

# 5 Preliminary draft port overlay content – PMMs

## 5.1 Overview

Section 3 of the preliminary draft port overlay includes content that addresses operational matters for the master planned area, which do not apply to either the development assessment or plan making processes.

These operational matters are addressed through nine PMMs for the master planned area. Section 3 contains the specific provisions detailing how each PMM is to be achieved, including:

- purpose
- the minimum PMM preparation and implementation requirements:
  - technical requirements
  - relevant timeframes associated with implementing the PMM
  - the responsible entity or entities for the PMM
  - any advisory entities (including but not limited to) that the responsible entity or entities should consult with for implementing the PMM.

## 5.2 Implementation

The responsible entity or entities for each PMM is required to implement that PMM in accordance with the relevant provisions (for that PMM) under Section 3 of the preliminary draft port overlay to support implementation of the master plan's strategic vision, objectives, desired outcomes and state interests for the master planned area.

# 6 Preliminary draft port overlay content - development assessment

## 6.1 Overview

Section 4 of the preliminary draft port overlay contains the development assessment provisions, including assessment benchmarks required to implement the master plan in accordance with Section 21 of the Ports Act.

These provisions apply to development assessment processes under the:

- GRC Planning Scheme
- GPC Port LUP
- other matters that are assessable under the Planning Regulation, when GRC and GPC are not the assessment manager.

### 6.1.1 Provision types

Within Section 4, the preliminary draft port overlay contains the following types of development assessment provisions:

- categories of assessment – stating whether a particular type of development is exempt, accepted (self-assessable), code or impact assessable
- assessment benchmarks – which include statements of land use intent for applicable precincts and development codes
- supporting mapping.

### 6.1.2 Development assessment requirements

Section 4 of the preliminary draft port overlay presents the development assessment provisions in the following structure:

- the categories of assessment and applicable assessment benchmarks under the GRC Planning Scheme (**Section 4.2.1**)
- the categories of assessment and applicable assessment benchmarks under the GPC Port LUP (**Section 4.2.2**)
- the assessment benchmarks for other development assessment processes (**Section 4.3**)
- assessment benchmarks (**Section 4.4**).

### 6.1.3 Requirement to consider the port overlay

In relation to development assessment under the Planning Act, the Ports Act gives effect to the port overlay as a statutory instrument, requiring an assessment manager to:

- consider the content of the port overlay when assessing a development application; and
- ensure that any decision made by an assessment manager under the Planning Act, is not inconsistent with the port overlay.

The sections below provide a discussion of the development assessment provisions of the preliminary draft port overlay under each of the GRC Planning Scheme, GPC Port LUP and Planning Regulation, together with further detail regarding the assessment benchmarks, and in particular the development assessment codes.

## 6.2 GRC Planning Scheme

### 6.2.1 Background

The GRC Planning Scheme is the local planning instrument that applies to all land and tidal areas under the jurisdiction of GRC within the master planned area. This excludes development on land within the Gladstone SDA (other than for operational works), SPL and tidal areas under the jurisdiction of GPC.

### 6.2.2 Drafting methodology

Table 4.1 within the preliminary draft port overlay identifies the development assessment provisions within the port overlay that apply to the GRC Planning Scheme.

To support interpretation of these provisions, Table 4.1 adopts the same format as the GRC Planning Scheme assessment tables, and refers to the same terms as defined and referred to in the GRC Planning Scheme.

In preparing Table 4.1 (categories of assessment – GRC Planning Scheme), consideration was given to:

- the land use intent for each of the planning scheme zones that are within the boundary of the master planned area
- the categories of assessment for each planning scheme zone, including the provisions of the relevant zone code/s
- any applicable overlays and/or development codes (and associated categories of assessment changes) that apply to a particular area or respond to a particular issue or constraint.

In each instance, consideration of these provisions sought to identify and address:

- inconsistencies between the development intent of a particular zone under the GRC Planning Scheme and the purpose and development intent of each draft precinct of the master planned area as prescribed by the master plan
- gaps or inconsistencies in existing categories of assessment and assessment benchmarks required to achieve the strategic vision, desired outcomes, objectives, state interests and EMF of the master plan
- gaps or inconsistencies in how particular evidence base issues are addressed (e.g. through development assessment or overlay codes).

### 6.2.3 Drafting justification

The categories of assessment presented in Table 4.1 of the preliminary draft port overlay reflect an approach which has sought to avoid changes to the categories of assessment as much as possible, with changes only occurring in relation to (in certain instances):

- allowing accepted development (self-assessable) to remain accepted development if complying with the prescribed preliminary draft port overlay assessment benchmark
- requiring exempt development to be accepted development (self-assessable) to capture a preliminary draft port overlay assessment benchmark
- requiring impact assessment only where there is an over-riding need to limit development within an environmental management precinct area of the master planned area.

