommended that this be done to test the rigor of these provisions.		
13.	Code provisions and level of assessment- Short-term accommodation (dwelling)	SPP Guiding principle – Outcome focused and positive	Council to amend or remove operational focused assessment benchmarks and specific outcomes and consider level of assessment.	The proposed code provisions around "Short Term Accommodation (dwelling)" are more regulating operational matters relating to ongoing use of the premises, rather than whether the land use is appropriate. It is considered that most of these provisions are not related to land use and are more regulating potential behavioural issues that may or may not result from the land use and would be better addressed through existing regulation, local laws or similar. In many circumstances, "Short Term Accommodation (dwelling)" is impact assessable. The rationale for this level of assessment should be explained and consideration given to lowering this level of assessment.	
14.	Ancillary use	SPP Guiding Principle – Integrated	Some clear guidance about what is and what isn't "ancillary" is required if it is determinative of level of assessment.	Identify the assessment process for ancillary uses and clarify how 'ancillary' is determined. Specifically, microbrewery and coffee roasting in Centre zones clarify how is a determination made as to whether they are an "ancillary" use. Must be ancillary to food and drink outlet, but typically a microbrewery would be associated with a bar or hotel use. Consider expanding these provisions where for a hotel or bar.	
15.	The Planning Scheme	SPP Guiding Principle – Integrated	The table of assessment for the Building Height Overlay identifies that there is no change to the table of assessment where proposing a Material Change of Use and where complying with the Acceptable Outcomes of table 8.2.5.3.1 of the overlay code. The table then sets out the building heights must comply with limits identified either within the	Is it clear/easy is it to understand the intended outcome for a piece of land? The interaction between the building height overlay and local plans is unclear and may be an issue.	

				code itself or as identified within the within the relevant local plan maps.		
16.	The Planning Scheme	SPPP Guiding Principle – Efficient	Provide further guidance around why the level of assessment defaults to impact rather than code assessable for some accepted development (subject to requirements). Why is this reasonable in this instance?	Clarification on where accepted development becomes assessable development is being sought, particularly for dwelling houses, where not complying the AO for domestic outbuilding size (AO1.2 of the 9.3.5 Dwelling house code), level of assessment goes from accepted to impact assessable. The same provision applies for dual occupancy.		
17.	The Planning Scheme	SPPP Guiding Principle – Accountable	Consider revising the code provision relating the Short-term Accommodation (dwelling) to limit the code requirements to land use rather than operational matters which are better suited to other forms of non-planning related regulation.	Plans should only seek to regulate land use and planning outcomes. It is considered that a number of the provisions that relate to Short Term Accommodation (dwelling) with the Short Term Accommodation an Multi unit use code are not necessarily that related to land use but are day to day operational matters that are better suited to existing regulation, local laws / a code of conduct / by-laws or similar. Such matters include: <ul style="list-style-type: none"> • Limiting the number of occupants per bedroom • Limiting congregation around entrance of premises • Regulating adult entertainment on the premises • Establishing a code of conduct for each individual premises (if anything a standard code of conduct should be developed by the council which would apply to all such uses). 		

Table 2: Section 8(5) of the *Planning Act 2016*

	No.	Planning scheme reference	Policy/Relevant legislation	Recommended Action	Reasons for recommendation	Whitsunday Regional Council action/response
Building Act 1995	1.	Airlie Beach local plan 7.2.1.2 2(c) Purpose and overall outcome	QDC MP 4.1 Sustainable Buildings NCC 2019 Volume 1 Section J Energy Efficiency NCC 2019 Volume 2 Part 2.6 Energy Efficiency and 3.12 Energy Efficiency section 31(4) of the Building Act 1975 section 8(5) of the Planning Act 2016	Amend (c) as follows: development is climate responsive and promotes a 'tropical sense of place', incorporating high quality, adaptable, energy efficient building design that maximises the utility of prevailing breezes, the surrounding natural landscape, open spaces and pedestrian routes;	The Queensland Development Code (QDC) MP 4.1 – Sustainable Buildings and the National Construction Code (NCC) contain the requirements for built form in relation to energy efficiency. Please remove the strike-through provisions or reword to clarify that these are character matters and not related to building performance.	
	2.	Airlie Beach local plan Table 7.2.1.3.1 Assessment benchmarks- Built form PO6 AO6.1	QDC MP 4.1 Sustainable Buildings NCC 2019 Volume 1 Section J Energy Efficiency NCC 2019 Volume 2 Part 2.6 Energy Efficiency and 3.12 Energy Efficiency section 31(4) of the Building Act 1975 section 8(5) of the Planning Act 2016	Remove AO6.1 Rewrite PO6 to deal with matters addressed in AO6.2 rather than energy efficiency.	The Queensland Development Code (QDC) MP 4.1 – Sustainable Buildings and the National Construction Code (NCC) contain the requirements for built form in relation to energy efficiency. Please remove AO6.1 provisions or reword to clarify that these are character matters and not related to building performance.	
	3.	Bowen local plan Table 7.2.2.3.1 PO12	QDC MP 4.1 Sustainable Buildings NCC 2019 Volume 1 Section J Energy Efficiency NCC 2019 Volume 2 Part 2.6 Energy Efficiency and 3.12 Energy Efficiency Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016	Correct typographical error in PO12 from (d) and (e) to (a) and (b). Amend current PO12(d) as follows: Development adjoining Herbert Street and Santa Barbara Parade: (d) (a) promotes 'sub-tropical sense of place' through the use of natural building materials, colours and vertical landscaping that create a cooler microclimate; and (e) (b) includes architectural features reflective of the built form character of Herbert Street. Alternatively, this provision could be clearly focussed on micro-climate of street.	The Queensland Development Code (QDC) MP 4.1 – Sustainable Buildings and the National Construction Code (NCC) contain the requirements for built form in relation to energy efficiency. Please remove the PO12(d) strike through or reword to clarify that these are character matters and not related to building performance. Refer to section 3.1 of the Integrating building work in planning schemes- Guidance for local governments (updated June 2021)	
	4.	Bushfire hazard overlay code	Section 8(5) of the Planning Act 2016	Review the Bushfire hazard overlay code, considering the model code outlined in "Natural hazards, risk and resilience state interest- Bushfire. Example planning scheme assessment benchmarks" to ensure the planning scheme is	The code includes building provisions that should not be addressed in the planning scheme. In reviewing the code, refer to section 3.9 of the guidance material- Integrating building work in planning schemes- Guidance for local governments (updated June 2021).	

