

PLANNING SCHEME FOR THE CITY OF CALOUNDRA – “CALOUNDRA CITY PLAN 2004”

FREQUENTLY ASKED QUESTIONS (FAQs)

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DICTIONARY

“IPA” means the *Integrated Planning Act 1997*.

“the plan” means Caloundra City Plan 2004.

QUESTIONS RELATED TO PART 1 - INTRODUCTION

How is the area subject to the Kawana Waters Development Agreement dealt with in Caloundra City Plan?

Development Control Plan 1 Kawana Waters continues to apply to the area covered by the Kawana Waters Development Agreement. (Refer to Sections 1.1.2(2) and (3) of Caloundra City Plan).

Under section 6.1.45A of IPA the repealed *Local Government (Planning and Environment) Act 1990*, the transitional planning scheme and the transitional planning scheme policies continue to apply, to the extent necessary, to administer Development Control Plan 1 Kawana Waters for this area.

QUESTIONS RELATED TO PART 2 - DESIRED ENVIRONMENTAL OUTCOMES

How are desired environmental outcomes (DEOs) used in the assessment process?

The planning scheme measures are the means by which the *desired environmental outcomes* are implemented. A decision of the Council must not compromise achievement of the *desired environmental outcomes* (IPA, sections 3.5.13(3)(b) and 3.5.14(2)(a)).

Hence, *desired environmental outcomes* are considered in the assessment of impact assessable development.

Desired environmental outcomes are considered in the assessment of code assessable development where there is conflict with the code (i.e. conflict with one or more of the *overall outcomes* or *specific outcomes* of the code). Code assessable development may be approved despite conflict with the code, if the decision does not compromise achievement of the *desired environmental outcomes* (and there are sufficient grounds, having regard to the purpose of the code).

Desired environmental outcomes are not specifically considered for self-assessable development. The *acceptable solutions* identified with an asterisk (*) in codes applicable to self-assessable development are deemed to reflect the *desired environmental outcomes* to the extent necessary or relevant to that development.

The *desired environmental outcomes* are set out in Part 2 of Caloundra City Plan.

QUESTIONS RELATED TO PART 3 - INTERPRETATION

No FAQs currently in this section.

QUESTIONS RELATED TO PART 4 - DEVELOPMENT IN PLANNING AREAS

How is the “zoning” of land shown in Caloundra City Plan?

The Caloundra City Plan does not use the terms “zones” or “zoning”. Instead, the plan includes land in one of a number of *precincts* (e.g. *Township Residential Precinct*, *Local Business Centre Precinct*, *Core Industry Precinct*). These have a function similar to the zones used in the former planning scheme.

The Caloundra City Plan also includes a number of *overlays* which show physical constraints that may affect the development of land (e.g. *Acid Sulfate Soils Overlay*, *Aviation Affected Area Overlay*, *Biting Insects Overlay*). The nature or scope of development that may be undertaken on a particular site may be changed or limited by any *overlays* that apply to the site.

The maps showing the *precincts* and *overlays* are arranged by *planning area*. There are 16 *planning areas* in Caloundra City Plan, each one of which relates to an identifiable geographical area (e.g. *Central Caloundra*, *Maleny Township*, *Mooloolah Valley*). For each of the 16 *planning areas* there is one or more *planning area precinct maps* showing the *precincts* in which land in that *planning area* is included, and one or more *planning area overlay maps* showing the *overlays* that apply to land in that *planning area*.

The *planning area precinct maps* and *planning area overlay maps* are contained in Part 4 of Caloundra City Plan (Section 4.1).

What are development assessment tables used for?

The *development assessment tables* are used to:

- (a) identify the level of assessment (or assessment category) that applies to development (i.e. exempt, self-assessable, code assessable or impact assessable); and
- (b) identify the codes that are applicable to self-assessable and code assessable development.

Part 4 of Caloundra City Plan contains the following types of *development assessment tables*:

- (a) *Precinct Class Development Assessment Tables* in Section 4.2.2. These identify the level of assessment for development involving *material change of use* and are arranged initially by *precinct class* (e.g. *Residential Precinct Class*) and within them by *precinct* (e.g. *Township Residential Precinct*);
- (b) *Other Development Assessment Tables* in Section 4.2.3. These identify the level of assessment for development other than *material change of use*. There are separate development assessment tables for *reconfiguring a lot*, *building work*, *operational work (other than placing an advertising device on premises)* and *operational work where placing an advertising device on premises*.
- (c) *Overlays Development Assessment Tables* in Section 4.2.4. These identify the level of assessment for development on land affected by an *overlay* (e.g. *Acid Sulfate Soils Overlay*). They are arranged by type of development (i.e. *material change of use*, *reconfiguring a lot*, *building work* and *operational work*). For any particular development proposal, the level of assessment identified in the *Overlays Development Assessment Tables* may increase the level of assessment identified in the *Precinct Class Development Assessment Tables* and the *Other Development Assessment Tables*.

Further information about using the *development assessment tables* to identify the level of assessment for development is included in the Users' Guide, Section 1.4.

