

Planning Schemes - Introduction

Not all the Australian States use the term Planning Scheme. However as it is used by 3 of the States, for reasons of continuity I have chosen to use it as my title. If you live in either NSW or SA please feel free to substitute the terms used in your States.

I recently received the following email:

I am having trouble identifying how many dwellings I can get on a site.

I have an 8000m² block and I've researched all my zones, overlays and services checks. After completing this I moved into my planning scheme and identify that my build area is 40% for this type of development. Giving me 3200m² build area. From here is where it gets a bit shady.

How many dwellings I can get on a site is a question I am frequently asked. I have written 2 articles which will assist you in demystifying planning schemes. By the end of the articles you will have a greater understanding of how to navigate your way around a planning scheme.

The aim of this article is twofold:

1. To understand why we have planning schemes
2. To understand the differences of planning legislation between the 5 Australian mainland States.

The importance of town planning

Modern town planning originated in Britain in the 19th century following a number of urban reformers expressing concern about the health and environmental conditions developing in towns and cities following the Industrial Revolution. Today, many people and government agencies interact in the planning process to ensure that our towns, cities and regions grow in a sustainable way. Planning controls are required to meet the different needs of people living and working together. Town planning coordinates land use and development by balancing economic, social and environment issues. Planning policies, schemes and other statutory processes guide decisions that shape and focus on a satisfactory quality of life for people living in communities. There are two key components of town planning:



Strategic planning focuses on the big picture or long-term and regional planning throughout each individual state. It integrates a wide range of economic, social, environmental and infrastructure issues.

Statutory planning is the legal and approval arm of planning. Legislation and regulations ensure appropriate land use and development controls exist to effectively manage the process of land use, land supply and urban development.

Every block has a zoning classification. The zoning classification is determined by both the relevant State Government and the relevant Local Council. Each zone has consistent and non consistent uses. A consistent use is a use / activity that Council will support if the design solutions are consistent with the intent of the zone's

specified performance solutions. A non consistent use is a use / activity that Council will generally will not support.

In New South Wales a zone is described as:

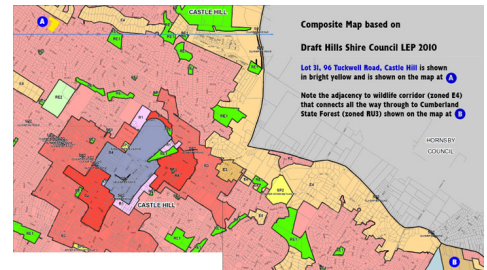
For each zone, the Standard Instrument (SI) sets out 'core' objectives for development, and certain mandated permitted or prohibited land uses.

*An **open zone** is one where a broad variety of land use can be considered allowing greater flexibility and minimizing the need to undertake 'spot re-zonings'.*

*A **closed zone** is one where the diversity of land uses is more restrictive, meaning development types are chosen primarily from only one or two key 'group' terms.*

In Queensland a zone is described as:

'Zone' is a common term given to the broad land use allocations in the planning scheme. For example: residential, business or recreation zones. The term 'overlay' is often used for identified special attributes of land that are sensitive to the effects of development or may constrain development due to an environmental hazard or the value of a resource.



In South Australia a zone provision is described as:

Providing a detailed policy applying to each zone within the Development Plan. They provide a framework for development envisaged within a particular geographic area and provide specific policies for assessing development within that zone. Zone provisions generally list kinds of development that are 'complying' within the zone (either outright or subject to specific conditions) and those developments which are 'non-complying' within that zone.

In Victoria a zone is described as:

A zone is a planning provision. A zone reflects the primary character of the land (such as residential, industrial or rural) and indicates the type of use and development which may be appropriate in that zone. Each separate holding of land has 1 zone only.

In Western Australia a zone is described as:

The classification of land in local planning schemes for use and development, excluding land in reserves. A zone table sets out the permissibility of, and uses and classes of, land uses in particular zones in the scheme area.

Each State in Australia has its own Strategic and Statutory planning process. In the information that follows I have tried to highlight how each of the States goes about their Strategic and Statutory planning process. You will note each State use different terminology to describe their individual Statutory planning process.

New South Wales

New South Wales have what they call Environmental Planning Instruments. Planning NSW describe Environmental Planning Instruments as legal documents that regulate land use and development. There are two Environmental Planning Instruments:

State Environmental Planning Policies (SEPPs)

State environmental planning policies (SEPPs) deal with issues significant to the state and people of New South Wales. They are made by the Minister for Planning and may be exhibited in draft form for public comment before being gazetted as a legal document.