			not regulating building assessment provisions under the <i>Building Act 1975</i> .	Refer also to the model code outlined in “Natural hazards, risk and resilience state interest- Bushfire. Example planning scheme assessment benchmarks”	
5.	Bushfire Hazard Overlay Code Table 8.2.6.3.1 PO3 AO3.1	Section 12 of the Building Regulation 2006 Australian Standard AS3959 NCC 2019 Volume 1 Part G5.2 Construction in bushfire prone areas NCC 2019 Volume 2 Part 3.10.5 Construction in bushfire prone areas	Request to remove all of PO3 and text in AO3.1 relating to bushfire defendable space and distance between buildings, specifically: Buildings or building envelopes, excluding class 10 structures, are separated: (a) by at least 8m where for a material change of use; and (b) by a bushfire defendable space on the premises that provides a buffer from hazardous vegetation by a distance that achieves a radiant heat flux level at any point on the building or envelope that does not exceed: (i) 10kW/m² where involving a vulnerable use, essential service use or hazardous chemical facility use; or (ii) 29kW/m² for all other development.	These considerations are addressed in the building assessment provisions. A building certifier must determine the location and structural requirements of class 1-3 and associated 10a building or deck by working through the requirements of Australian Standard (AS) 3959. Section 12 of the Building Regulation 2006 outlines which provisions local governments may address in regard to building in bushfire prone areas.	
6.	Bushfire Hazard Overlay Code Table 8.2.6.3.1 AO5.1	AS2419 2005, Part 1, Section 5 NCC Volume 1 E1.3 Fire hydrants Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016	Remove AO5.1 (a) and (b) or revise and ensure relevant sections are only applicable to reconfiguring a lot and operational work.	The Australian Standard 2419: 2005 - Fire Hydrant Installations is a referenced document in the National Construction Code (NCC). The provisions address Building Assessment Provisions contained in this Standard and need to be removed as per s31 of the Building Act 1975. Refer AS2419 2005, Part 1, Section 5 which contains provisions for the proximity of hardstand areas from various water supply sources. Note that although AS 2419 only addresses requirements for class 2-9 buildings, local governments should not prescribe hardstand requirements for Class 1a buildings (dwellings) due to the scope of the Building Assessment Provisions. Refer section 32 of the Building Act 1975 for local laws, local planning instruments and local government resolutions that may form part of the building assessment provisions.	
7.	Bushfire Hazard Overlay Code Table 8.2.6.3.2 AO1.1	AS2419 2005, Part 1, Section 5 NCC Volume 1 E1.3 Fire hydrants Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016	Amend AO1.1 (a) (i) and (ii) and (b)(i-ii) to be clear that it is only applicable to reconfiguring a lot and operational work.	The Australian Standard 2419: 2005 - Fire Hydrant Installations is a referenced document in the National Construction Code (NCC). The provisions address Building Assessment Provisions contained in this Standard and need to be removed as per s31 of the Building Act 1975. Refer AS2419 2005, Part 1, Section 5 which contains provisions for the proximity of hardstand areas from various water supply sources. Note that although AS 2419 only addresses requirements for class 2-9 buildings, local governments should not prescribe hardstand requirements for Class 1a buildings (dwellings) due to the scope of the Building Assessment Provisions. Refer section 32 of the Building Act 1975 for local laws, local planning instruments and local government resolutions that may form part of the building assessment provisions.	
8.	Flood hazard overlay code Table 8.2.9.3.1 Table 8.2.9.3.2	Section 13 of the Building Regulation 2006 Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016	Review the flood hazard overlay code to ensure it does not address building assessment provisions under the <i>Building Act 1975</i> . For example, remove or amend PO1 and AO1.1, AO1.2 and AO1.3, PO2 and AO2.1 and AO2.2, PO5 and AO5.1 and 5.2 as they address decisions regarding the location and design of buildings in flood hazard areas addressed in building assessment provisions.	For assistance in reviewing the code, refer to section 3.11 of the guidance material- Integrating building work in planning schemes- Guidance for local governments (updated June 2021). Refer to section 13 of the Building Regulation 2006 which only enables class 1 building floor levels to be prescribed. A building certifier will assess the suitability of construction in consideration of the building assessment provisions (the Building Act 1975, QDC 3.5 and NCC).	

			Amend or remove PO1, AO1.2 and AO4.1 in Table 8.2.9.3.2 to specify which class of building the finished floor level provisions relate to. Note that this is not an exclusive list of all provisions to be reviewed when revising the code.	Please note the legislative requirements regarding which matters a local government may address in a planning instrument	
9.	Landslide overlay code Table 8.2.12.3.1	Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016	Review the flood hazard overlay code to ensure it does not address building assessment provisions addressed under the <i>Building Act 1975</i> . For example, remove AO1.1 unless it can be clarified that the landslide areas are only relevant to coastal hazards. Note that this is not an exclusive list of all provisions to be reviewed when revising the code.	The code includes building assessment provisions that should not be addressed in the planning scheme. For assistance in reviewing the code, refer to section 3.10 of the guidance material- Integrating building work in planning schemes- Guidance for local governments (updated June 2021). The structural stability of buildings is to be assessed by a certifier on a case-by-case basis in line with the building assessment provisions.	
10.	Short term accommodation and multi-unit uses code Table 9.3.17.3.1	Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016 NCC Volume 1 Part F5 Sound Transmission and Insulation NCC 2019 Volume 2 Part 3.8.6 Sound Insulation	Remove AO10.1.	These are building assessment provisions contained in the NCC 2019. NCC requirements for sound insulation which will be assessed by a building certifier on a case-by-case basis.	
11.	Transport and parking code Table 9.4.8.3.2 AO10.1 AO10.2	QDC MP 4.1 Sustainable Buildings Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016	Please remove AO10.1 and review AO10.2(c) or amend to ensure it doesn't conflict with the provisions of the Queensland Development Code (DPC) MP4.1 Sustainable buildings.	The requirements for end of trip facilities are addressed in the Queensland Development Code (QDC) MP 4.1 Sustainable buildings. For assistance, refer to section 3.16 of the guidance material- Integrating building work in planning schemes- Guidance for local governments (updated June 2021).	
12.	1.6.1 Building work regulated under the Planning Scheme	Section 31(4) of the Building Act 1975 Section 8(5) of the Planning Act 2016	Review Table 1.6.1 to appropriately reflect all building assessment provisions contained within the scheme, including but not limited to bushfire, flood, landslide, building height etc. For example, amend Table 1.6.1 to more specifically identify which "part of the planning scheme area" is designated for each designation under the Building Act and must include the 100m wide potential impact buffer as per State Planning Policy Glossary definition	For assistance in reviewing Table 1.6.1, refer to 3 (page 7) of the guidance material- Integrating building work in planning schemes- Guidance for local governments (updated June 2021). Please refer to the Torres Shire Council scheme as a good example (below) for designating a bushfire prone area. More clearly states the part of the shire that is the "Designated bushfire prone area for the purposes of the Building Act, NCC, BCA and QDC". This 100 metre width was informed by findings indicating 78 per cent of fatalities occur within 30 metres and 85 per cent of fatalities occur within 100 metres of hazardous vegetation (the forest edge) in Australia. Life and house loss database description and analysis - https://publications.csiro.au/rpr/download?pid=csiro:EP129645&dsid=DS2 Bushfire Resilient Communities Bushfire Resilient Communities (QFES, 2019). The SPP Glossary Definition of the Bushfire Prone area includes the 100m wide 'potential impact buffer. For consistency a Planning scheme should use the same definition.	

					<p>(4) The relationship between the <i>Building Act 1975</i> and the <i>Building Regulation 2006</i> and the planning scheme is further explained in Table 1.6.</p> <p>Table 1.6 – Relationship to Building Assessment Provisions</p> <table border="1"> <thead> <tr> <th>Column 1 <i>Building Act</i> 1975 reference</th> <th>Column 2 <i>Building</i> <i>Regulation</i> 2006 reference</th> <th>Column 3 Description</th> <th>Column 4 Planning scheme part</th> </tr> </thead> <tbody> <tr> <td>Section 32(c) Section 33(2)</td> <td>-</td> <td>Alternatives to the QDC parts MP 1.1 and MP 1.2 site cover and boundary clearance provisions.</td> <td>The Standard Outcomes for the relevant zone in Part 6.</td> </tr> <tr> <td>Section 32(b)</td> <td>Section 10(2)(b)</td> <td>Alternatives to specific matters of the QDC parts MP 1.1 and MP 1.2.</td> <td>The Standard Outcomes for the relevant zone in Part 6. For car parking, the car parking rates specified in Table 6.3.2b.</td> </tr> <tr> <td>Section 32(a)</td> <td>Section 12</td> <td>Designation of a bushfire prone area for the BCA or the QDC</td> <td>The <i>bushfire hazard area</i> of the Bushfire Hazard Overlay as shown on Map OM-300 to Map OM-305</td> </tr> <tr> <td>Section 32(a)</td> <td>Section 13</td> <td>Designation of a flood prone area for the QDC</td> <td>The <i>Flood Hazard Area</i> of the Flood Hazard Overlay as shown on Map OM-600 to Map OM-605</td> </tr> <tr> <td>Section 32(b)</td> <td>Section 13</td> <td>Declaration of the defined level.</td> <td>Definition of defined flood level in Schedule 1.</td> </tr> <tr> <td>Section 32(ab)</td> <td>Section 13</td> <td>Declaration of <i>specific matters for all or part the finished floor level of a class 1 buildings in the flood hazard area.</i></td> <td> <ul style="list-style-type: none"> defined flood level finished floor levels and freeboard specified in Table 6.4.6b </td> </tr> </tbody> </table>	Column 1 <i>Building Act</i> 1975 reference	Column 2 <i>Building</i> <i>Regulation</i> 2006 reference	Column 3 Description	Column 4 Planning scheme part	Section 32(c) Section 33(2)	-	Alternatives to the QDC parts MP 1.1 and MP 1.2 site cover and boundary clearance provisions.	The Standard Outcomes for the relevant zone in Part 6.	Section 32(b)	Section 10(2)(b)	Alternatives to specific matters of the QDC parts MP 1.1 and MP 1.2.	The Standard Outcomes for the relevant zone in Part 6. For car parking, the car parking rates specified in Table 6.3.2b .	Section 32(a)	Section 12	Designation of a bushfire prone area for the BCA or the QDC	The <i>bushfire hazard area</i> of the Bushfire Hazard Overlay as shown on Map OM-300 to Map OM-305	Section 32(a)	Section 13	Designation of a flood prone area for the QDC	The <i>Flood Hazard Area</i> of the Flood Hazard Overlay as shown on Map OM-600 to Map OM-605	Section 32(b)	Section 13	Declaration of the defined level.	Definition of defined flood level in Schedule 1.	Section 32(ab)	Section 13	Declaration of <i>specific matters for all or part the finished floor level of a class 1 buildings in the flood hazard area.</i>	<ul style="list-style-type: none"> defined flood level finished floor levels and freeboard specified in Table 6.4.6b 	
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13.	Part 5 Tables of Assessment Part 5.7 and 5.10.4	Policy 4 and 5	Recommend removing section 5.7- as Table 1.6.1 is to deal with areas of the scheme that is seeking to apply building assessment provisions	Statement in Part 5.7 reads as though the scheme is not seeking to regulate building provisions, however Table 1.6.1 highlights those building assessment provisions contained in the planning scheme.																														