What assessment category applies to undefined uses?

Undefined uses are identified as impact assessable in the *precinct class development assessment tables* (Tables 4.2.2(a) to (g) of Caloundra City Plan), subject to any overriding provision regulating the use in Schedule 8 of IPA.

Does Caloundra City Plan apply to development on roads and waterways?

Yes. Section 1.1.2(1) of Caloundra City Plan provides that the planning scheme applies to the Planning Scheme Area as shown on Map CCC1 "including all premises, roads and internal waterways". Sections

4.1.2(3) and (4) of Caloundra City Plan detail how the relevant precinct is to be determined where a road or a waterway is not shown on a Planning Area Precinct Map as being included in a precinct.

Note:

To aid map legibility, roads and waterways are generally not shown as being included in a precinct.

How is development in the Emerging Community Precinct intended to be facilitated?

The Emerging Community Precinct includes land in Caloundra City that is undergoing development from non-urban to residential and other urban purposes. The Council intends that these areas will develop as cohesive communities integrated with existing urban areas, rather than as disconnected arrangements of isolated residential subdivisions.

The relevant *Planning Area Codes* for planning areas that contain land in the Emerging Community Precinct contain *Planning Area Code Maps* that identify this land as being subject to the *Structure Planning Code* and identify major planning issues to be addressed. The *Planning Area Codes* may also contain *overall outcomes* and *specific outcomes* for development in the Emerging Community Precinct. The *Structure Planning Code* in turn establishes *overall outcomes* and *specific outcomes* which require new development to take into account natural and cultural features, existing and approved development, integration of road, drainage and open space systems, and public transport and other services.

Generally, it is the Council's preference that development in the Emerging Community Precinct proceeds under a preliminary approval that establishes a conceptual outline of the major development components and identifies the relationships between them, with development permits subsequently obtained for individual components or stages of development.

How does Caloundra City Plan deal with plans of development that are tied to zones (e.g. the Special Facilities Zone) under the former planning scheme?

Some plans of development that were tied to zones under the former planning scheme are listed in Schedule 4.2 - Special Facilities, Special Residential and Master Plan Developments of Caloundra City Plan. The development rights established by those plans are preserved and take precedence over other provisions of Caloundra City Plan for their respective areas.

Other plans of development have not been reflected in Schedule 4.2 for a range of reasons including development has substantially commenced on these sites, development potential has been fully utilised, or certain developments are no longer considered appropriate.

How do the Overlays Development Assessment Tables relate to the other development assessment tables?

The level of assessment for a proposed development is the highest level of assessment identified for that development in any of the relevant development assessment tables. The order from lowest to highest is:

- Exempt Development
- Self-assessable Development
- Code Assessable Development
- Impact Assessable Development.

Where an overlay applies, the level of assessment for development that is identified as self-assessable in the relevant Precinct Class Development Assessment Table or Other Development Assessment Table

may be increased to **code assessable**. No Overlays Development Assessment Table in Caloundra City Plan increases the level of assessment of any development above code assessable.

Note:

Where the level of assessment is increased in this way, the Council's formal statutory assessment will focus on the code(s) for the overlay(s) under which the development is identified as code assessable, supplemented by a broad check of compliance with the acceptable solutions of other applicable codes identified in the relevant Precinct Class Development Assessment Table.

If an overlay applies to only part of a lot, does the overlay code get triggered if the development site avoids that part of the lot?

For reconfiguring a lot, the overlay code applies if any part of the original lot or lots included in the application is within the mapped area of the relevant overlay. This is because the reconfiguring, by definition, will alter the original lot or lots.

For all other development, the overlay code applies only if the development site (i.e. the area within which the proposed development will occur) is within the mapped area of the relevant overlay.

Note:

The "development site" is taken to include the site of any building or structure and any area used for vehicle parking, landscaping, goods storage, effluent disposal or other purpose included in the development application, or required for the proper functioning of the development.

The "development site" also includes any accessway or services corridor required by the proposed development.

The overlay code applies if any part of the "development site" is within the mapped area of the relevant overlay.

"Site" is defined in Part 3 on page 3-20 of Caloundra City Plan. "Development site" is not a term defined in Part 3 of Caloundra City Plan.

If a site is not included within the mapped area of an overlay but is known or suspected to have attributes relevant to the overlay, can the relevant overlay code be applied in the assessment of code assessable development?

No, because an overlay code can only be triggered through the overlay mapping. However the *Planning Area Codes* include *specific outcomes* in relation to:

- (a) cultural heritage significance;
- (b) flood management; and
- (c) habitat and biodiversity.

Code assessable development is assessed against these specific outcomes.

The Overlays Planning Scheme Policy provides guidance to applicants in relation to information to be provided and other measures for compliance with these *specific outcomes*. Additional guidance is also provided in Planning Scheme Policies for "Cultural Heritage and Character Areas" and "Environmental Assessment and Management".

An applicant may be requested to provide additional information to assist in the assessment of these matters through an information request under section 3.3.6 of IPA.

Applications may be refused if they are assessed as not complying with one or more of these *specific outcomes*.

