

# Information Sheet – Planning Regulation 2017

## Extractive industries in koala habitat areas within key resource areas

*This information sheet provides an overview of requirements that apply to development for extractive industries in an area that is mapped as a koala habitat area within a key resource area under the Planning Regulation 2017.*

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## 1 Background

On 7 February 2020, new provisions were introduced into the Planning Regulation 2017 to improve koala habitat protection in South East Queensland. These new provisions apply to development that is proposed in koala priority areas, koala habitat areas and identified koala broad-hectare areas.

This information sheet has been developed to provide an overview of the new koala habitat protections that apply to development that is for extractive industries that are proposed in areas that are mapped as koala habitat areas within key resource areas under the Planning Regulation 2017.

## 2 Extractive industries in koala habitat areas within key resource areas

### 2.1 Assessable development

Development that is for extractive industries<sup>1</sup> in a key resource area<sup>2</sup> that involves “interfering with koala habitat<sup>3</sup>” (defined below) in an area that is mapped as a koala habitat area<sup>4</sup> is now assessable development under the Planning Regulation 2017<sup>5</sup>. This means that a development application for the development would need to be submitted and approved under the *Planning Act 2016* before the development can be lawfully carried out.

**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.

To remove any doubt, development for extractive industries in a key resource area that involves interfering with koala habitat is assessable development under this particular provision of the Planning Regulation 2017 where the koala habitat area is inside or outside of a koala priority area.

Figure 1 provides an example of an area that is in a key resource area and is mapped as containing a koala habitat area that is outside of a koala priority area. Figure 2 provides an example of an area that is in a key resource area and is mapped as containing a koala habitat area that is in a koala priority area.

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<sup>1</sup>The Planning Regulation 2017, under Schedule 24 defines **Extractive industry** as the use of premises for:

- (a) extracting or processing extractive resources; and
- (b) any related activities, including, for example, transporting the resources to market.

<sup>2</sup> The Planning Regulation 2017 refers to the State Planning Policy definition of ‘**key resource area**’ which means an identified location that contains extractive 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.

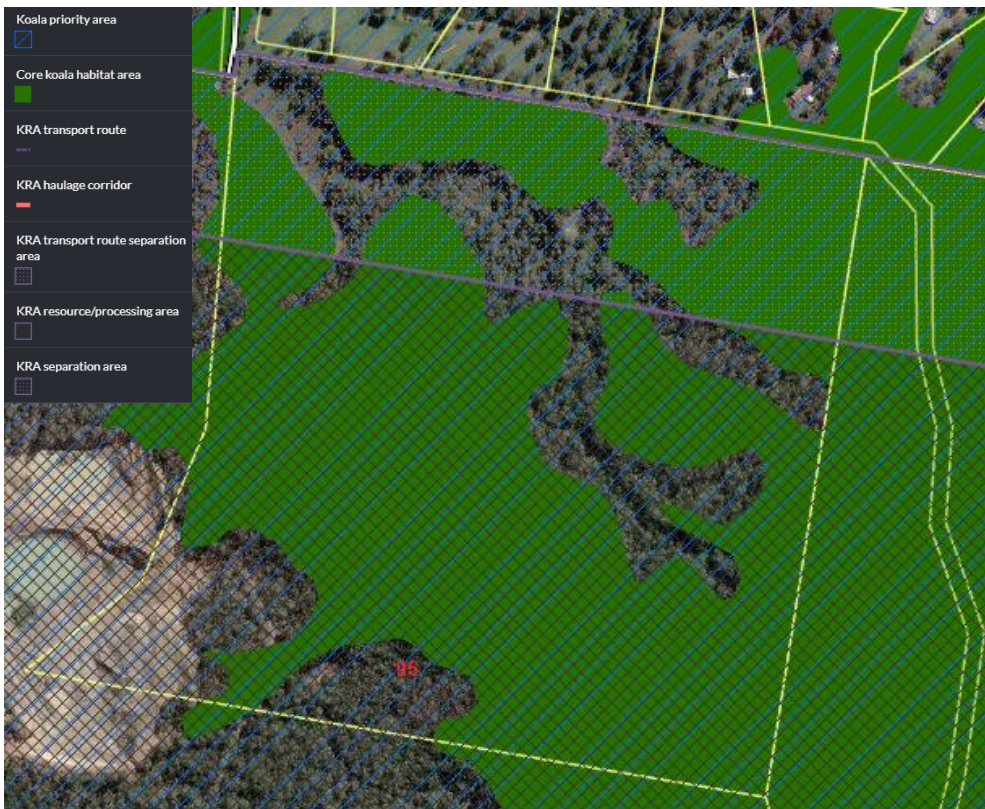
<sup>3</sup> This definition is defined in Schedule 24 of the Planning Regulation 2017.

<sup>4</sup> More information on the koala habitat area and koala priority area mapping can be found in the *Information sheet – Koala mapping*.

<sup>5</sup> See Schedule 10, Part 10, Division 4, Section 16C of the Planning Regulation 2017.



**Figure 1: Example of an area that is in a key resource area and is mapped as containing a koala habitat area that is outside of a koala priority area**



**Figure 2: Example of an area that is in a key resource area and is mapped as containing a koala habitat area that is in a koala priority area**

The term interfering with koala habitat also applies to indirect interfering with koala habitat (e.g. a reconfiguration of a lot that would introduce new exempted development allowing native vegetation in a koala habitat area to be cleared).