Table 3: State interest actions

SPP State interest	No.	Planning scheme reference	Policy/Relevant legislation	Recommended Action	Reasons for recommendation	Whitsunday Regional Council action/response
Housing supply and diversity	1.	Part 3 Strategic framework, 3.2 Strategic intent (2)	Policy 2 and 3	Amend as follows: “The Region’s major townships and communities have a strong and proud social identity, being sustainable and well supported through the provision of a variety of social and affordable housing and lifestyle options and appropriate community and utility infrastructure.”	Paragraph (2) includes reference to affordable housing, which is supported, but it is requested that the Council also give support to a wider range of affordable housing outcomes to include social housing to better meet the provisions of the Housing Supply and Diversity State Planning Policy.	
	2.	Ch 3.2.1 Liveable communities and Housing 3.2.1.1 Strategic outcome and 3.2.1.2 Land use strategies (1)	Policy 2 and 3	Amend 3.2.1.2 to include specific land use strategies to include additional measures to deliver social and affordable housing outcomes by encouraging housing choices and a diversity of housing types in this location.	Additional measures to deliver social and affordable housing outcomes in the land use strategies are encouraged. For example - this can be by encouraging housing choices and a diversity of housing types in these locations. (Further information is in the SPP Housing Supply and Diversity and its Guidance Material. Nearby local government areas which address affordable and social outcomes in the strategic framework are Townsville and Mackay. The recently approved Noosa Plan 2020 has also a number of strategic outcomes for housing choice).	
	3.	s8.2.5 Building heights overlay code, Table 8.2.5.3.2, Table 8.2.5.3.3	Policy 3	Justify changes in maximum building heights in Table 8.2.5.3.2 for Airlie Beach Precinct B (increase from 14 to 18 m), Airlie Beach Precinct E (increase from 14 to 18 m) and Airlie Beach Precinct F (decrease from 18 to 14 m). Clarify and justify changes to the slope from exceeding 15% to be between 15 to 25% in Table 8.2.5.3.3 and confirm is there is consistency with the landslide hazard overlay code.	Previously, the maximum building heights for the Airlie Beach Precincts were within Table 5.7.1 Building work, which has been moved to the Building heights overlay code Table 8.2.5.3.2. The major amendment package does not provide reasoning for changes to the heights in Precincts B, E and F of Airlie Beach. Previously the tables of assessment (Table 5.7.1) identified maximum building heights on slopes for zones (i.e. Residential, centre, industry, recreation, environmental etc.) to be 10 above ground level where located on slopes exceeding 15%. It is noted that these provisions have been moved to the Building height overlay code and changed to be within a range of 15-25% slope in Table 8.2.5.3.3 for a number of zones and new provisions for building heights on slopes greater than 25% introduced through Table 8.2.5.3.1. The reasoning for these changes is sought when the landslide overlay code has been amended to pick up development on land with a slope of 15% or greater, consistent with the definition of landslide hazard.	
	4.	Schedule 2- Mapping	Policy 5	Provide confirmation if council has undertaken or intends to undertake a housing needs assessment and / or land supply analysis to support the proposed zone changes.	The proposed amendment involves a number zoning changes including moving rural land to rural residential or low density residential. In local government areas which have at least one urbanised area with a population greater than 10,000, there is a need to identify the local growth pressures and housing needs projections. Undertaking a land supply analysis and housing needs assessment will provide necessary insights into current and future housing demand and supply.	
Agriculture	5.	Schedule 2 Mapping	Policy 1 and 2	Provide further justification for the proposed zone changes for: <ul style="list-style-type: none"> Lot 1 on RP727724- from rural to medium impact industry Lot 1 on RP705173 from rural to Low Impact Industry zone Lot 5 on RP738979 from rural to split zone rural/rural residential 	Without further justification and clarification for rationale these changes cannot be supported if conflicting with SPP State Interest or Agriculture (Policy 1 and 2). Note- the department has requested in the previous correspondence dated 15 June 2021, justification and rationale for all zone changes.	

			<ul style="list-style-type: none"> Lot 1 on SP230520 from rural to low density residential Lot 2 on SP230520- from rural to low density residential Lot 172 on SP20141 from rural to rural residential Lot 175 on SP20141 from rural to rural residential Lot 52 on RP725317 from rural to rural residential Lot 6 on RP738287 from rural to rural residential 	There may be further comments on additional parcels as they relate to the agriculture state interest arising once council have confirmed all proposed zoning changes		
Tourism	6.	Rural Tourism Code - PO10 Table 9.3.14.3.2	Policies 3 and 4	Clarify or remove AO10.1 through additional acceptable outcomes, where private vehicle trips are acceptable.	The use of mini buses does not appear reasonable, as the scale and nature of this use would not necessarily require this mode of transport. It does not appear to accommodate tourists arriving at differing times and would require the proponents (farmers) be taken away from their primary purpose of farming to drive a bus (potentially daily). It is not considered an appropriate or workable outcome. Consider additional AOs to clarify support for use of other modes of transport.	
Biodiversity	7.	Strategic Framework Strategic Framework Map	Policy 1 and 2	Provide greater recognition Matters of National Environment Significance (MNES) and Matters of State Environmental Significance (MSES) in the strategic framework and consider representation of these matters in the strategic framework map	There is no mention of MSES or MNES in the strategic framework. Recognition of MNES and MSES is required to meet the SPP policies Mapping on the Strategic framework map, where MNES and MSES have geographical boundaries (e.g. Great Barrier Reef Marine park area) clearly identifies whether there are any in the local government area.	
	8.	Mapping – New Zone Amendments March 2021 maps	Policy 2	<p>Split zone/rezone change where the resultant lot is fully covered by mapped Matters of State Environmental Significance (MSES) is not supported.</p> <p>Please review the proposed zone changes against current MSES mapping to ensure the proposed changes are not including rezoning to residential where the block is fully covered by MSES.</p> <p>Specifically, confirm for the zone change of Lot 8 on SP274029 from rural to split zone rural and rural residential that the MSES covering this property will be contained fully within the rural section of the split zone.</p> <p>Provide further justification for the proposed zone changes for:</p> <ul style="list-style-type: none"> Lot 22 on SP208207 from no zone to community facilities (coastal dependant development related to the Commonwealth approved Shute Harbour Marina) Lot 5 on RP738979 from rural to split zone rural/rural residential Lot 2 on SP230520 from rural to low density residential 	<p>Without further justification and clarification for rational these changes cannot be supported if conflicting with SPP State Interest or Biodiversity (Policy 2).</p> <p>Lot 5 on RP738979 is fully mapped as MSES Regulated vegetation- essential habitat.</p> <p>Lot 2 on SP230520 should be split zoned to protect MSES Regulated Vegetation – essential habitat which covers 2/3 of the site.</p> <p>Note- the department has requested in the previous correspondence dated 15 June 2021, justification and rationale for all zone changes.</p> <p>There may be further comments arising once council have confirmed all proposed zoning changes</p>	
	9.	Schedule 1 Definitions – Administrative Definitions Table SC1.2.2	Policy 2	Amend the definition of ‘area of environmental significance’ as follows – An area that is: (a) identified as a Matter of local, State or National environmental significance on the	Provides clarity to the definition if this definition is not defined in other legislation.	