What is impact assessable development assessed against?

Impact assessable development is assessed against all element of Caloundra City Plan relevant to the nature of the development proposed. This may include the Precincts and Other Elements Code in Part 5, the relevant Planning Area Code in Part 6, any relevant Overlay Code(s) in Part 7, the relevant Use Code(s) in Part 8 and any relevant Other Codes in Part 9.

Impact assessable development is also assessed against the “common material”, relevant planning scheme policies, any State planning policies not appropriately reflected in the planning scheme, any approvals for and lawful use of the subject premises and adjacent premises, and any other matter prescribed by a regulation under IPA (IPA, section 3.5.5(2)). The “common material” refers to material provided to the Council during the application process, including submissions from third parties (IPA, Schedule 10).

How is building work dealt with in Caloundra City Plan?

Certain types of building work is assessable development under the Building Work Development Assessment Table (Table 4.2.3(b) of Caloundra City Plan). This does not relate to the structural or other aspects of building work that are assessable under the *Standard Building Regulation 1993*, but to those aspects of building work that are relevant to planning. This includes matters such as building height, setback and other aspects connected with the scale of building work and its position on a site.

In particular, the Building Work Development Assessment Table regulates development involving building work at a scale that is:

- more than “minor building work” as defined in Section 3.3.1 of the plan, but
- less than a “material change of use” (as defined in IPA, section 1.3.5).

Such building work is self-assessable if:

- (a) it complies with the acceptable solutions in the relevant *Planning Area Code*; and
- (b) the Use Code for the use with which the building work is associated contains *acceptable solutions* for self-assessable development (identified with an asterisk (*));
- (c) the building work complies with the *acceptable solutions* of the Use Code;
- (d) the building work complies with the acceptable solutions of the Parking and Access Code; and
- (e) the land is not included within the area of an overlay, or if it is, the building work is exempt or self-assessable in the relevant Overlay Development Assessment Table.

If one or more of the above conditions is **not** met, the building work is code assessable and requires a development approval under the plan.

The intention of these provisions is to ensure that extensions and renovations to existing development comply with basic standards that apply to new development of a similar type. For example, an older block of flats held in a single title may be renovated for separate titling and resale, which may involve improvements and additions such as new balconies, new window openings, car accommodation and changes to the roof line. Provided this work complies with the *acceptable solutions* of the relevant *Planning Area Code*, the Multi Unit Code and the Parking and Access Code, the work would be self-assessable. If not, it would be code assessable.

IDAS application Form I, Parts A and D are used for applications involving building work not associated with a material change of use that is assessable under Caloundra City Plan.

Note:

1. “Minor building work” that would result in a departure from approved plans or other conditions of an existing development approval requires approval from the Council under the IPA, section 3.5.33 (Request to change or cancel conditions).
2. An extension to a detached house that exceeds the height limit specified in a Planning Area Code applicable to the site is considered to be a material change of use (i.e. in terms of the IPA definition of “material change of use”, it is a material change in the scale of the use of the premises). This is the case even if the extension otherwise meets the Caloundra City Plan definition of “minor building work”. Accordingly, such development is an impact assessable material change of use under the Precinct Class Development Assessment Tables.

How is operational work dealt with in Caloundra City Plan?

Operational work is defined in the IPA and refers to actions such as excavating or filling land (other than for building work), installing landscaping and lighting, placing an advertising device on premises, and constructing roads, driveways, footpaths, drainage and other civil works.

Minor Operational Work

“Minor operational work” is defined in Section 3.3.1 of the plan and is exempt development under Table 4.2.3(c). This covers any operational work associated with a “detached house” (as defined in Section 3.2.1) and filling and excavation of no more than 20m³ of material. Operational work of this type is not regulated by and does not require approval under Caloundra City Plan.

Certain types of operational work are assessable development under the Operational Work (Other than Placing an Advertising Device on Premises) Development Assessment Table (Table 4.2.3(c) of Caloundra City Plan).

Operational work associated with a material change of use

Operational work associated with a material change of use is code assessable. This means that a development approval is required from the Council for things like driveway crossovers, landscaping, car parking and other civil works associated with any material change of use of premises. This is required:

- whether or not the material change of use requires a development approval (i.e. even if the material change of use is exempt or self-assessable); and
- even where a material change of use development approval has been granted that includes conditions addressing operational works matters.

If an applicant for a material change of use wishes to avoid the need to make a subsequent application for operational works, it is possible to make a single application covering both material change of use and operational works components of the proposed development. However this option requires that a sufficient level of design detail has been resolved at an early stage to support an application for operational works. This is likely to be possible for smaller or more straightforward projects only.

Operational work associated with reconfiguring a lot

Operational work associated with reconfiguring a lot is code assessable. This means that a development approval is required from the Council for any earthworks, civil works, landscaping and other operational works associated with subdivision projects. This is required even where a reconfiguring a lot development approval has been granted that includes conditions of approval addressing operational works matters.

Again, it is possible to make a single application covering both reconfiguring a lot and operational works components of the proposed development, if a sufficient level of design detail is available.

