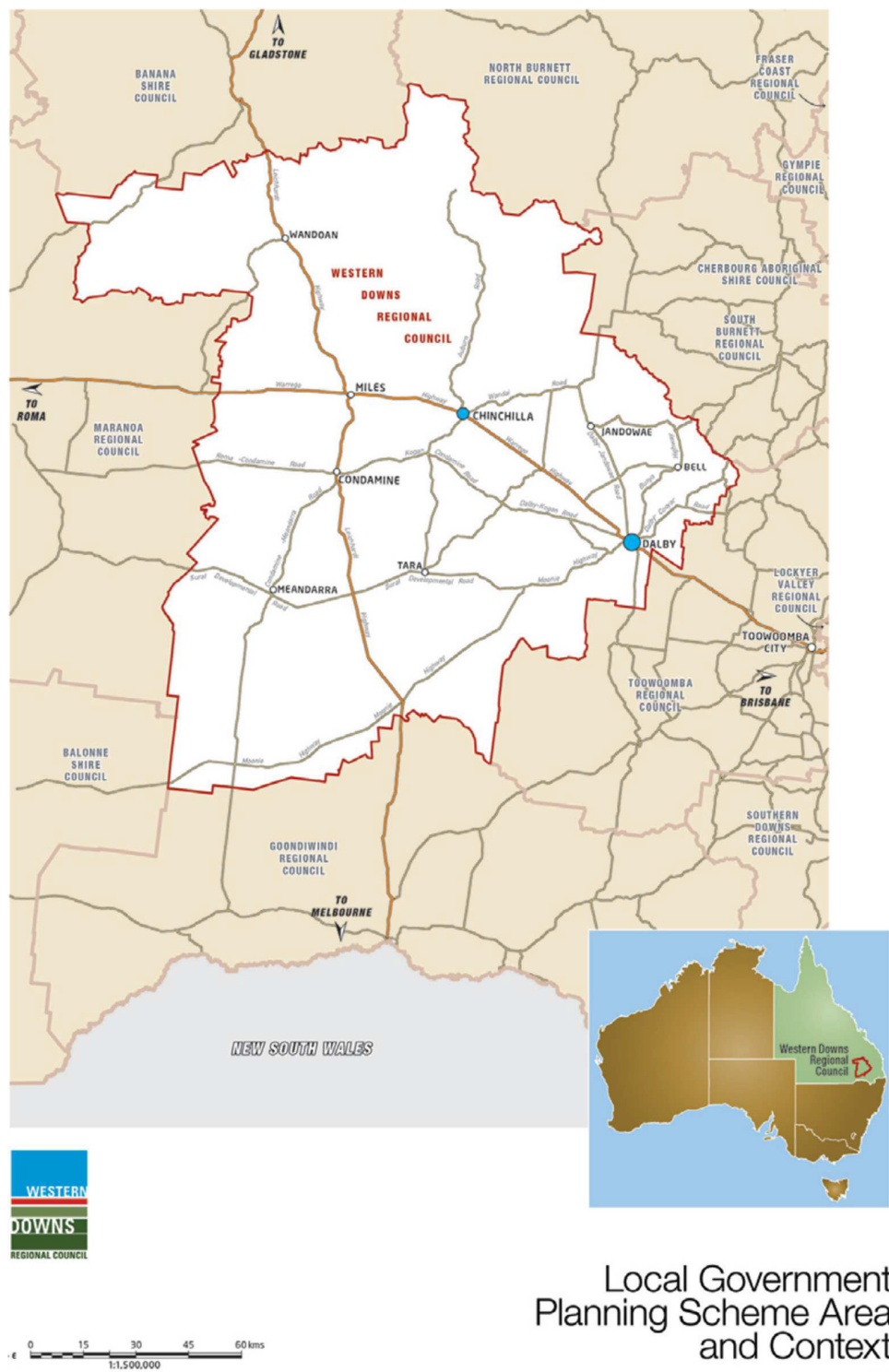


Part 1 About the planning scheme

1.1 Introduction

- (1) The Western Downs Planning Scheme (planning scheme) has been prepared in accordance with the *Planning Act 2016* as a framework for managing development in a way that advances the purpose of the *Planning Act 2016*.
- (2) In seeking to achieve this purpose, the planning scheme sets out Western Downs Regional Council's intention for the future development in the planning scheme area, over the next 15 years.
- (3) The planning scheme seeks to advance state and regional policies through more detailed local responses, taking into account the local context.
- (4) While the planning scheme has been prepared with a 15-year horizon, it will be reviewed periodically in accordance with the Act to ensure that it responds appropriately to the changes of the community at a local, regional and state level.
- (5) The planning scheme applies to the planning scheme area of the Western Downs Regional Council including all premises, roads, internal waterways and interrelates with the surrounding local government areas illustrated in Map 1.

Figure 1.1—Local government planning scheme area and context



1.2 Planning scheme components

- (1) The planning scheme comprises the following components:
- (a) about the planning scheme;
 - (b) state planning provisions;
 - (c) the strategic plan;
 - (d) the local government infrastructure plan;
 - (e) categories of development and assessment tables;
 - (f) the following zones:
 - Centre zones**
 - (i) Major centre zone;
 - (ii) District centre zone;
 - (iii) Local centre zone;
 - (iv) Township zone;
 - Industry zones**
 - (v) Low impact industry zone;
 - (vi) Medium impact industry zone;
 - (vii) High impact industry zone;
 - Residential zones**
 - (viii) Low density residential zone;
 - (ix) Medium density residential zone;
 - Rural zones**
 - (x) Rural zone;
 - (xi) Rural residential zone;