			Biodiversity, waterways and wetlands overlay map(INSERT Map reference); and (b) if not identified on the map above, an area included in a riparian buffer for waterbodies or a protected or wildlife habitat area as per Table 8.2.4.3.3 of the Planning Scheme. Note: Matters of Local Environmental Significance (MLES), Matters of State Environmental Significance (MSES) and Matters of National Environmental Significance (MNES) are defined under the State Planning Policy 2017		
10.	Biodiversity, Waterways and Wetlands Code 8.2.4.2 (2) (c).	Policy 2	Amend as follows: (c) development is avoided within environmentally significant areas of environmental significance.	Provides clarity to the Purpose and Overall Outcomes.	
11.	Biodiversity, Waterways and Wetlands Code 8.8.2.4.2 (2) (g).	Policy 2	Amend as follows: (g) development ensures that viable connectivity is maintained or enhanced between flora and fauna identified as matters of environmental significance.	'Viable' is not defined or a term used in Policy 3 of the SPP Biodiversity interest.	
12.	Biodiversity, Waterways and Wetlands Code 8.2.4.3 Assessment Benchmarks Table 8.2.4.3.1 PO2	Policy 2	Amend PO2 as follows: Development avoids significant impacts on areas designated as Protected Areas and Legally Secured Offset Areas'.	Change required to clearly distinguish between Protected Areas and Legally Secured Offset Areas. Amendment to "and" ensures impact to both areas are to be avoided.	
13.	Biodiversity, Waterways and Wetlands Code 8.2.4.3 Assessment Benchmarks Table 8.2.4.3.1 AO2.1	Policy 2	Reword AO2.1 as follows: Development is wholly situated outside of areas designated as a Protected Area and areas designated as a Legally secured offset area.	Change required to ensure that the PO2 is a performance outcome and to provide clarity on the acceptable outcome.	
14.	Biodiversity, Waterways and Wetlands Code 8.2.4.3 Assessment Benchmarks Table 8.2.4.3.1 PO3.	Policy 2	Amend PO3 as follows: An adequate buffer to waterways, wetlands is provided and maintained for dwelling houses and associated structures.	Change required to ensure that the PO3 is a performance outcome rather than an acceptable outcome. Remove the word 'adequate' when buffer widths are specified.	
15.	Strategic Framework 3.2.3 Environment and Heritage – 3.2.3.2 Land Use Strategies	Policy 4	Amend to include a new land use strategy to: Promote enhancing and restoring connectivity between matter of environmental significance.	The land use strategies, where appropriate, should promote enhancing and restoring connectivity between matters of environmental significance.	

	16.	Part 8 Section 8.2.4 Biodiversity, Waterways and Wetland Overlay Code 8.2.4.2 Purpose and Overall Outcomes	Policy 1, 2 and 3	Amend (2)(c) as follows: (c) development is avoided within environmentally significant areas of environmental significance;	To be consistent with planning scheme term usage.	
	17.	Part 8 Section 8.2.4 Biodiversity, Waterways and Wetland Overlay Code 8.2.4.2 Purpose and Overall Outcomes	Policy 2	Amend (2)(d)(i) as follows: protects and establishes appropriate buffers to waterways, wetlands, native vegetation areas of environmental significance, and significant fauna habitat	To be consistent with planning scheme term and definition usage. Terms should be consistent throughout the planning scheme and consistent with relevant legislation to maximise clarity and avoid confusion. For e.g. the terms of 'vegetation', 'protected vegetation', regulated vegetation' and 'remnant vegetation' are used throughout the code but it is unclear whether these have the same meaning.	
	18.	Part 8 Section 8.2.4 Biodiversity, Waterways and Wetland Overlay Code Table 8.2.4.3.1 AO1.1	Policy 1	Amend to include an additional note related to matters of National environmental significance: Note – Matters of National environmental significance, where it is demonstrated that adverse impacts cannot be avoided or minimised, significant residual impacts on matters may require an offset in accordance with the Environment and Biodiversity Protection Act 1999.	To clearly articulate that offsets may also be required for impacts on MNES as well as MSES.	
Coastal environment	19.	Mapping – Coastal hazard	Policy 1 and 3	Amend to include Coastal Management District mapping.	Coastal management district mapping is a category 1 map within the SPP. This means that the layer must be appropriately integrated into the scheme in a way that achieves the policy requirements of the coastal environment and coastal hazard state interests.	
	20.	Part 8 Coastal Hazard Overlay Code	Policy 1	Amend to add provisions to the overlay code regarding: The avoidance of development within the erosion prone area within the coastal management district.	Current overlay code provisions do not mention requirements for development within a coastal management district. Further guidance can be obtained from the guidance material for 'Integrating State Interests in a Planning Scheme' Section 9.	
	21.	Coastal hazards overlay Assessment benchmarks table 8.2.7.3.2	Policy 1	Amend the assessment benchmarks to: Acknowledge protection of coastal processes where development occurs within a coastal management district outside of a coastal hazard area.	This table only refers to coastal hazard areas. The coastal management districts can extend beyond EPA and storm tide areas and the assessment benchmarks need to protect the state interest where that can occur.	
	22.	Coastal hazards overlay Assessment benchmarks table 8.2.7.3.2 AO2.1	Policy 1	Amend as follows: AO2.1(a) existing natural environmental features, such as mangroves and wetlands, are maintained as much as possible ; or	The requirement within policy 1 of the coastal environment state interest is to avoid impacts on natural environmental features.	
	23.	Coastal hazards overlay Assessment benchmarks	Policy 1	Amend to include a reference as a note in the coastal hazards overlay code regarding prescribed tidal works assessment.	Prescribed tidal works is not mentioned in the overlay code.	