In general, the drafting approach for Table 4.1 has involved reviewing the current provisions for each existing GRC Planning Scheme zone and identifying those land uses (as already defined under the GRC Planning Scheme) which are either consistent or inconsistent with the objectives of the relevant master plan precinct, and proposing further development control through the levels of assessment and assessment benchmarks. These provisions have been necessary in order to address existing gaps in development assessment to ensure that the master plan strategic vision, objectives, desired outcomes, state interests and EMF can be achieved.

It is the intent of Table 4.1 that where no change to the assessment level is proposed by the preliminary draft port overlay, that the level of assessment level is as per what is prescribed by the GRC Planning Scheme. In taking this approach, the preliminary draft port overlay supports addressing existing gaps without duplicating the existing GRC Planning Scheme.

## 6.3 GPC Port LUP

### 6.3.1 Background

The GPC Port LUP applies to all SPL and SPL tidal areas under the jurisdiction of GPC within the master planned area.

### 6.3.2 Drafting methodology

Table 4.2 within the preliminary draft port overlay identifies the development assessment provisions within the port overlay that apply to the GPC Port LUP.

In preparing Table 4.2 (categories of assessment – GPC Port LUP), consideration was given to:

- the land use intent for each of the localities and precincts that are within the boundary of the master planned area
- the categories of assessment for each type of development, including the relevant development codes that apply to development within each precinct.

In each instance, consideration of these provisions sought to identify and address:

- inconsistencies between the development intent of a particular precinct under the GPC Port LUP and the purpose and development intent of each draft precinct of the master planned area as prescribed by the master plan
- gaps or inconsistencies in existing assessment benchmarks (land use intent and development codes) to achieve the strategic vision, objectives, desired outcomes, state interests and EMF of the master plan
- gaps or inconsistencies in how evidence base issues are addressed (e.g. primarily through the development codes).

### 6.3.3 Drafting justification

The categories of assessment presented in Table 4.2 of the preliminary draft port overlay reflect an approach which has:

- resulted in no changes to the current categories of assessment under the GPC Port LUP.
- incorporated relevant code provisions from the GPC Development Code (February 2012 Version 1) which relate to the management of potential impacts from port industry activities and port development on surrounding sensitive land uses into the residential and port industry interface code. The incorporating of these existing code provisions has been necessary given GPC's Development Code is non-statutory, and therefore their inclusion in the preliminary draft port overlay seeks to give these provisions statutory effect through the preliminary draft port overlay.
- introduced new assessment benchmarks (development codes) for particular types of development.

These provisions have been necessary in order to address existing gaps in development assessment to ensure that the master plan strategic vision, objectives, desired outcomes, state interests and EMF can be achieved.

## 6.4 Other development assessment processes

### 6.4.1 Background

The Planning Regulation prescribes certain types of development that are not triggered by a local planning instrument or port LUP to be assessable development.

### 6.4.2 Drafting methodology

Table 4.3 within the preliminary draft port overlay identifies the relevant development assessment processes that apply to the master planned area, that are not triggered through assessment under either the GRC Planning Scheme or GPC Port LUP.

In preparing Table 4.3 (applicable assessment benchmarks for assessable development under the Planning Regulation), consideration was given to:

- types of assessable development which have the potential to occur with the master planned area but are not likely to be captured under any preliminary draft port overlay content applicable to the GRC Planning Scheme or GPC Port LUP.
- the assessment benchmarks that apply under the Planning Regulation, including:
  - State Development Assessment Provisions (SDAP) and associated mapping
  - the Integrated Development Assessment System (IDAS) code for development applications for prescribed tidal work.

In each instance, consideration of these provisions sought to identify gaps or inconsistencies in how particular evidence base issues are addressed (e.g. tidal works, disturbance of marine plants).

### 6.4.3 Drafting justification

The assessment benchmarks presented in Table 4.3 for particular assessable development under the Planning Regulation reflect an approach which has:

- sought to not change the existing categories of assessment under the Planning Regulation
- introduced new assessment benchmarks (development codes) to particular types of development.

These provisions have been necessary in order to address existing gaps in development assessment to ensure that the master plan strategic vision, objectives, desired outcomes, state interests and EMF can be achieved.

## 6.5 Assessment benchmarks

### 6.5.1 Overview

Section 4.4 of the preliminary draft port overlay includes the detail of each of the assessment benchmarks developed in order to address the key issues identified through the evidence base, and ensuring that the master plan strategic vision, objectives, desired outcomes, state interests and EMF can be achieved.

The assessment benchmarks for the preliminary draft port overlay are:

- the purpose and development intent of the applicable precinct within the master planned area as shown on the master plan precinct map within Schedule 1 and detailed in Section 1.2.2 of the preliminary draft port overlay, where for the following precincts only:
  - infrastructure and supply chain corridors precinct (where not regulated by the GRC Planning Scheme or GPC Port LUP)
  - marine precinct
  - marine infrastructure precinct.
- development codes:
  - marine infrastructure management code
  - residential and port industry interface code
  - environmental values management code
  - infrastructure and supply chain management code.