A development application made for this type of development would be assessed by the State Government's State Assessment Referral Agency (SARA) in accordance with the assessment benchmarks prescribed in the [State Development Assessment Provisions \(SDAP\) – State Code 25: Development in South East Queensland koala habitat areas](#). These assessment benchmarks are prescribed to ensure extractive industries in key resource areas that involve interfering with koala habitat in an area that is mapped as a koala habitat area will not result in a net loss of koala habitat, will not fragment koala habitat, will provide for safe koala movement and will not increase the risk of koala death or injury during construction.

When preparing a response to State Code 25 for a development application, it is advised that you refer to the [Guideline - State Development Assessment Provisions \(SDAP\) – State Code 25: Development in South East Queensland koala habitat areas](#). This guideline provides useful information on the intent of each assessment benchmark as well as information that will need to be provided with the development application to address State Code 25.

If you are unsure whether a proposed development for extractive industries in a key resource area that involves interfering with koala habitat in an area that is mapped as a koala habitat area is assessable development, it is advised you seek pre-lodgement advice from the State Assessment Referral Agency (SARA) who are responsible for assessing and deciding development applications for this type of development. SARA can also provide advice on the information you should provide in your development application if it is determined that the development proposed is assessable development under this particular provision of the Planning Regulation 2017. Contact details for the regional SARA offices can be found here:

<https://planning.dsdmip.qld.gov.au/planning/resources/regional-contacts>

## **2.2 Exemptions to assessable development – interfering with koala habitat for extractive industries in key resource areas**

There are a number of instances where development for extractive industries in a key resource area that involves interfering with koala habitat in an area that is mapped as a koala habitat area is not assessable development. These instances are detailed below.

Clearing requirements prescribed in the Nature Conservation (Koala) Conservation Plan 2017 still apply to clearing that is considered exempt. More information on these clearing requirements can be found in the *Information sheet – Koala Conservation Plan clearing requirements*.

### **2.2.1 Exempted development**

Development for extractive industries in a key resource area that involves interfering with koala habitat in an area that is mapped as a koala habitat area is not assessable development under this particular provision of the Planning Regulation 2017 if the development is “exempted development” as defined in Schedule 24 of the Planning Regulation.

The following series of information sheets have been developed to provide simplified explanations of items of the exempted development definition in Schedule 24 of the Planning Regulation 2017 that applies to all land tenures and to specific land tenures:

- *Exempted development in koala habitat areas - all land tenures ;*
- *Exempted development in koala habitat areas - freehold land ;*
- *Exempted development in koala habitat areas - indigenous land ;*
- *Exempted development in koala habitat areas - land leased under the Land Act 1994 for agriculture or grazing purposes ;*
- *Exempted development in koala habitat areas - land leased under the Land Act 1994, other than for agriculture or grazing purposes ;*
- *Exempted development in koala habitat areas - trust land under the Land Act 1994, other than indigenous land ;*



- *Exempted development in koala habitat areas - unallocated State land ;*
- *Exempted development in koala habitat areas - land that is subject to a licence or permit under the Land Act 1994 ; and*
- *Exempted development in koala habitat areas - land dedicated as a road under the Land Act 1994.*

## 2.2.2 Development applications properly made before the commencement of the new koala habitat protections and existing development approvals

Development applications that were properly made before the new habitat protections were introduced on 7 February 2020 will be assessed against the provisions of the Planning Regulation 2017 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.

Additionally, development for extractive industries in a key resource area that involves interfering with koala habitat in an area that is mapped as a koala habitat area is not assessable development under this particular provision of the Planning Regulation 2017 if the development is carried out under a development permit<sup>6</sup> that was given for a development application that was properly made before 7 February 2020.

Further, development for extractive industries in a key resource area that involves interfering with koala habitat in an area that is mapped as a koala habitat area is not assessable development under this particular provision of the Planning Regulation 2017 if the development is consistent with a development approval<sup>7</sup> (including a variation approval<sup>8</sup>):

- that is in effect for the premises on which the proposed development is to be carried out; and
- given for a development application that was properly made before 7 February 2020.<sup>9</sup>

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.

## 3 Further information

If you have any further queries about the new koala habitat protections introduced into the Planning Regulation 2017 on 7 February 2020, please contact the Koala Assessment and Compliance team at [koala.assessment@des.qld.gov.au](mailto:koala.assessment@des.qld.gov.au) or 13 QGOV (13 74 68).

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<sup>6</sup> **Development permit** is the part of a decision notice for a development application that authorises the carrying out of the assessable development to the extent stated in the decision notice.  
(as defined under section 49(3) of the *Planning Act 2016*)

<sup>7</sup> **Development approval** means a preliminary approval, a development permit or a combination of a preliminary approval and a development permit.  
(as defined under section 49(1) of the *Planning Act 2016*)

<sup>8</sup> **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.  
(as defined under schedule 2 of the *Planning Act 2016*)

<sup>9</sup> For preliminary approvals that require subsequent approvals, the assessment manager is responsible for determining whether the subsequent approvals are consistent with the preliminary approval. For example, if the preliminary approval was for a Material Change of Use (MCU), and a subsequent development application was lodged for Reconfiguring a Lot (RAL), the RAL would not be assessable development if it determined to be consistent with the original preliminary approval.

**Disclaimer**

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04/07/2021

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**Version history**

Version	Date	Description of changes
1.00	04.07.2021	First version approved.