Local environmental plans (LEP)

Local environmental plans guide planning decisions for local government areas. Through zoning and development controls, they allow councils to supervise the ways in which land is used. Development control plans, prepared in accordance with the Environmental Planning and Assessment Act, are also used to help achieve the objectives of the local plan by providing specific, comprehensive requirements for certain types of development or locations, e.g. for urban design, and heritage precincts and properties.

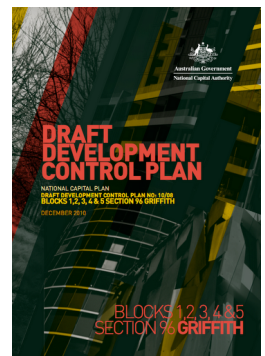
LEPs are the primary planning tool to shape the future of communities and also oversee the estimated \$20 billion worth of local development that is determined each year.

Development Control Plans

Local councils currently prepare development control plans for their area. These contain more detailed development provisions than are found in a LEP and are considered by Councils when making decisions about development.

If you want to read more about SEPPs LEPs, DCPs go to the following website

<http://www.planning.nsw.gov.au/>



Queensland

Queensland has Planning Schemes. The Queensland Department of Local Government and Planning note that Planning Schemes:

- Are prepared by local governments to manage growth and change in their local government area. Outlines the desired outcomes sought for the local government area as a whole and for particular localities
- Must coordinate and integrate the matters they deal with, and also the state and regional dimensions of those matters expressed through regional plans and state planning policies.
- Allocate land for different uses, including residential growth areas, having regard to a range of considerations
- Coordinate and integrate infrastructure and land use planning, and indicates the location of existing and proposed community infrastructure
- Identify areas or places that constrain the use of land due to their environmental value, resource value or their adverse effects on development
- Identify the kind of development that requires approval (assessable development) or that can be carried out without approval if certain requirements are met (self-assessable development)
- Specify the development standards or criteria for assessing the suitability of a development proposal.



Maps

Identify broad land use allocations, areas with special attributes, and major infrastructure. Planning schemes are also intended to include plans for growth and infrastructure provision.

The following website takes you to all the individual planning schemes in Queensland.

<http://www.dlgp.qld.gov.au/local-area-planning/local-government-planning-schemes.html>

South Australia

South Australia has Development Plans. Planning South Australia notes the following:

Development Plans outline what sort of land use is and is not envisaged for particular zones within each Plan area (e.g. residential, commercial, industrial, rural), and various objectives, principles and policies further controlling and affecting the design and other aspects of proposed developments. These policies can cover a range of social, environmental and economic matters.

Development Plans can also spell out the 'desired character' for different parts of the area they cover.

In summary, Development Plans:

- inform the community about how an area is expected to be developed
- inform neighbours as to the kinds of development they can expect in their neighbourhood
- inform applicants as to the type of development that is encouraged / consistent (and not encouraged / non consistent) in an area, and therefore the type of information that may be required in a development application
- provide the basis against which development assessment decisions are made (the zones, maps and policies provide the detailed criteria against which development applications for the relevant area are assessed), and
- provide the basis upon which any appeal decisions are made.

If you want to read more about Development Plans go to the following website.

<http://www.planning.sa.gov.au/>

The following website takes you to all the individual planning schemes in South Australia.

<http://www.planning.sa.gov.au/index.cfm?objectid=9509485C-96B8-CC2B-62B3B09016719A50>

Victoria

Like Queensland, Victoria has Planning schemes. The Victorian Department of Community Development note the following:

For most land in Victoria, if someone is undertaking a development or changing the way they use the land, they will be required to consider and meet the conditions contained in their local 'planning scheme'.

A planning scheme contains the rules and provisions that must be followed for the use of land in a particular area. The Victorian Planning Provisions (VPP's) contain planning provisions which are used by the responsible authority to construct local planning schemes.

Every Municipality (or local government area) in Victoria has a planning scheme. Planning schemes are legal documents that contain policies and requirements in relation to the usage, development and protection of land. Planning schemes usually also include maps, plans and other documents. All planning schemes contain provisions that are State standard provisions, and also local provisions.