	24.	Coastal hazards overlay Assessment benchmarks	Policy 3	Amend to include an assessment benchmark that addresses state interest coastal environment policy 3 regarding reclamation of land under tidal water.	The SPP requires that reclamation of land under tidal water is avoided other than for specified purposes. Reclamation is not mentioned in the new codes and therefore this policy is not met.	
Cultural Heritage	25.	Heritage Register (under the <i>Queensland Heritage Act 1992</i>)	Policy 4	Further justification is required identifying the reasons (and background justification) for the removal of 5 places from the 2017 planning scheme Heritage Overlay as follows: 1. Hook Island Observatory; 2. Proserpine Memorial; 3. Palace Hotel; 4. Proserpine Plumbing building (former theatre); and 5. Bowen Church	According to the Council meeting agenda material, Hook Island Observatory is already demolished, Proserpine Memorial is to be replaced and Palace Hotel is in critical repair. It should be noted that these reasons relate to the need for development approval to demolish them not necessarily removal from the local heritage overlay and register. Investigation indicates that Proserpine Plumbing building (former theatre) and the Bowen Church were removed from the local heritage register because of their state of repair sometime in 2017. Clear reason for the action of removing these places from the heritage register is required to provide community confidence in the system of local heritage place protection.	
	26.	8.2.10.3.1 PO1/AO1.1	Policies 5 and 6	Amend PO1 and AO1.1 to merge the PO and AO and state no acceptable outcome is prescribed.	It is questionable as to whether AO1.1 is an appropriate AO given there would be many ways in which an application could demonstrate compliance with it. It may be preferable to revise the PO to incorporate concepts drawn out in the current AO (in fact the AO reads more like a PO if you then look at the codes purpose statement). Comments on terms used in the current AO (possible PO): "As far as practicable" is a low standard that lacks certainty and clarity. However, the validity of (c) as an alternative provision is recognised, with two changes. Work of minor scale can have a large impact on cultural heritage significance, therefore the standard of "minor impact on the cultural heritage significance of the local heritage place or area" is recommended instead. Secondly, using the term "economic" rather than "significant" use ensures the outcome applies only when necessary to conserve the place, and hence is more consistent with the performance outcome.	
	27.	8.2.10.3.1 AO1.2	Policies 5 and 6	Amend to delete AO1.2	Any development can be "undertaken with reference to" the Burra Charter. The clause does not specify an actual acceptable outcome. The Burra Charter is a technical standard applied by the planning scheme policy (SC6.3.3.2(1)(e)). Could be considered as part of a note to a new PO1.	
	28.	8.2.10.3.1 AO2.1	Policies 5 and 6	Amend to delete AO2.1	AO2.1 is written like a condition or a note. It is not setting a clear benchmark for what is required of a development in relation to archaeological values at a place. It would be preferable to signal the points it makes in notes attached to PO2 and maybe consider expanding PO2.	
	29.	8.2.10.3.1 P03 / AO3.1	Policies 5 and 6	Amend PO3 an AO3.1 to merge the PO and AO and state no acceptable outcome is prescribed.	AO3.1 should be merged into PO3 (there are elements in it that should feature in the performance outcome). The notes can apply to the performance outcome. AO3.1 does not have the level of measurability required in an acceptable outcome. The heading to PO3 has a typo – the first 'or' should be 'of'. Use of the word 'altered' means the current drafting of the performance outcome overlaps with PO1 (and its acceptable outcome). If what is really being referred to is demolition (total or substantial), maybe is the word that should be used. 'Altered' leads to confusion with PO1. The 'Local Heritage Register Policy' has not been provided for DES consideration and is not available online. It should be consistent with the	

					requirements in the Heritage Act in relating to removing places from the Local Heritage Register. “Any other relevant justifications” is so loose it makes the other alternatives irrelevant.	
Water quality	30.	Development Codes 9.4.4.1 (4) (b) Healthy Waters Code	Policy 6	Amend 4 (a) as follows: A material change of use for Intensive animal industry, Medium impact industry, High impact industry, Special industry, Extractive industry, Motor sport facility, or Renewable energy facility or noxious and hazardous industry	Required to align with Assessment Benchmark 4 of the Water Quality state interest	
	31.	Development Codes 9.4.4.3 Healthy Waters Code AO5.1	Policies 3 and 5	Include in AO5.1 as follows: (e) Water Sensitive Urban Design	Required to comply with Water Quality state interest Water sensitive urban design involves planning and designing urban environments to manage the urban water cycle and maintain hydrological and ecological systems.	
	32.	Development Codes Table 9.4.2.3.1 AO2.2	Policy 4	Amend as follows: AO2.2 The ESPC demonstrates that release of sediment-laden stormwater is avoided during the nominated design storm, and minimised when the nominated design storm is exceeded, by addressing design objectives listed below in Table 9.4.2.3.2 Stormwater management design objectives – construction phase.	AO2.1 is required to comply with Water Quality state interest and additional words correct typographic omission.	
Natural hazards, risks and resilience	33.	The planning scheme	Policy 2	Provide a comprehensive fit for purpose storm-tide inundation and erosion prone areas risk assessment to identify and achieve an acceptable outcome or tolerable level of risk for personal safety and property in accordance with the State Planning Policy 2017.	A fit for purpose risk assessment is required under the SPP 2017. Please refer to chapter 13 of “Integrating state interest in a planning scheme- Guidance for local councils” for further information as to how to prepare this document and incorporate it into the proposed amendment.	
	34.	Coastal Erosion Area mapping	Policy 1	<u>The proposed erosion prone area mapping is not accepted.</u>	Several issues have been discovered the calculated distance component of the Erosion Prone Area (EPA) mapping at several locations appears to be incorrect. The mapping methodology used to generate the distances will require amendment before it can be accepted.	
	35.	Coastal Erosion Area mapping	Policy 3	Once EPA mapping is revised and approved by DES, recheck urban zoning changes to ensure future urban zones are not located in areas within an EPA and in a coastal management district.	The draft EPA mapping appears to meet this policy requirement, however as the EPA mapping requires readjustment, this will need to be rechecked to ensure no future urban purposes are in EPA.	
	36.	Part 3, Strategic Framework 3.2.4.1 Strategic Outcomes	Policy 4	Amending the statements in 3.2.4.2 to establish the principle of only appropriate development occurring in coastal hazard areas.	Acknowledgement of risk and appropriate development should be included in the strategic framework as per Policy 4 advice.	
	37.	Part 3, Strategic Framework 3.2.4.2 Strategic Outcomes	Policy 3	Amend to remove the reference to specific locations listed in land use strategy 3.2.4.2(1) as follows: Risks to people and property are minimised in areas within or adjacent to natural hazard areas. particularly escarpments behind Airlie Beach	Specifying locations for risk minimisation is not comprehensive enough when certain hazard mapping (such as erosion prone areas) is across the whole local government area. This should be addressed through a fit for purpose risk assessment.	

			and Hideaway Bay (landslide); Bells Gully, Campbell Creek, Don River, and Proserpine River (flooding); and Bowen Front Beach, Cannonvale Beach, Conway Beach, Greys Bay, Rose Bay, Queens Beach, Queens Bay and Wilson Beach (coastal erosion and storm surge)		
38.	8.2.7 Coastal hazard overlay code – 8.2.7.2 Purpose and overall outcomes	Policy 3	Amend the purpose of the code to include a statement: specifically not allowing urban expansion to occur in non-urban areas within erosion prone areas.	Overall outcomes for the code should reflect policy 3 requirements for urban expansion not to occur in non-urban areas within erosion prone areas.	
39.	8.2.7 Coastal hazard overlay code – 8.2.7.3 Assessment Benchmarks	Policy 8	Amend the relevant outcomes (POs and AOs) where development within erosion prone areas within coastal management districts would be limited.	The planning scheme does not refer to the requirements within a coastal management district. As certain types of development within EPA of CMD is state assessable, this distinction should be made where relevant.	
40.	8.2.7 Coastal hazard overlay code – 8.2.7.3 Assessment Benchmarks AO3.1	Policy 9	Amend PO3 and AO3.1 to reflect erosion prone area terminology. Permanent Inundation is a subset of Erosion Prone Area and should be referred to if a separate mapping element as Erosion Prone Area: XXX. Split the POs according to those that apply to urban areas and those that apply to non-urban areas. Amend AO3.1(d)(ii) for clarity.	Requirements listed for AO3.1 should refer to CMD limitations where necessary to mitigate the risks to people and property to an acceptable or tolerable level	
41.	2.6 Bushfire hazard overlay code Table 8.2.6.3 AO3.1	Policy 4	Review the Bushfire hazards overlay code, considering the model code outlined in “Natural hazards, risk and resilience state interest- Bushfire. Example planning scheme assessment benchmarks” For example, amend AO3.1 to reference to excluding Class 10 structures to avoid conflict (real or perceived) with building approvals applying.	Greater consistency and transparency in the drafting of the amendment and avoidance of conflict with Building legislative instruments. For reference regarding AO3.1 (a) - there is sound evidence from the Wye River & Separation Creek fires in Victoria that broadly supports building to building separation of 8m where neighbouring building are built to BAL 29 (8.4m to be exact). AS 3959 2018/Section 2.1 and Clause 3.2.3. These parts deal with BAL assessment and required building treatments for adjacent structures on the subject allotment within 6ms of the structure of the dwelling.	
42.	Bushfire hazard overlay maps and Tables of Assessment, Part 5 Table 5.10.6 Bushfire hazard overlay Part 8 Overlays 8.8 Bushfire hazard overlay code 8.2.6.1 (a) Application	Policy 4 and 5	Amend the Bushfire Overlay Maps to include the 100m wide ‘potential impact buffer’ being the area where potential risk ember risk is significant to the Bushfire hazard overlay Amend Table 5.10.6 to include the buffer 100m wide ‘potential impact buffer’ being the area where potential risk ember risk is significant Amend 8.2.6.1(a) to include the buffer 100m wide ‘potential impact buffer’ being the area where potential risk ember risk is significant	This contrary to the definition of the Bushfire prone area in the SPP July 2017 and the known risk of ember attack and radiant heat within 100 metre of hazardous vegetation: from Bushfire Resilient Communities (QFES, 2019). This 100 metre width was informed by findings indicating 78 per cent of fatalities occur within 30 metres and 85 per cent of fatalities occur within 100 metres of hazardous vegetation (the forest edge) in Australia. Life and house loss database description and analysis - https://publications.csiro.au/rpr/download?pid=csiro:EP129645&dsid=DS2 Bushfire Resilient Communities (QFES, 2019).	
43.	Bushfire hazard overlay maps and code	Policy 2	Provide a comprehensive fit for purpose risk assessment for Bushfire prone areas.	A fit for purpose risk assessment is required under the SPP 2017.	