Excavating or filling

Excavating or filling of land is code assessable outside of the Rural Precinct where it involves:

- 20m³ or more of material on a site less than 2,000m²; or
- 100m³ or more on a site 2,000m² or larger.

Excavating or filling of land other than in the circumstances described above will generally be exempt from the plan, unless the development site is affected by certain overlays.

QUESTIONS RELATED TO CODES – GENERAL

What is a code?

A code is a section of a planning scheme that sets out requirements to be met by development in relation to a particular subject matter. Caloundra City Plan contains codes arranged by Part as follows:

Part 5 - Precincts and Other Elements Code

Part 6 - Planning Area Codes

Part 7 - Overlay Codes

Part 8 - Use Codes

Part 9 - Other Codes.

What are overall outcomes, specific outcomes, probable solutions and acceptable solutions?

These are all components of the codes contained in the Caloundra City Plan.

Overall outcomes

Overall outcomes are statements of the desired outcomes for the subject matter dealt with in a particular code. In Caloundra City Plan, the *overall outcomes* express the *purpose* of the code. (The *purpose* of a code is important because code assessable development **may** be approved where it does not comply with a code if there are sufficient grounds to do so, having regard to the *purpose* of the code, and provided it does not compromise achievement of the *desired environmental outcomes* (IPA, 3.5.13(2) & (3)).

Code assessable development is assessed against the *overall outcomes* of applicable codes (as well as other things prescribed by the IPA).

Impact assessable development is assessed against the *overall outcomes* of relevant codes (as well as all other relevant provisions of the planning scheme and other things prescribed by the IPA).

“*Overall outcomes*” require the exercise of discretion to assess whether proposed development complies.

Specific outcomes

Specific outcomes are more specific statements of the desired outcomes for a particular aspect or issue within the subject matter of a code, and contribute to the achievement of *overall outcomes*.

Code assessable development is assessed against the *specific outcomes* of applicable codes (as well as other things prescribed by the IPA).

Impact assessable development is assessed against the *specific outcomes* of relevant codes (as well as all other relevant provisions of the planning scheme and other things prescribed by the IPA).

Specific outcomes require the exercise of discretion to assess whether proposed development complies.

Probable solutions

Probable solutions are prescriptive requirements or standards that provide a guide for achieving a *specific outcome* in whole or in part. *Probable solutions* represent the Council's preferred approach for achieving a *specific outcome* in the majority of circumstances.

However adopting the *probable solutions* does not necessarily establish compliance with the corresponding *specific outcome* or the code as a whole. The Council may require alternative solutions if the circumstances are such that the *probable solutions* will not achieve the *specific outcome*, or the proposed development is otherwise in conflict with the code.

A proposed development may put forward an alternative solution but if doing so should demonstrate how the alternative solution will achieve the relevant specific outcome.

Acceptable solutions

Acceptable solutions are prescriptive requirements that are sufficiently precise to enable compliance to be determined by the person carrying out development.

Self-assessable development only has to comply with the *acceptable solutions* of applicable codes.

In the codes in Caloundra City Plan, *acceptable solutions* appear in the right-hand column of the table in the code and are identified with an asterisk (*).

How are conflicts between codes resolved (i.e. which code has primacy?)

Caloundra City Plan does not identify any type of code as having primacy over other types of codes. However as a general guide, the *Precincts and Other Elements Code* (in Part 5) should prevail over all other codes, followed by the relevant *Planning Area Code* (in Part 6).

No order of primacy should be assumed to exist for any of the other codes. However it is recommended that they be addressed or applied in the order in which they appear in the plan. That is, the *Overlay Codes* (Part 7), then the *Use Codes* (Part 8), then the *Other Codes* (Part 9).

Note:

Self-assessable development must comply with all of the acceptable solutions (identified with an asterisk) of all codes identified as applicable to that development. The question of one code prevailing over another is not relevant to self-assessable development.*

Code assessable development is assessed against the overall outcomes and the specific outcomes of the applicable codes, with the probable solutions in the code providing guidance for achieving the specific outcome to which they correspond. Conflict between probable solutions in different codes should be resolved by considering the solution which best achieves all of the corresponding specific outcomes, in the circumstances of the case. This is more important than the question of one code prevailing over the other.

What happens when code assessable development does not comply with an applicable code but IS considered appropriate for approval?

Code assessable development is assessed against the *overall outcomes* and the *specific outcomes* of the applicable codes, with the *probable solutions* in the code providing guidance for achieving the *specific outcome* to which they correspond.

Probable solutions identify the Council's preferred approach to complying with the corresponding *specific outcome*. Where a code assessable development proposal does not comply with one or more *probable solutions*, the proponent should demonstrate to the Council's satisfaction that the alternative solution achieves the *specific outcome*.

Code assessable development **must** be approved if conditions can be applied that would bring it into compliance with an applicable code(s) (IPA, section 3.5.13(2)).

Code assessable development **may** be approved where it does not comply with a code if there are enough grounds to do justify the decision having regard to the *purpose* of the code (and any state planning policy not appropriately reflected in the planning scheme), and provided it does not compromise achievement of the *desired environmental outcomes* of Caloundra City Plan (IPA, section 3.5.13(3) & (4)). The *purpose* of the code is expressed in its *overall outcomes*.

