

# Information sheet

Planning Regulation 2017

## Koala Habitat Planning Controls – Decision tree

*This information sheet contains a decision tree which provides a high-level overview of the new koala habitat planning controls introduced into the Planning Regulation 2017 on 7 February 2020.*

### Purpose

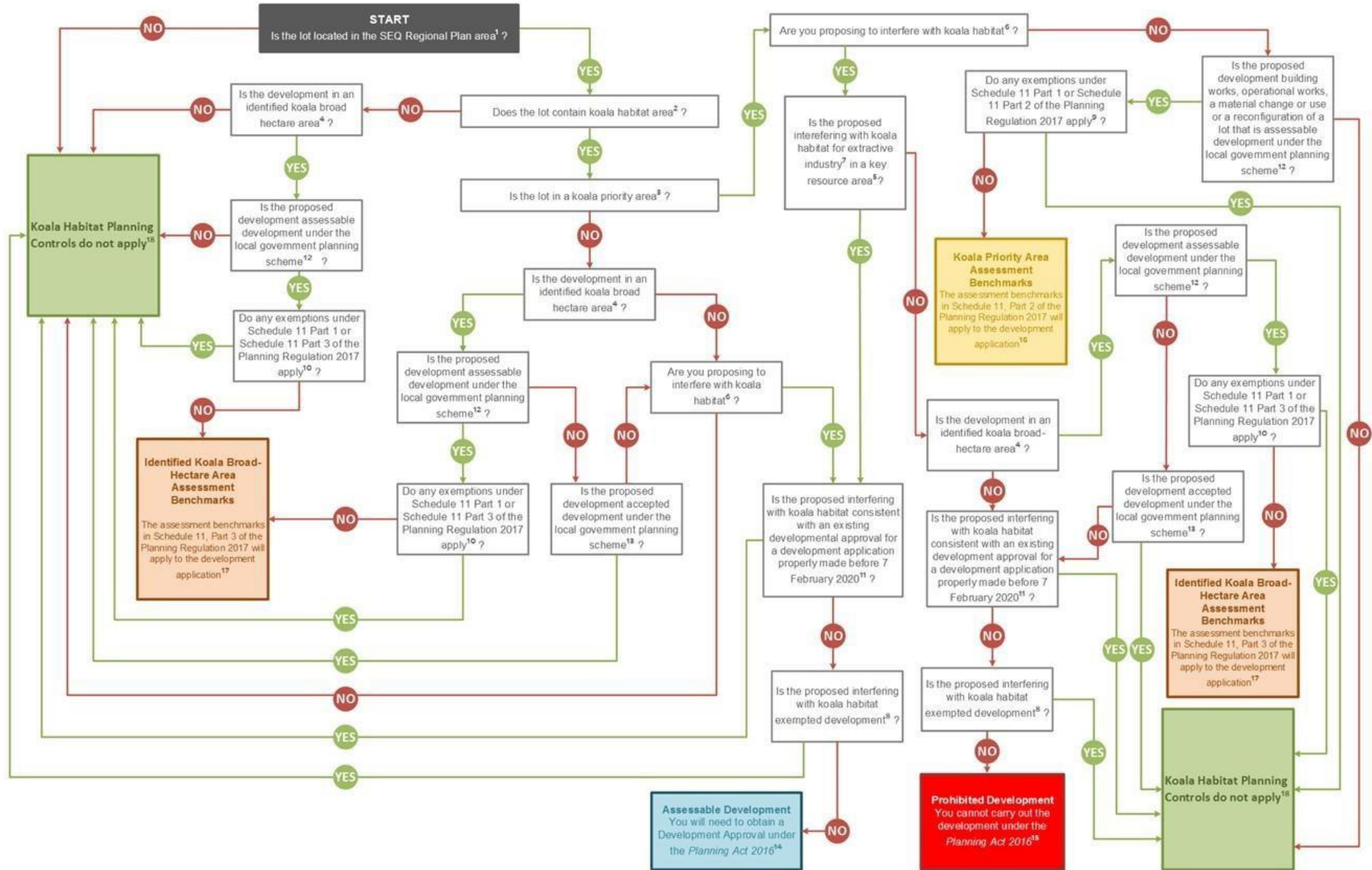
This information sheet contains a decision tree which provides a high-level overview of the new koala habitat planning controls introduced into the Planning Regulation 2017 (Planning Regulation) on 7 February 2020. The decision tree can be used to help determine whether:

- the proposed development is prohibited development (i.e. cannot be lawfully undertaken)
- the proposed development is assessable development (i.e. requires a Development Approval under the *Planning Act 2016*)
- the proposed development is assessable against the identified koala broad-hectare area assessment benchmarks in Schedule 11, Part 3 of the Planning Regulation
- the proposed development is assessable against the koala priority area assessment benchmarks in Schedule 11, Part 2 of the Planning Regulation
- the Koala Habitat Planning Controls under the Planning Regulation do not apply to the proposed development.