Not all assessment benchmarks apply to all precincts or development within the master planned area. Accordingly, Table 4.4 of the preliminary draft port overlay sets out when each assessment benchmark is to be applied.

The sections below detail the key considerations and drafting rationale for each development code, as they relate to the key issues identified in the evidence base and ensuring that the master plan strategic vision, objectives, desired outcomes, state interests and EMF can be achieved.

### 6.5.2 Marine infrastructure management code

Section 4.4.2 of the preliminary draft port overlay details the marine infrastructure management code.

The need to prepare a marine infrastructure management code has arisen due to the following key gaps in existing development assessment provisions, which are further reinforced by the code's purpose and outcomes (Section 4.4.2.2):

- a need to address the existing absence within existing planning instruments of land use control controls across marine areas
- the need to ensure effective and coordinated management of key marine infrastructure such as channels, berths and swing basins
- a need to establish provisions which do not currently exist in relation to the beneficial reuse of dredged material, ensuring potential material placement areas are identified and managed to support ongoing and future expansion of the Port of Gladstone whilst managing potential impacts on environmental values within and surrounding the master planned area.



### 6.5.3 Residential and port industry interface code

Section 4.4.3 of the preliminary draft port overlay details the residential and port industry interface code.

The need to prepare a residential and port industry interface code has arisen in relation to the identification of the following key gap in existing development assessment provisions, which are further reinforced by the code's purpose and outcomes (Section 4.4.3.2):

- inconsistencies in regulating land uses within the interface areas of Auckland Point and Barney Point across planning instruments (i.e. GRC Planning Scheme and GPC Port LUP).

### 6.5.4 Environmental values management code

Section 4.4.4 of the preliminary draft port overlay details the environmental values management code.

The need to prepare an environmental values management code has arisen in relation to the identification of the following key gaps in existing development assessment provisions, which are further reinforced by the code's purpose and outcomes (Section 4.4.4.2):

- improved transparency in the management of potential environmental impacts, through identifying and mapping specific environmental values which have a contribution to the local expression of the OUV of the GBRWHA and other environmental values, being in relation to:
  - seagrass meadows
  - coral reefs
  - turtle nesting beaches
  - migratory shorebird habitat
- identified limitations and inconsistencies in the regulating of particular environmental values across local and state assessment provisions
- inconsistencies between the master plan environmental management precinct purpose and the GRC Planning Scheme in relation to regulating land use within the Mount Larcom landform area.

### 6.5.5 Infrastructure and supply chain management code

Section 4.4.5 of the preliminary draft port overlay details the infrastructure and supply chain management code.

The need to prepare an infrastructure and supply chain management code has arisen in relation to the identification of the following key gaps in existing development assessment provisions, which are further reinforced by the code's purpose and outcomes (Section 4.4.5.2):

- a need to establish provisions which do not currently exist in relation to the protection of future supply chain infrastructure that is not afforded protection under local planning provisions or through state provisions (e.g. state-controlled road or rail corridors)
- a need to establish provisions which do not currently exist to require principles of port optimisation to be formally considered and documented during the development assessment process in relation to development for port industry activities and supply chain infrastructure.

# 7 Preliminary draft port overlay content - plan making

## 7.1 Overview

Section 5 of the preliminary draft port overlay includes the requirement for port overlay content to be considered in plan making matters for the master planned area, as prescribed by the Ports Act.

Specifically, whilst the preliminary draft port overlay addresses plan making requirements for the GRC Planning Scheme and GPC Port LUP (refer Section 7.2.1), the Ports Act also contains provisions in relation to the Gladstone SDA Development Scheme (refer Section 7.2.2).

## 7.2 Implementation

### 7.2.1 GRC Planning Scheme and GPC Port LUP

Under the provisions of the Ports Act, the port overlay cannot direct GRC or GPC to amend the GRC Planning Scheme or GPC Port LUP in a particular way (e.g. to make amendments to assessment benchmarks in a particular way).

However, the Ports Act imposes the requirement that GRC and GPC must consider the content of the port overlay when making or amending the GRC Planning Scheme or GPC Port LUP.

To the extent of any inconsistency between the port overlay and the GRC Planning Scheme or GPC Port LUP, the port overlay prevails.

### 7.2.2 Gladstone SDA Development Scheme

In accordance with Section 19(4) of the Ports Act, the port overlay cannot regulate development in the Gladstone SDA that is assessable under the Gladstone SDA Development Scheme.

However, Sections 31 and 32 require the CG must consider whether the Gladstone SDA Development Scheme is consistent with the port overlay, as soon as practicable after the port overlay takes effect. To the extent that there is any inconsistency, the CG must decide whether to amend the Gladstone SDA Development to remove the inconsistency or table a report in the Legislative Assembly about the reasons for not amending the Gladstone SDA Development Scheme.

As there is no statutory requirement under the Ports Act requiring that the CG consider specific matters in relation to the port overlay, Section 5 of the preliminary draft port overlay does not prescribe any plan making requirements for the Gladstone SDA Development Scheme.



## 8 References

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