				<p>Please refer to chapter 13 of “Integrating state interest in a planning scheme- Guidance for local councils” for further information as to how to prepare this document and incorporate it into the proposed amendment.</p> <p>Council to provide clarification as to why new development areas were identified in apparent bushfire prone areas have been proposed without a fit for purpose risk assessment in accordance with SPP NHRR Policy 2.</p> <p>Rezoning should not proceed without due consideration of natural hazards including bushfire. The area surrounding Lake Proserpine is mapped as medium bushfire hazard with elevated land that may provide views of the Lake reaching high or very high bushfire hazard on Councils current mapping.</p> <p>New residential expansion will occur in Cannon Valley (to the west of Airlie Beach), Mount Bramston and Mount Gordon (to the south of Bowen) and Moongunya Springs (to the north of Collinsville). New or expanded tourist accommodation and ancillary Business activities are located at Airlie Beach, Bowen Front Beach, Bowen Marina, Funnel Bay, Hamilton Island, Horseshoe Bay, Murray Bay, Rose Bay, Stone Island and Shute Harbour with Nature-based tourism at the northern-most point of Cape Gloucester, Lake Proserpine surrounds and in rural areas where appropriate.</p>	
44.	Part 6 Zones Part 3 Strategic Framework Low-medium Residential, Rural Residential, Emerging residential, Tourist accommodation, Special, Low, Medium and high impact industry zones codes	Policy 4 and 5	Amend Low-medium Residential, Rural Residential, Emerging residential, Tourist accommodation, Special, Low, Medium and high impact industry zones code to state the avoidance of areas of natural hazards or if no other location is available the location in the area of least hazard and mitigation of residual risk, balanced with other zone code elements.	To ensure consistency in policy intent throughout the planning scheme.	
45.	Part 6 Zones Industrial zone codes	Policy 4 and 5	Consider amending the Industrial Zone Codes to include provisions to avoid risks to public safety and the environment from the location of the storage of hazardous materials and the release of these materials as a result of a natural hazard.	<p>Industrial uses are those most likely to require storage of hazardous materials at volumes below and above the thresholds for the Emissions and hazardous activities State interest prescribed hazardous chemicals, dangerous goods, and flammable or combustible substances.</p> <p>Should include/reflect SPP NHRR – Bushfire Policy 5(c) (c) avoids risks to public safety and the environment from the location of the storage of hazardous materials and the release of these materials as a result of a natural hazard</p> <p>6.2.6 Should include/reflect SPP Policy 5(c) in part (b) (v) or (viii)</p> <p>6.2.12 Should explicitly include/reflect SPP Policy 5(c)</p> <p>6.2.9 Should include/reflect SPP Policy 5(c)</p> <p>6.2.18 Should explicitly include/reflect SPP Policy 5(c)</p>	
46.	Tourist accommodation zone code 6.2.19.2 code	Policy 4 and 5	Include provisions within 6.2.19.2 to avoid areas of natural hazard.	<p>Policy element 6.2.19(n) deals with potential impact on biodiversity but should have an element about avoiding areas of natural hazard. Include an explicit reference to avoidance of areas of natural hazard.</p> <p>SPP Guidance – NHRR – Bushfire includes “nature based tourism, relocatable home parks rooming accommodation, resort complex and tourist parks as vulnerable uses that are would be have guest unfamiliar with the risk at the facility and may be hard to evacuate or located in remote locations were response from emergency services will be delayed.</p>	

	47.	Table 8.2.6.3.2 Benchmarks for assessable development	Policy 4 and 5	Amend AO1.1 as follows: AO1 Development in bushfire hazard areas, outside the urban area or adjoining National Park in an urban area or, resulting in multiple buildings and/or lots, provides either of the following firebreaks:...	National Parks are not the only potential source of hazardous vegetation in an urban setting.	
	48.	The planning Scheme / Relevant hazard overlay maps and code	Policy 2	Provide a comprehensive fit for purpose landslide risk assessment to identify and achieve an acceptable outcome or tolerable level of risk for personal safety and property in accordance with the State Planning Policy 2017.	A fit for purpose risk assessment is required under the SPP 2017. Please refer to chapter 13 of "Integrating state interest in a planning scheme-Guidance for local councils" for further information as to how to prepare this document and incorporate it into the proposed amendment.	
	49.	The planning Scheme / Relevant hazard overlay maps and code	Policy 2	Provide a comprehensive fit for purpose flood risk assessment to identify and achieve an acceptable outcome or tolerable level of risk for personal safety and property in accordance with the State Planning Policy 2017.	A fit for purpose risk assessment is required under the SPP 2017. Please refer to chapter 13 of "Integrating state interest in a planning scheme-Guidance for local councils" for further information as to how to prepare this document and incorporate it into the proposed amendment.	
Transport Infrastructure	50.	Airlie Beach Local Plan Transport Map	Policy 7	Remove the indicative additional road link intersecting with Waterson Way on the western side of Precinct C.	An additional intersection on Waterson Way is not supported. The indicative internal road network within precinct C should utilise existing intersections.	
	51.	Table 5.9.2.5 Bowen local plan - Precinct B - Mixed use zone	Policy 1	Amend table 5.9.2.5 to make marine industry code assessable within the Precinct B mixed use zone.	The diversification of uses achieved by rezoning Precinct B to mixed use is generally supported. However, the current level of assessment for marine industry uses (code assessment) should be maintained within Precinct B. Marine industry is impact assessable in the mixed use zone, and the tables of assessment for Precinct B mixed use zone specify no change to the level of assessment for marine industry. Alternate solutions are available including maintain the existing zoning throughout the harbour and adopting finer grain precinct provisions and levels of assessment in the local plan to diversify land use potential as required in each precinct.	
	52.	7.2.2 Bowen Local Plan Code; Table 5.9.2.5 Bowen local plan	Policy 1	Remove references to accommodation activities within the Local Plan Code and make all accommodation activities impact assessable throughout all precincts in the Tables of Assessment for the Bowen Local Plan.	The Bowen Boat Harbour primarily intended to operate as a marine facility. Explicit support for accommodation activities in the local plan code and levels of assessment may set unreasonable expectations that accommodation activities will be compatible with existing uses.	