# Koala Habitat Planning Controls – Decision tree

## Koala Habitat Planning Controls decision tree

This decision tree a high level overview of the new koala habitat planning controls introduced into the Planning Regulation 2017 on 7 February 2020



**Footnotes:**

1. The South East Queensland (SEQ) Regional Plan area includes the following local government areas: Brisbane, Gold Coast, Ipswich, Lockyer Valley, Logan, Moreton Bay, Noosa, Redland, Scenic Rim, Somerset, Sunshine Coast and part of Toowoomba. Whether a property is in the SEQ Regional Plan area can be determined using the State Planning Policy Interactive Mapping System (SPP IMS) (<https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking>) by turning on the 'Regional planning boundary' layer under 'Information Purposes' > 'ADMINISTRATIVE LAYERS' > 'Regional planning boundary', inputting the address or lot on plan of the area of interest in the search box 'Find a Queensland address', clicking the 'Identify' tool and clicking on the lot of interest. An attribute box will appear which will provide the regional plan area the property is in.
2. Koala habitat area.
3. Koala priority area.
4. Identified koala broad-hectare area.
5. Key resource area (KRA) means an identified location that contains resources of state or regional significance as shown on the State Planning Policy Interactive Mapping System (SPP IMS) (<https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking>). A KRA includes the resource processing area, the separation area, the transport route and the transport route separation area (defined under the State Planning Policy). Whether a property is in a KRA can be determined using the State Planning Policy Interactive Mapping System (SPP IMS) (<https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking>) by selecting 'All' under 'MINING AND EXTRACTIVE RESOURCES' which is found under 'Economic Growth', inputting the address or lot on plan of the area of interest in the search box 'Find a Queensland address', clicking the 'Identify' tool and clicking on the lot of interest. If the property is in a KRA, the attribute box that appears will identify that it is in a KRA.
6. Interfering with koala habitat means: (a) Removing, cutting down, ringbarking, pushing over, poisoning or destroying in any way, including by burning, flooding or draining native vegetation in a koala habitat area; but (b) Does not include destroying standing vegetation by stock or lopping a tree. The term interfering with koala habitat applies to direct interfering with koala habitat (e.g. clearing native vegetation in a koala habitat area) and indirect interfering with koala habitat (e.g. a reconfiguration of a lot that would introduce new consequential exempted development allowing native vegetation in a koala habitat area to be cleared).
7. Extractive industry, defined in the Planning Regulation, means the use of premises for: (a) extracting or processing extractive resources; and (b) any related activities, including, for example, transporting the resources to market.
8. Exempted development.
9. Exemptions under Schedule 11 Part 1 or Schedule 11 Part 2 of the Planning Regulation.
10. Exemptions under Schedule 11 Part 1 or Schedule 11 Part 3 of the Planning Regulation.

11. The new koala habitat planning controls are not intended to apply retrospectively. Therefore:
- a. Development applications that were properly made before the commencement of the new koala habitat planning controls (7 February 2020) will continue to be assessed against the provisions of the Planning Regulation that applied to the development at the time the application was properly made. However, an assessment manager or referral agency may give the weight it considers appropriate, in the circumstances, to the provisions commencing on 7 February 2020.
  - b. The new Koala Habitat Planning Controls do not apply if the development is carried out under a development permit that was given for a development application that was properly made before 7 February 2020. (Note: Development permit means part of a decision notice for a development application that authorises the carrying out of the assessable development.)
  - c. The new koala habitat planning controls do not apply if the development is consistent with a development approval (including a variation approval):
    - i. that is in effect for the premises on which the proposed development is to be carried out; and
    - ii. given for a development application that was properly made before 7 February 2020.

(Note: Development approval includes preliminary approval, development permit or a combination of a preliminary approval and development permit)

(Note: Variation approval means the part of a preliminary approval for premises that varies the effect of any local planning instrument in effect for the premises)

These exemptions are to ensure that development approvals given under the *Planning Act 2016* prior to the commencement of the new koala habitat planning controls are not affected by the new koala habitat planning controls.

12. Assessable development under a local government planning scheme means where a local categorising instrument (such as a local government planning scheme or another local planning instrument) provides that the development requires development approval before it can be lawfully carried out.
13. Accepted development under a local government planning scheme means where the local government planning scheme (or another local planning instrument) provides that the development does not require development approval.
14. Prohibited development means that a development application cannot be made under the *Planning Act 2016* and therefore the development cannot be lawfully carried out. Refer to section 2 of the *Information Sheet – Development in koala priority areas*.
15. Assessable development means that a development approval is required under the *Planning Act 2016* before the development can be lawfully carried out. If the development is for extractive industry in a key resource area refer to section 2.1 of the *Information sheet – Extractive industries in koala habitat areas within key resource areas*, otherwise refer to section 2.1 of the *Information sheet - Development in koala habitat areas outside koala priority areas*.
16. Assessment benchmarks in Schedule 11, Part 2 of the Planning Regulation – Refer to section 3 of the *Information Sheet – Development in koala priority areas*.

17. Assessment benchmarks in Schedule 11, Part 3 of the Planning Regulation 2017 - Refer to Information Sheet – Development in identified koala broad-hectare areas.
18. Koala Habitat Planning Controls do not apply. However:
  - a. the clearing requirements prescribed in the Nature Conservation (Koala) Conservation Plan 2017 may still apply. More information on this can be found in the *Information sheet – Koala Conservation Plan Clearing Requirements*; and
  - b. there may be other requirements that apply under the *Planning Act 2016* or other legislation.

***Human Rights Act 2019 compatibility***

The department is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this information sheet, officers must comply with that obligation (refer to [Comply with Human Rights Act](#)).

**Disclaimer**

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment, Science and Innovation should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

**Approved By**

Ben Klaassen

Signature

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Date

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