 - (A) Rural residential 4000 precinct;
 - (B) Rural residential 8000 precinct;
 - (C) Rural residential 20000 precinct;
 - Other zones**
 - (xii) Community facilities zone;
 - (xiii) Recreation and open space zone;
 - (g) Western Downs health precinct local plan;
 - (h) the following overlays:
 - (i) OM-001 Airport environs overlay;
 - (ii) OM-002 Biodiversity areas overlay;
 - (iii) OM-003 Bushfire hazard overlay;
 - (iv) OM-004 Flood hazard overlay;
 - (v) OM-005 Heritage overlay;
 - (vi) OM-006 Infrastructure overlay;
 - (vii) OM-007 Extractive resources overlay;
 - (viii) OM-008 Agricultural Land overlay;
 - (ix) OM-009 Water resource catchment;
 - (x) OM-010 Regional infrastructure corridor – stock route overlay;
 - (xi) OM-011 Scenic amenity overlay;
 - (xii) OM-012 Stormwater overland flow path overlay;
 - (xiii) OM-013 Waterway corridors overlay;
 - (xiv) OM-014 Wetlands overlay;
 - (xv) OM-015 Road hierarchy overlay;
 - (xvi) OM-016 Noise corridor overlay;
 - (i) the following use codes:
 - (i) Accommodation activities code
 - (ii) Battery storage facility code
 - (iii) Extractive industry code
 - (iv) Home-based business code
 - (v) Rural activities code
 - (vi) Telecommunications facility code

- (j) the following development codes:
 - (i) Advertising devices code
 - (ii) Infrastructure services code
 - (iii) Operational work code
 - (iv) Reconfiguring a lot code
 - (v) Transport, access and parking code.
 - (k) schedules and appendices.
- (2) The following planning scheme policies support the planning scheme:
- (a) Planning Scheme Policy 1 – Design and Construction Standards
 - (b) Planning Scheme Policy 2 – Ecological Assessment Guidelines
 - (c) Planning Scheme Policy 3 – Landscape Character Analysis
 - (d) Planning Scheme Policy 4 – Heritage Place Cards
 - (e) Planning Scheme Policy 5 - Additional Information that Council may request as part of the Development application process