In this situation, the Council must decide:

(a) that an alternative solution put forward achieves the corresponding *specific outcome*;

OR

(b) if a proposed development does not achieve a *specific outcome*, that the development is:

- (i) consistent with the *overall outcomes* (i.e. the *purpose*) of the code (and with any state planning policy not appropriately reflected in the plan); and
- (ii) would not compromise achievement of the *desired environmental outcomes* in Part 2 of Caloundra City Plan.

The following considerations may be relevant to these decisions:

- (a) the extent or significance of any departure from a *probable solution* or any non-compliance with a *specific outcome*;
- (b) whether non-compliance with one *specific outcome* is necessary to achieve compliance with another *specific outcome(s)* (e.g. desirable solar aspect v. prevention of overlooking v. orientation to the street); or
- (c) whether the non-compliance is necessary to achieve compliance with another code.

What happens when code assessable development does not comply with an applicable code and IS NOT considered appropriate for approval?

Code assessable development **must** be approved if conditions can be applied that would bring it into compliance with an applicable code(s) (IPA, section 3.5.12(2)). If compliance cannot be achieved by imposition of conditions, the application **may** be refused.

It is important to understand exactly what compliance with a code involves. Code assessable development is assessed against the *overall outcomes* and the *specific outcomes* of the applicable codes, with the *probable solutions* in the code providing guidance for achieving the *specific outcome* to which they correspond.

This means that a proposed development that does not adopt a *probable solution* of an applicable code does **not necessarily** fail to comply with the code. However the proponent should demonstrate to

the Council's satisfaction that the alternative solution achieves the corresponding *specific outcome*. In this situation, to refuse the development the Council must decide that:

- (a) an alternative solution put forward does not achieve the *specific outcome*; and
- (b) a condition can not be applied to the development that would achieve the *specific outcome* (e.g. a condition requiring compliance with the *probable solution*);

This also means that a code assessable development that adopts all of the *probable solutions* of an applicable code may not necessarily comply with the code. The circumstances of the case may be such that a *probable solution* may not be adequate to achieve a *specific outcome* of the code. In this situation, to refuse the development the Council must decide that:

- (a) a *probable solution(s)* does not achieve the corresponding *specific outcome(s)* of the code in the circumstances of the case; and
- (b) no other solution(s) exist that could be imposed as a condition(s) of approval to achieve the *specific outcome(s)*.

Thirdly, it is theoretically possible (albeit unlikely) that a development may adopt all of the *probable solutions* of an applicable code and be considered to achieve all of the corresponding *specific outcomes*, but not achieve one or more *overall outcomes* of the code. In this situation, to refuse the development the Council must decide that:

- (a) the development does not achieve an *overall outcome(s)* of an applicable code; and
- (b) no condition of approval can be imposed that would achieve the *overall outcome(s)*.

The following considerations may be relevant to these decisions:

- (a) the extent or significance of any departure or variance from a *probable solution* or any non-compliance with a *specific outcome*;
- (b) whether non-compliance with one *specific outcome* is necessary to achieve compliance with another *specific outcome(s)* (e.g. desirable solar aspect v. prevention of overlooking v. orientation to the street); or
- (c) whether the non-compliance is necessary to achieve compliance with another code.

What happens when self-assessable development does not comply with an acceptable solution?

Self-assessable development must comply with all of the *acceptable solutions* (identified with an asterisk (*)) of all of the applicable codes.

If development that is identified as *self-assessable* in a development assessment table does not comply with an acceptable solution in an applicable code, the development becomes code assessable and a development approval is required.

Note:

The Council's formal statutory assessment will focus on the specific outcome corresponding to the acceptable solution with which the proposed development does not comply and the overall outcomes of that code. In practice, a broad check of compliance with other acceptable solutions of the code and the acceptable solutions of other applicable codes is also likely to be undertaken by the Council.

What happens when code assessable development does not comply with a probable solution?

Where a code assessable development proposal does not comply with one or more *probable solutions*, the proponent should demonstrate to the Council's satisfaction that the alternative solution(s) achieves the *specific outcome(s)*.

One of three situations then arises:

- (a) If the Council is satisfied that the alternative solution achieves the specific outcome, the application should be approved (subject to all other aspects of the assessment being satisfactory).
- (b) If the Council is not satisfied that the alternative solution achieves the specific outcome and considers that the *probable solution* is satisfactory in the circumstances of the case, the application should be approved with a condition requiring compliance with the *probable solution* (again, subject to all other aspects of the assessment being satisfactory).
- (c) If the Council is not satisfied that the alternative solution achieves the specific outcome but considers that the *probable solution* is also **not** satisfactory in the circumstances of the case, the application should be approved with a condition requiring another solution which will achieve the corresponding *specific outcome* and the *overall outcomes* of the code (again, subject to all other aspects of the assessment being satisfactory).

Note:

See section 1.4.8 of *Caloundra City Plan*.