Every planning scheme in Victoria includes the following:

- A State Planning Policy Framework ('SPPF')
- A Local Planning Policy Framework ('LPPF') including the Municipal Strategic Statement ('MSS') and Local Planning Policies
- Maps which display which zones and overlays have been selected for an area
- Particular provisions
- General provisions
- Definitions
- Incorporated documents
- List of amendments

Except for the Local Planning Policy Framework ('LPPF') and any incorporated documents, the above documents are all drawn from the Victorian Planning Provisions (VPP). Most of the VPP is reproduced in every planning scheme. Additional provisions or any that differ from those in the VPP, are not permitted. The only areas of flexibility for planning schemes are:

- the content of the A Local Planning Policy Framework ('LPPF') sections;
- which zones and overlays are chosen by the Local Council and where they are placed;
- local provisions specified by the VPP within 'Schedules' to some zones and overlays;
- additional documents that are 'incorporated' into the planning scheme, such as Codes of Practice or Municipal Conservation or Roadside Strategies, which must be considered in decision-making.

The following website takes you to all the individual planning schemes in Victoria:

www.dse.vic.gov.au/planningschemes.

Western Australia

Western Australia has Local Planning Schemes. Planning WA notes the following:

Local Planning Schemes contain a set of provisions that identify the way land in the scheme area is to be used and developed. It may comprise a scheme map(s), a text and usually an explanatory report.

In Western Australia the Western Australian Planning Commission is the custodian of the planning system. It provides advice to the Minister and is the responsible authority for land use planning and development matters. This includes determining all subdivision applications; administering regional planning schemes like the Metropolitan Region Scheme (MRS); as well as recommendations to the Minister on local planning schemes.

Local governments are responsible for planning their local communities by ensuring appropriate planning controls exist for land use and development. They do this by preparing and administering their local planning schemes and strategies. In the Perth region and in areas subject to regional planning schemes, local governments are required to ensure their local planning schemes and policies are consistent with state and regional planning objectives and requirements. Essentially, local governments are responsible for establishing planning controls like appropriate land uses and residential densities. Local governments must base their planning decisions on the provisions and controls in their local planning scheme(s), which must be reviewed every five years. This gives the community an opportunity to comment on how a district or locality will be developed, and allows the WAPC and the Minister of the day the opportunity to maintain an overview. As a result of a scheme examination, a new scheme may be prepared or a consolidated scheme may be declared. The Minister may exempt a local government from the requirement to prepare or consolidate a local planning scheme. The WAPC has delegated to local government the power to determine some development applications under the MRS. Local governments are invited by the WAPC to comment on subdivision proposals and planning policies that guide decisions on subdivision or development matters.

The State Planning Strategy provides a vision for the future of Western Australia, as developed from a long consultative process. A state planning policy must receive approval of the Minister for Planning and Infrastructure and the Governor and be published in the Government Gazette. Examples include state policies for coastal planning; rural land use planning; and residential design codes (R-Codes).

The WAPC also prepares less formal policies, for example development control policies. These cover topics including the subdivision of land, development control, public open space, rural land use planning and residential road planning.

Region planning schemes outline objectives for state and regional development and provide a statutory mechanism to assist strategic planning, coordinate the provision of major infrastructure and set aside areas for regional open space and other community purposes. A region planning scheme usually covers more than one local government area. The content of the scheme may vary for each region, but they generally set out broad land use zones or policy areas and identify land required for regional purposes. In areas not covered by a region planning scheme, the classification of scheme reserves and zones is generally made through local planning schemes.

Local planning schemes

Local governments are responsible for the preparation and administration of local planning schemes. Local governments may have more than one local planning scheme.

Local planning schemes

- set out the way land is to be used and developed
- classify areas for land use and include provisions to coordinate infrastructure and development in a locality
- include controls to ensure long-term strategic planning objectives are achieved
- usually comprise a scheme text, scheme map and is accompanied by a scheme report. The scheme text sets out the scheme structure and provides details of the planning provisions
- usually includes a zoning or land use-class table which outlines classes of uses permitted or allowable in different areas under a scheme
- usually includes a schedule of definitions which define terms incorporated into the scheme
- The scheme map shows the reserves and zones that apply to land. It must be produced in colour and be of a suitable size and scale to allow individual properties to be identified. The scheme report explains why the local government adopted the reserves, zones and development control provisions.

The following website takes you to all the individual planning schemes in Western Australia.

<http://www.planning.wa.gov.au/The+planning+system/Region+schemes/Local+planning+schemes/default.aspx>

You now should have a greater understanding of:

- why we have planning schemes and where they are used
- the differences of planning legislation between the 5 Australian mainland States