Table 4: State Interest Advice

SPP state interest	No.	Planning scheme section	Policy	Further advice	Reasons	Whitsunday Regional Council Action/Response
Agriculture	1.	Strategic Framework 3.2.4 Safety and resilience to hazards Page 7	Policy	Include specific wording in the Strategic Framework in relation to, in the first instance, avoiding Acid Sulphate Soils.	Department of Resources suggests including reference to Acid Sulfate Soils (ASS): Low lying areas across the Whitsunday Council area contain ASS that, if exposed, can result in damage to buildings, assets, infrastructure and the local environment. The disturbance of ASS is to be avoided where possible. Where disturbance is unavoidable, the disturbance should be minimised to prevent the mobilisation and release of acid, iron and other contaminants.	
Mining and extractive resources	2.	9.3.6.2 Purpose and overall outcomes (2)(a) Page 9:41 Section 2	Policy 1 and 2	Amend as follows: (a) extraction of resources occurs in a sustainable responsible manner,	The issue is extractive industry by its very nature cannot be conducted sustainably.	
	3.	Part 9 – 9.3.6 Extractive industry code Page 9:41 PO2	Policy 1 and 2	Amend PO2 to be a similar approach to PO1.	PO2 requires extractive industry to maintain suitable and sustainable landscaping on the site. Clarity is sought on what is meant by sustainable landscaping. If this refers to rehabilitation of the site, this should occur at the completion of all operations at a site/within a site. A rehabilitation plan will be part of the DA and/or EA. It is noted that PO1 deals with a related element of public safety where landscaping with battered banks is implemented as a safety measure. It is noted that the acceptable solution provided for PO1 is ‘the extractive industry is undertaken in accordance with an approved environmental management plan, which addresses environmental and social impacts of operations’.	
	4.	Part 9 – 9.3.6 Extractive industry code Page 9:41 PO2 to PO7 inclusive & associated acceptable outcomes	Policy 1 and 2	Amend PO2 – PO7 to refer only to refer to operations above a certain threshold, e.g. removing in excess of 5,000 tonnes / year.	PO7 requires that entry to extractive industry operational areas is restricted to authorised personnel and authorised vehicles, with the associated AO7.1 of a 2m high fence to be erected and maintained around all extractive industry operations and associated infrastructure. An issue arises if the requirement of a 2m high fence is applicable to low-impact sites.	
	5.	9.3.6 Extractive industry code Table 9.3.6.3.1 PO4	Policy 1 and 2	Amend AO4.1 as follows: Extractive industry, involving blasting or crushing, is not carried out continuously within 1km of any sensitive use.	The SPP and various environmental instruments do not require a separation distance between blasting and pre-existing uses. Section 440ZB of the Environmental Protection Act 1994 sets standards for air blast and ground vibration. If blasting is less than 1km from sensitive development, it must be designed and monitored to achieve acceptable standards of ground vibration, air blast overpressure and dust. This is addressed as AO6.3 and AO6.4.	
	6.	Extractive Resources overlay code Table 8.2.8.3.1 AO4.1	Policy 1 and 2	Amend AO4.1 as follows: Development for an extractive industry use, in a KRA separation area, does not impact on sensitive or incompatible uses outside the KRA.	For consistency with principles of SPP: Mining and Extractive Resources Guideline. It may be more practical to extend a quarry into a resource within a KRA separation area, that was not included in a KRA resource/processing area when drafted, for a number of possible reasons. However, it should not impact on sensitive or incompatible uses.	

	7.	Schedule 2 Mapping	Policy 1	Consider seeking point or targeted polygon data for local resources- ERA 16 approvals apply to whole lots.	Transparency under <i>Planning Act 2016</i> , mapping adjusted to on-ground situation as per SPP. ERA 16 Crushing and screening applies to the whole of very large lots, whereas extractive industry operation will be over a small portion of lots Reducing the area that the extractive overlay code applies to would reduce assessment requirements for rural and other uses.	
	8.	9.3.11 Renewable energy facilities code 9.3.11.2 (2)	Policy 2 (b)	Amend to include: 2(e) Renewable energy facilities do not encroach on existing or approved resource extraction activities (including mining).	To adequately protect resource extraction activities (including mining) and to avoid conflict between renewable energy facilities and resource extractive activities.	
Biodiversity	9.	Strategic Framework Map	Policy 3 and 4	Council should consider develop and protect important biodiversity connections in line with the SPP Biodiversity Interest policy 3 and 4 and Mackay Isaac Whitsunday Regional Plan (Principle 3.1.1, and Policy 3.1.4 of the regional plan).	Strategic Framework mapping lacks ecological connectivity/corridor mapping	
	10.	Biodiversity, Waterways and Wetlands Code 8.2.4.3 Assessment Benchmarks Table 8.2.4.3.2 PO1	Policy 4	Council to consider developing corridor mapping to assist with achieving this outcome.	Biodiversity, waterways and wetlands overlay code includes a purpose statement and performance outcomes referring to the maintenance and enhancement of ecological connectivity and habitat extent.	
	11.	Biodiversity, Waterways and Wetlands Code 8.2.4.3 Assessment Benchmarks Table 8.2.4.3.2	Policy 4	Council should consider including an additional PO requiring site design to avoid locating infrastructure where it can sever ecological connectivity. Include measures for fauna movement whenever practicable.	Council should develop and protect important biodiversity connections in line with the SPP.	
	12.	Biodiversity, Waterways and Wetlands Code 8.2.4.3 Assessment Benchmarks Table 8.2.4.3.2	Policy 2	Council should consider amending Table 8.2.4.3.1 to ensure that the assessment benchmarks allow for protection of the Purpose and Overall Outcome 2(b) regarding the protection of MNES and MSES	Purpose and Overall Outcome 2(b) regarding the protection of MNES and MSES are not clearly translated into the assessment benchmarks	
	13.	SC1.2 Administrative terms Definition of: Area of environmental significance	Biodiversity	Consider reviewing the use of the terms “protected habitat” and “wildlife habitat” within the definition of “area of environmental significance” as there is no definition of these terms included.	Terms should be consistent throughout the planning scheme to maximise clarity and avoid confusion or terms should be defined.	
	14.	Part 8 Section 8.2.4 Biodiversity, Waterways and Wetland Overlay Code 8.2.4.3 Assessment Benchmarks Table 8.2.4.3.2 Benchmarks for assessable development	Biodiversity	Amend Table 8.2.4.3.2 with consistent terminology, specifically: 1. ‘protected vegetated areas’ – is this regulated vegetation, remnant vegetation, native vegetation, or all of these? 2. ‘wildlife habitat’ – is it fauna and flora habitat, fauna habitat, flora habitat, habitat or all of these? 3. ‘protected areas’- be clear what this is 4. ‘remnant vegetation’. This term is synonymous with regional ecosystem mapping, and the Vegetation Management Act (VMA). If it is not	Recommend the use of consistent terms throughout the planning scheme and to be consistent with terms used on relevant legislation to maximise clarity and avoid confusion. Or ensure terms are defined.	

				remnant vegetation as defined in the VMA it is recommended that it be replaced with an alternative term.		
	15.	Part 8 Section 8.2.4 Biodiversity, Waterways and Wetland Overlay Code 8.2.4.3 Assessment Benchmarks Table 8.2.4.3.3 Minimum riparian buffers and setbacks for biodiversity waterways and wetlands	Biodiversity	Amend Table 8.2.4.3.3 with consistent terminology, specifically: Biodiversity – Protected areas and wildlife habitat Define what ‘protected areas’ and ‘wildlife habitat’ means.	Recommend the use of consistent terms throughout the planning scheme to maximise clarity and avoid confusion. Or ensure terms are defined.	
Cultural Heritage	16.	Table SC 6.3.2.1	Policies 5 and 6	Amend to update cross-references	Two cross-references are out of date: <i>Burra Charter</i> – current version is 2013, not 1999 Archaeological management plan – current version is <i>Guideline: Archaeological investigations</i> , Department of Environment and Science, 2019	
	17.	SC6.3.3, SC6.3.4 & SC6.3.5	Policies 5 and 6	Amend the sections on heritage impact assessment reports, heritage management plans and archaeological management plans.	<p><u>SC6.3.3 (Heritage impact assessment report)</u> More information should be provided than required by paragraph (1)(d). For example, elevations and sections are a normal requirement and details may also be needed. For an example of a more comprehensive list of supporting documents, see page 7 of the <i>Guideline: State Development Assessment Provisions, State Code 14: Queensland Heritage</i>, https://www.qld.gov.au/data/assets/pdf_file/0020/67133/sdap-heritage-statement.pdf. Although written for state places, the guideline is also relevant for local places.</p> <p><u>SC6.3.4 (Heritage management plan)</u> Paragraph (1)(a): it is recommended that archival recording be provided “where required by Council” is more appropriate than “as necessary”.</p> <p>Paragraph (1)(b) would be more appropriately placed in section SC6.3.3 (Heritage impact assessment report).</p> <p>In paragraph (1)(c)(i) it is recommended to use the term “proposed conditions” as it is Council which will impose conditions in the approval.</p> <p><u>SC6.3.5 (Archaeological management plan)</u> There should be reference to the requirements to notify discoveries to the Department of Environment and Science, under section 89 of the Heritage Act.</p>	
Transport Infrastructure	18.	7.2.1 Airlie Beach Local Plan Code; 7.2.1.2 Purpose and overall outcomes (2)	Policy 6	Remove references purpose and overall outcomes (2) (f) and (g); and Table 7.2.1.3.1 – PO2, PO7 and PO9 in the local plan specifying that active street frontages are to be located on Waterson Way.	Waterson Way is intended to operate as a Main Street bypass. Active Street frontages should be encouraged and are more appropriate along the internal street network within precinct C.	