See also the following FAQs:

- **What happens when code assessable development does not comply with an applicable code but IS considered appropriate for approval?**
- **What happens when code assessable development does not comply with an applicable code and IS NOT considered appropriate for approval?**

Are the overall outcomes in an applicable code used in code assessment? Do the overall outcomes for the Planning Area Codes perform a different function from those in other codes?

Yes, the overall outcomes of applicable codes are used in code assessment (and impact assessment). Code assessable development is assessed against the *overall outcomes* and the *specific outcomes* of the applicable codes, with the *probable solutions* in the code providing guidance for achieving the *specific outcome* to which they correspond.

In Caloundra City Plan, the *overall outcomes* express the *purpose* of the code. The *purpose* of a code is important because code assessable development **may** be approved where it does not comply with a code if there are enough grounds to justify the decision, having regard to the *purpose* of the code (and to any state planning policy not appropriately reflected in the planning scheme), and provided it does not compromise achievement of the *desired environmental outcomes* (IPA, section 3.5.13(3) & (4)).

The *overall outcomes* for the *Planning Area Codes* are more extensive than those for other types of codes in Caloundra City Plan. They perform the same function as *overall outcomes* in other codes, but also provide a strategic function describing the desired character of the respective *planning areas* and identifying how land use, transport, infrastructure and other dimensions of development in the respective *planning areas* is to be spatially integrated.

What happens when a code assessable application does not achieve the overall outcomes of the applicable code?

Code assessable development that does not meet the *overall outcomes* of an applicable code does not comply with that code and is likely to be refused, unless a condition can be imposed that would achieve the *overall outcome*.

Note:

See also the following FAQs:

- **What happens when code assessable development does not comply with an applicable code but IS considered appropriate for approval?**
- **What happens when code assessable development does not comply with an applicable code and IS NOT considered appropriate for approval?**
- **Are the overall outcomes in an applicable code used in code assessment? Do the overall outcomes for the Planning Area Codes perform a different function from those in other codes?**

What kind of matters may be dealt with as conditions of approval for code assessable development?

The IPA does not specifically identify matters that may be dealt with as conditions of approval for code assessable development. However sections 3.5.30 to 3.5.32 of IPA contain provisions relating to conditions for all development. In particular section 3.5.30 requires conditions to be relevant to, but not an unreasonable imposition on, the development and to be reasonably required in respect of the development.

Generally, conditions of approval for code assessable development should be directed to achieving compliance with a *specific outcome* or *overall outcome* of the code. Depending on the subject matter of the code this may include such things as:

- (a) layout, position, orientation, dimensions, floor area and number of storeys of development;
- (b) appearance, colour and materials of construction of buildings and structures;
- (c) landscaping;
- (d) buffering or screening of the site or adjoining premises;
- (e) points of ingress and egress, parking and circulation on site;
- (f) emissions of noise, light, odour, chemicals, waste and the like;
- (g) frontage treatment and other relevant civil works; and
- (h) development contributions.

Conditions of approval for code assessable development should not add, remove or change the nature of the proposed **use** of premises, except to remove uses where a proposed development includes uses that are identified as *inconsistent uses* in the relevant precinct in the Precincts and Other Elements Code.

What are “sufficient grounds” to justify approving development that does not comply with the planning scheme? What is the relevance of this to impact assessable development?

Code assessable development **may** be approved where it does not comply with a code if there are “enough grounds” to justify the decision, having regard to the *purpose* of the code (and to any state planning policy not appropriately reflected in the planning scheme), and provided it does not compromise achievement of the *desired environmental outcomes* of Caloundra City Plan (IPA, section 3.5.13(3) & (4)).

Also, a decision on impact assessable development **must not**:

- compromise achievement of the *desired environmental outcomes* (unless furthering the outcomes of a state planning policy not appropriately reflected in the planning scheme); or
- conflict with the planning scheme unless there are “sufficient planning grounds” (IPA, section 3.5.14(2)).

“Enough grounds” and “sufficient planning grounds” are not defined in the IPA and no universal definition can be drawn from case law. However the concept implies more than merely an absence of detrimental impacts from a proposed development, or that the development would comply with all other applicable requirements of the planning scheme. There is an implication that approval of the proposed development would provide a net community benefit. This might involve:

- (a) satisfying an unmet need;
- (b) improving an existing situation in the environment of the proposed development or elsewhere in the planning scheme area; or
- (c) a demonstrated positive contribution to achievement of one or more of the *desired environmental outcomes*.

The concept is also more appropriately applied to support unusual development that has not been anticipated and provided for by the planning scheme, rather than to support conventional forms of development in locations or circumstances generally identified as inappropriate by the planning scheme.

QUESTIONS RELATED TO PART 5 – PRECINCTS OTHER ELEMENTS CODE

What is the Precincts and Other Elements Code used for?

The Precincts and Other Elements Code identifies the nature of development intended for each *precinct* by identifying uses that are suitably located in each *precinct* (termed “*consistent uses*”) and uses that should not be located in each *precinct* (termed “*inconsistent uses*”).