1.3 Interpretation

1.3.1 Definitions

- (1) A term used in the planning scheme has the meaning assigned to that term by one of the following:
 - (a) the *Planning Act 2016* (the Act)
 - (b) the *Planning Regulation 2017* (the regulation)
 - (c) the definitions in Schedule 1 of the planning scheme
 - (d) the *Acts Interpretation Act 1954*
 - (e) the ordinary meaning where that term is not defined in any of the above.
- (2) In the event a term has been assigned a meaning in more than one of the instruments listed in sub-section 1.3.1(1), the meaning contained in the instrument highest on the list will prevail.
- (3) A reference in the planning scheme to any act includes any regulation or instrument made under it, and where amended or replaced, if the context permits, means the amended or replaced act.
- (4) A reference in the planning scheme to a specific resource document or standard means the latest version of the resource document or standard.
- (5) A reference to a part, section, table or schedule is a reference to a part, section, table or schedule of the planning scheme.

1.3.2 Standard drawings, maps, notes, editor's notes and footnotes

- (1) Standard drawings contained in codes or schedules are part of the planning scheme.
- (2) Maps provide information to support the outcomes and are part of the planning scheme.
- (3) Notes are identified by the title 'note' and are part of the planning scheme.
- (4) Editor's notes and footnotes are extrinsic material, as per the *Acts Interpretation Act 1954* and are identified by the title 'editor's note' and 'footnote' and are provided to assist in the interpretation of the planning scheme; they do not have the force of law.

Note—this is an example of a note.

Editor's note—this is an example of an editor's note.

Footnote¹—this is an example of a footnote.

1.3.3 Punctuation

- (1) A word followed by ';' or ', and' is considered to be 'and'
- (2) A word followed by '; or' means either or both options can apply.

1.3.4 Zones for roads, waterways and reclaimed land

- (1) The following applies to a road, closed road, waterway or reclaimed land in the planning scheme area:
 - (a) if adjoined on both sides by land in the same zone—the road, closed road, waterway or reclaimed land is in the same zone as the adjoining land
 - (b) ¹if adjoined on one side by land in a zone and adjoined on the other side by land in another zone—the road, closed road, waterway or reclaimed land is in the same zone as the adjoining land when measured from a point equidistant from the adjoining boundaries
 - (c) if the road, closed road, waterway or reclaimed land is adjoined on one side only by land in a zone—the entire waterway or reclaimed land is in the same zone as the adjoining land
 - (d) if the road, closed road, waterway or reclaimed land is covered by a zone then that zone applies.

¹ Footnote—this is an example of a footnote.

Editor's note—the boundaries of the local government area are described by the maps referred to in the Local Government Regulation 2012.

1.4 Categories of development

- (1) The categories of development under the Act are:
- (a) accepted development

Editor's note—a development approval is not required for accepted development. Under section 44(6)(a) of the Act, if a categorising instrument does not apply a category of development to a particular development, the development is accepted development. Schedule 7 of the regulation also prescribes accepted development.

- (b) assessable development
 - (i) code assessment
 - (ii) impact assessment

Editor's note—a development approval is required for assessable development. Schedules 9, 10 and 12 of the Regulation also prescribe assessable development.

- (c) prohibited development.

Editor's note—a development application may not be made for prohibited development. Schedule 10 of the Regulation prescribes prohibited development.

- (2) The planning scheme states the category of development for certain types of development, and specifies the category of assessment for assessable development in the planning scheme area in Part 5.

Editor's note—Section 43 of the Act identifies that a categorising instrument categories development and specifies categories of assessment and may be regulation or local categorising instrument. A local categorising instrument includes a planning scheme, a TLPI or a variation approval.