	(f) and (g); and Table 7.2.1.3.1: Benchmarks for assessable development PO 2, PO7 and PO9				
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Table 5: Compliance with Ministerial Conditions and requests

	No.	Policy	Condition	Context	Whitsunday Regional Council Action/Response
Ministerial Condition	1.	SPP: Biodiversity	<p>a) Amend the zoning of Part Lot 76 on SP206007 on zoning map ZM-08 from 'Industry Investigation' to 'Rural'.</p> <p>b) Amend to the zoning of Lot 54 on HR1010, Lot 69 on SP204624, Lot 68 on SP167784, Lot 70 on SP149521 and Part Lot 56 on HR1663 from 'Rural' to 'Industry Investigation' as per first round of consultation (2015).</p>		
Ministerial Condition	2.	SPP: Biodiversity	Amend the zoning of Lot 101 on SP218221 on zoning map ZM-08E from 'Low Density Residential' to the split zoning of 'Low Density Residential' and 'Environmental Management and Conservation' as reflected in Zone Map 1: Airlie Beach -Cannonvale. Inset: Shute Harbour contained in the Whitsunday Shire Planning Scheme 2009 (as amended).		
Ministerial Condition	3.	SPP: Natural hazards, risk and resilience	<p>a) Reflect the latest version of the State Planning Policy State-wide mapping for Bushfire Hazard Area (Bushfire Prone Area) in the Bushfire Hazard Overlay maps.</p> <p>b) Reflect the latest version of the State Planning Policy State-wide mapping for Coastal Hazard area -erosion prone area in the Coastal Protection Overlay: Erosion Prone Areas and Permanent Inundation maps.</p> <p>c) Reflect the latest version of the State Planning Policy State-wide mapping for Coastal Hazard area -medium and high storm tide inundation area in the Coastal Protection Overlay: Storm Tide Inundation maps.</p>		
Advice	4.		<p>a) Consider the workability concerns associated with the level of assessment tables for 'building work' over certain heights and the level of assessment tables for a 'material change of use' within the Airlie Beach Precincts A-G. The current provisions may be confusing for the community and development industry in that the primary material change of use application could be code assessable, while the subsequent building work application could be impact assessable (requiring a greater rigour of assessment).</p> <p>b) Incorporate urban design provisions for the planning scheme and in particular, for the Airlie Beach precincts.</p> <p>c) Prepare a written guideline or practice note for the community and development industry that highlights the potential for different levels of</p>	<p>Our assessment at the time of Planning Scheme adoption indicated that there was an error identified by Council prior to the planning scheme being adopted that building works applications for development over a certain height are impact assessable, while the same applications are code assessable at material change of use stage.</p> <p>Specifically, that the proposed planning scheme made certain types of building work impact assessable where exceeding a particular height in the Airlie Beach precincts. The adopted planning scheme makes those same applications code assessable at the Material Change of Use (MCU) stage.</p> <p>The submissions for the adopted planning scheme were related to concern over increased building heights</p>	

			assessment to occur for the same use and identify appropriate ways in which this might be managed (such as through a combined development application for a material change of use and preliminary approval for building works).	around Airlie Beach as well as removal of the Airlie Beach Local Plan which set the building heights and urban design criteria for the Airlie Beach town centre. At the time of adoption Council was taking steps to prepare an urban design and place making strategy for Airlie Beach, which will replace the Airlie Beach Local Plan in a future reiteration of the planning scheme. This approach was considered satisfactory and as such, it was recommended the matter be identified as a priority for council to investigate when progressing a planning scheme amendment.	
Advice	5.		Consider the findings of tourism studies and streamlining levels of assessment for tourist developments.	<p>Our assessment at the time of Planning Scheme adoption indicated that the strategic framework identified existing tourism opportunities in the region and a major tourist destination (Hamilton Island), is supported by a local plan which ensures development does not compromise the ongoing operation of tourist facilities and attractions on the island.</p> <p>A number of tourism studies were undertaken after the now adopted planning scheme drafting had significantly progressed. These documents outlined the future for tourism in the region and how this can be supported, for example by benchmark levels of assessment for tourism activities and accommodation.</p> <p>Policy 1 of this state interest required that the proposed planning scheme consider the findings of the tourism studies; this was not achieved due to the timing of the release of the study findings. At the time of adoption that council was encouraged to investigate and consider as a priority when progressing a future planning scheme amendment.</p>	
Advice	6.		Revise the Multi-unit use code to expand its application as per its intent, as articulated in the tables of assessment.	Our assessment at the time of Planning Scheme adoption indicated that some tourist accommodation required assessment against the Multi-unit Use Code, for example short-term accommodation which includes motel, backpackers and serviced apartments. However, the way in which the Multi-unit Use Code was drafted restricts its application to only multi-unit uses, which are defined as long-term households. While this does not adversely affect the state interest, it is an outstanding matter that council is encouraged to rectify as a priority when progressing a future planning scheme amendment. This was communicated to council in a letter on 10 April 2017.	
Advice	7.		Reconsider the levels of assessment in the Community Facilities zone to facilitate development surrounding a strategic airport (Whitsunday Coast Airport).	Our assessment at the time of Planning Scheme adoption indicated that the adopted planning scheme recognised the importance of existing airports	

				<p>(Whitsunday Coast Airport and Hamilton Island Airport) in the strategic framework and via the community facilities zone code, tables of assessment and the Airport Environs Overlay Code.</p> <p>Policy 2 of this state interest requires the proposed planning scheme to facilitate development surrounding a strategic airport. The strategic framework specifically mentions the development of an international airport (terminal and runway) and associated activities at Whitsunday Coast Airport, which is included in the community facilities zone.</p> <p>The levels of assessment in the community facilities zone identifies that activities such as air services, maintenance and repair of aircraft, freight and logistics depots, air charter businesses, flight training , that are associated with the airport are impact assessable in this zone. At the time of adoption, council was encouraged to investigate and consider the level of assessment for uses near the airport as a priority when progressing a future planning scheme amendment.</p>	
Advice	8.		Reconsider the self-assessable development assessment criteria to be clearer and offer more certainty.	<p>Our assessment at the time of Planning Scheme adoption considered the development assessment criteria for self-assessable uses.</p> <p>The adopted planning scheme sought to cut red tape for activities perceived as having a low risk, by making them self-assessable. However, the self-assessable provisions in the adopted planning scheme were ambiguous and lacked certainty. For example, the Home based business code included criteria that “the home based business does not produce any offensive odour emissions beyond the site boundaries.”</p> <p>Earlier versions of the adopted planning scheme included these self-assessable criteria, they are considered acceptable - but not ideal. This was therefore considered an outstanding matter that council was encouraged to remedy as a priority, through a planning scheme amendment.</p>	