Because these preferences are stated to be *specific outcomes* of the code, a proposal to locate an *inconsistent use* in a *precinct* does not comply with the code and may be refused.

For *precincts* where building height is a relevant consideration, the code also includes a *specific outcome* that development does not exceed the height specified for the site in the relevant *Planning Area Code*.

The code also identifies *overall outcomes* for “*other elements*” of Caloundra City Plan (e.g. *CAMCOS Transport Corridor, Major Road Corridor*). These provisions are intended to protect the viability of those *elements* from incompatible development.

The Precincts and Other Elements Code is in Part 5 of Caloundra City Plan.

In the Precincts and Other Elements Code, what does it mean if proposed development involves a use that is not identified as either a “consistent use” or an “inconsistent use”?

The Precincts and Other Elements Code identifies the nature of development intended for each *precinct* by identifying uses that are suitably located in each *precinct* (termed “*consistent uses*”) and uses that should not be located in each *precinct* (termed “*inconsistent uses*”).

For each *precinct*, a number of uses that are defined in Part 3 of Caloundra City Plan are **not** identified as either a *consistent use* or an *inconsistent use*.

This means that the Council has no predetermined view about the desirability or otherwise of these uses locating in the particular *precinct*. These uses will be impact assessable in the relevant *precinct class development assessment table* (Tables 4.2.2(a) to (g)). Applications involving these uses will be assessed on their merits against the relevant provisions of Caloundra City Plan.

QUESTIONS RELATED TO PART 6 – PLANNING AREA CODES

What are the Planning Area Codes used for?

There is a Planning Area Code for each of the 16 *planning areas* in Caloundra City Plan (e.g. *Central Caloundra Planning Area Code*). Each Planning Area Code identifies the nature, scale and character of development intended for the *planning area* to which it relates.

Each Planning Area Code contains:

- (a) a statement about the context and setting of the planning area to assist interpretation of the code;
- (b) *overall outcomes* which express the desired outcomes for the *planning area* as a whole;
- (c) *specific outcomes* which express the desired outcomes for a particular aspect or issue relevant to the *planning area* (e.g. height of buildings, minimum lot size, development in particular locations);
- (d) *probable solutions* which are prescriptive requirements or standards that provide a guide for achieving a *specific outcome* for code assessable development;
- (e) *acceptable solutions* (identified with an asterisk (*)) which are prescriptive requirements or standards that must be met by self-assessable development.

The Planning Area Codes are contained in Part 6 of Caloundra City Plan.

How are proposals that exceed the heights for buildings and other structures specified in Caloundra City Plan dealt with?

Maximum heights are specified in *Planning Area Codes*. Development that is identified as self-assessable or code assessable that exceeds the heights specified in a *Planning Area Code* applicable to the site becomes impact assessable. This is stated in notes in the headers of the *precinct class development assessment tables* in Section 4.2.2 of Caloundra City Plan.

Also, for *precincts* where the height of buildings and other structures is a relevant consideration, the *Precincts and Other Elements Code* in Part 5 of Caloundra City Plan includes as a *specific outcome* that development does not exceed the height specified for the site in the relevant *Planning Area Code*.

Note:

Where building height bonus provisions are available (i.e. under the *Central Caloundra Planning Area Code*), development that triggers the bonus does not become impact assessable unless it exceeds the building height permitted for the site under the bonus.

For reconfiguring a lot applications, how are lots below the minimum lot size dealt with?

Minimum lot sizes are specified in *Planning Area Codes* or, where not specified in the relevant *Planning Area Code*, the minimum lot size specified in Table 9.7 of the *Reconfiguring a Lot Code*. Development that does not comply with the specified minimum lot size is impact assessable under the Reconfiguring a Lot Development Assessment Table (Table 4.2.3(a) of Caloundra City Plan).

Reconfiguring a lot to create new lots that comply with the minimum lot size requirements will normally be code assessable.

For the Planning Area Codes where the concept applies, how is the “minimum average lot size” determined?

The *minimum average lot size* is a tool intended to provide an incentive to retain environmentally sensitive land free of development, by allowing areas which may not be subdivided to be included in the total area of a development site for the purpose of determining lot yield.

Where the *minimum average lot size* applies, it will be specified on a *Planning Area Code Map* in the relevant *Planning Area Code*. For a development proposal subject to a *minimum average lot size* requirement, lot yield is calculated by dividing the total area of the development site, including any area in the Open Space – Conservation and Waterways Precinct, by the specified minimum average lot size.

Note:

In any particular case, the ability of a development to achieve the calculated lot yield may be constrained by the need for each lot to also comply with the applicable minimum lot size requirement.

On the Planning Area Code maps, what does “Constrained land not intended for development” mean?

Where this symbol appears on a *Planning Area Code Map*, it identifies land that is subject to one or more physical constraints.

Generally, the corresponding *Planning Area Code* will include as part of a *specific outcome* for development in the relevant area, a statement to the effect that development of land subject to constraints is avoided. This is the Council’s preferred position in relation to these areas of land. Any proposal to develop in these areas will, if code assessable, be assessed against the *overall outcomes* of the relevant *Planning Area Code* (and the provisions of other applicable codes). Any development proposal that is impact assessable will be assessed against other relevant material including the *desired environmental outcomes* in Part 2 of Caloundra City Plan.