1.5 Hierarchy of assessment benchmarks

- (1) Where there is inconsistency between provisions in the planning scheme, the following rules apply:
- (a) the strategic plan prevails over all other components to the extent of the inconsistency for impact assessment
 - (b) relevant codes as specified in schedules 6 and 10 of the regulation
 - (c) overlays prevail over all other components other than the matters mentioned in and (b) to the extent of the inconsistency
 - (d) local plan codes prevail over zone codes, use codes and other development codes to the extent of the inconsistency
 - (e) zone codes prevail over use codes and other development codes to the extent of the inconsistency.
 - (f) provisions of Parts 10 may override any of the above.

1.6 Building work regulated under the planning scheme

- (1) Section 17(b) of the regulation identifies the assessment benchmarks for building work that a local planning instrument must not change the effect of to the extent the building work is regulated under the building assessment provisions, unless permitted under the *Building Act 1975*.
- (2) The building assessment provisions are listed in section 30 of the *Building Act 1975*.

Editor's note—the building assessment provisions are stated in section 30 of the *Building Act 1975* and are assessment benchmarks for the carrying out of building assessment work or building work that is accepted development subject to any requirements (see also section 31 of the *Building Act 1975*).

- (3) This planning scheme, through Part 5, regulates building work in accordance with sections 32 and 33 of the *Building Act 1975*.

Editor's note—The *Building Act 1975* permits planning schemes to:

- regulate, for the Building Code of Australia (BCA) or the Queensland Development Code (QDC), matters prescribed under a regulation under the *Building Act 1975* (section 32). These include variations to provisions contained in parts MP1.1, MP 1.2 and MP 1.3 of the QDC such as heights of buildings related to obstruction and overshadowing, siting and design of buildings to provide visual privacy and adequate sight lines, on-site parking and outdoor living spaces. It may also regulate other matters, such as designating land liable to flooding, designating land as bushfire prone areas and transport noise corridors
- deal with an aspect of, or matter related or incidental to building work prescribed under a regulation under section 32 of the *Building Act 1975*
- specify alternative boundary clearances and site cover provisions for Class 1 and 10 structures under section 33 of the *Building Act 1975*.

Refer to Schedule 9 of the regulation to determine assessable development, the type of assessment and any referrals applying to the building work.

- (4) The building assessment provisions are contained in the following parts of this planning scheme:

Table 1.6.1—Building Act provision variations

Building Assessment Provision	Planning Scheme Part
Alternative boundary clearances	Section 6 - Zones
Alternative site cover provisions	Section 6 - Zones
Alternative building and structure heights	Section 6 - Zones
Floor level heights of habitable rooms on land subject to flooding	Section 8.2.4 – Flood hazard overlay code

Editor's note—a decision in relation to building work that is assessable development under the planning scheme can only be issued as a preliminary approval. See section 83(b) of the *Building Act 1975*.

Editor's note—in a development application the applicant may request preliminary approval for building work. The decision on that development application can also be taken to be a referral agency's response under section 56 of the Act, for building work assessable against the *Building Act 1975*. The decision notice must state this.

1.7 Local government administrative matters

1.7.1 Assessable development - Code assessable - Fast tracked

- (1) Assessable development - Code assessable - Fast tracked allows for a development application to be decided within 10 business days, if the development application is compliant with all relevant assessment benchmarks. Should the development application not comply with all relevant assessment benchmarks the application is considered to be Assessable development - Code assessable.

1.7.2 Special industry considerations

- (1) It is acknowledged that parts of the strategic plan suggest that special industry land uses (which include, but are not limited to the manufacturing and storage of explosives) are encouraged to occur within the identified Special Industrial Areas. These statements should not limit the use of other Rural land for Special Industry land uses as more appropriate locations with the LGA may exist to accommodate the manufacturing and storage of explosives. The Special Industrial Area (Kogan East) show on **Strategic Plan Settlement Pattern Map 1.3** would not be supported for uses involving manufacturing and storage of explosives due to the adjacent Urban Areas zoning.

1.7.3 Temporary use limitations

The following table describes the limitations on *Temporary uses* in accordance with **SC1.2 Administrative definitions**.

Table 1.7.1—Temporary use limitations

Column 1 Defined use	Column 2 Limitations on the scope of the activity	Column 3 Maximum period of the activity
<i>Car wash</i>	If— (a) limited to a manual car wash; and (b) located in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and Open space and recreation zone, or Township zone.	1 day per week.
<i>Community use</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone or Township zone.	1 day per week.
<i>Educational establishment</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone or Township zone.	1 day per week.
<i>Food and drink outlet</i>	If— (a) limited to a light refreshment booth; and located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone or Township zone; or (b) in conjunction Childcare centre, Community use, Educational establishment, Place of worship; or (c) Indoor sport and recreation, Major sport, recreation and entertainment facility and Outdoor sport and recreation use; or (d) Hardware and trade supplies use that has a gross floor area in excess of 1,000m ² .	1 day per week.
<i>Garden centre</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone or Township zone.	12 days per calendar year.

Column 1 Defined use	Column 2 Limitations on the scope of the activity	Column 3 Maximum period of the activity
<i>Indoor sport and recreation</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone Township zone.	14 days per calendar year.
<i>Major sport, recreation and entertainment facility</i>	If— (a) located on premises in the Community facilities zone, Recreation and open space zone or Township zone; and (b) on land owned by Council or land where Council is trustee and Council consent has been provided.	14 days per calendar year.
<i>Market</i>	If— (a) located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone, Specialist centre zone or Township zone; and (b) on land owned by Council or land where Council is trustee and Council consent has been provided.	1 day per week.
<i>Nature-based tourism</i>	If located on premises in the Recreation and open space zone or Rural zone.	14 days per calendar year.
<i>Outdoor sales</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone or Township zone.	12 days per calendar year.
<i>Outdoor sport and recreation</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone or Township zone.	1 day per week.
<i>Parking station</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone or Township zone.	14 days per calendar year.
<i>Place of worship</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone Major centre zone, Recreation and open space zone or Township zone.	14 days per calendar year.
<i>Rural workers' accommodation</i>	If located on premises in the Rural zone.	21 days per calendar year
<i>Tourist attraction</i>	If— (a) located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and Open space zone or Township zone; and (b) on land owned by Council or land where Council is trustee and Council consent has been provided.	14 days per calendar year.
<i>Wholesale nursery</i>	If located on premises in the Community facilities zone, District centre zone, Local centre zone, Major centre zone, Recreation and open space zone or Township zone.	14 days per calendar year.

1.7.4 Aboriginal cultural heritage duty of care

- (1) The *Aboriginal Cultural Heritage Act 2003* applies separately from the Planning Act and this planning scheme. The *Aboriginal Cultural Heritage Act 2003* requires a person who carries out an activity to take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage. This is referred to as the cultural heritage duty of care. Development (regardless of whether accepted or assessable) may constitute an activity for the purposes of the *Aboriginal Cultural Heritage Act 2003*.
- (2) A cultural heritage database and cultural heritage register have been established under the *Aboriginal Cultural Heritage Act 2003*. Details of Aboriginal parties and Aboriginal cultural heritage information may be obtained from the Queensland Government department responsible for the administration of the *Aboriginal Cultural Heritage Act 2003*.

1.7.5 Mining tenements

- (1) The *Planning Act 2016* does not apply to development in mining tenements authorised under the *Mineral Resources Act 1989*, other than for development on a Queensland heritage place and building work under the *Building Act 1975*.
- (2) Details of the mining tenements may be obtained from the chief executive of the Queensland Government department responsible for the administration of the *Mineral Resources Act 1989*.

Editor's note—refer to OPSM-001 and OPSM-002 mapping in Schedule 2 for mining tenements within the Western Downs Region as at the date of the mapping. The Queensland Government maintains and publishes online interactive mapping of mining and exploration data at <https://georesglobe.information.qld.gov.au/>.