QUESTIONS RELATED TO PART 7 – OVERLAY CODES

What are the Overlay Codes used for?

There is an Overlay Code for each of the 13 *overlays* shown on the *planning area overlay maps* (e.g. *Acid Sulfate Soils Code*). Each Overlay Code identifies the requirements that apply to development affected by the *overlay* to which it corresponds.

Each Overlay Code contains:

- (a) *overall outcomes* which express the desired outcomes for development affected by the *overlay*;
- (b) *specific outcomes* which express the desired outcomes for a particular aspect or issue relevant to development affected by the *overlay*;
- (c) *probable solutions* which are prescriptive requirements or standards that provide a guide for achieving a *specific outcome* for code assessable development.

The Overlay Codes are contained in Part 7 of Caloundra City Plan.

QUESTIONS RELATED TO PART 8 – USE CODES

What are the Use Codes used for?

Caloundra City Plan contains 23 Use Codes, each of which identifies the requirements that apply to development for a particular purpose (e.g. *Bed and Breakfast Code*).

Each Use Code contains:

- (a) *overall outcomes* which express the desired outcomes for development for the purpose addressed by the code;
- (b) *specific outcomes* which express the desired outcomes for a particular aspect or issue relevant to development for that purpose;
- (c) *probable solutions* which are prescriptive requirements or standards that provide a guide for achieving a *specific outcome* for code assessable development.

Some Use Codes (e.g. Detached House Code) also contain *acceptable solutions* (identified with an asterisk (*)) which are prescriptive requirements or standards that must be met where development for the purpose addressed by the code is self-assessable development.

The Use Codes are contained in Part 8 of Caloundra City Plan.

How is a detached house regulated by Caloundra City Plan?

Refer to the Caloundra City Plan Detached House Guide.

QUESTIONS RELATED TO PART 9 – OTHER CODES

What are the “Other Codes” used for?

Caloundra City Plan contains 11 “Other Codes”, each of which identifies the requirements that apply to development of a particular stated type. The Other Codes include the *Reconfiguring a Lot Code* which sets out the requirements for subdivision of land. This group of codes also includes the *Civil Works Code*, the *Landscaping Code* and the *Parking and Access Code*, which are likely to be relevant to a large number of developments.

Each Other Code contains:

- (a) *overall outcomes* which express the desired outcomes for the stated type of development;
- (b) *specific outcomes* which express the desired outcomes for a particular aspect or issue relevant to development of that type;
- (c) *probable solutions* which are prescriptive requirements or standards that provide a guide for achieving a *specific outcome* for code assessable development.

Some Other Codes also contain *acceptable solutions* (identified with an asterisk (*)) which are prescriptive requirements or standards that must be met where the type of development addressed by the code is self-assessable development.

The Other Codes are contained in Part 9 of Caloundra City Plan.

QUESTIONS RELATED TO PART 10 - INFRASTRUCTURE

No FAQs currently in this section.

QUESTIONS RELATED TO PART 11 – PLANNING SCHEME POLICIES

What development is required to comply with the Development Design Planning Scheme Policy (DDPSP)? Are the requirements in the DDPSP mandatory?

The Development Design Planning Scheme Policy (DDPSP) sets out the Council’s detailed standards for civil works design and construction. This planning scheme policy is “called up” in the Civil Works

Code and the Reconfiguring a Lot Code. Accordingly, development for which these codes are identified as applicable codes in the development assessment tables (in Section 4.2 of Caloundra City Plan) will be required to comply with this planning scheme policy. Generally, this will apply to code assessable and impact assessable development but not to self-assessable development.

The DDPSP is called up through the *probable solutions* of the Civil Works Code and the Reconfiguring a Lot Code. As such, it effectively becomes part of the relevant *probable solutions*.

Probable solutions are prescriptive requirements or standards that provide a guide for achieving the *specific outcomes* of the code. *Probable solutions* represent the Council's preferred approach for achieving a *specific outcome* in the majority of circumstances. A proposed development may put forward an alternative solution but if doing so should demonstrate how the alternative solution achieves the corresponding *specific outcome*. The same principles apply to the contents of the Development Design Planning Scheme Policy.

When is an applicant required to prepare a specialist report (e.g. flooding, flora and fauna) to support a development proposal?

Caloundra City Plan contains no express requirement for specialist reports to be provided in relation to flooding, flora and fauna or other matters affecting a development site. However, a number of planning scheme policies identify the information which is likely to be required to demonstrate compliance with certain codes.

These include the Development Design Planning Scheme Policy, the Overlays Planning Scheme Policy, the Environmental Assessment and Management Planning Scheme Policy and the Landscaping Planning Scheme Policy.

In practice, it would be difficult to establish that proposed development achieves the *overall outcomes* and *specific outcomes* of applicable codes without specialist reports that identify prevailing site and surrounding conditions and assess their implications for development.