

South East Queensland Regional Plan 2009–2031

State planning regulatory provisions

Current as at May 2014

The Department of State Development, Infrastructure and Planning is responsible for driving the economic development of Queensland.

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Division 1 Preliminary

1.1 Short title

These State planning regulatory provisions may be cited as the *South East Queensland Regional Plan 2009-2031 State planning regulatory provisions*.

1.2 Definitions

The dictionary in schedule 3 of the *Sustainable Planning Act 2009* and in schedule 26 of the *Sustainable Planning Regulation 2009* defines particular words used in these State planning regulatory provisions unless otherwise defined in schedule 2.

1.3 Relationship to SEQ Regional Plan

These State planning regulatory provisions implement the regional plan for the SEQ region (*South East Queensland Regional Plan 2009–2031*).

1.4 SEQ region divided into categories

- (1) The SEQ Regional Plan allocates all land in the SEQ region into one of the following categories—
 - (a) Regional Landscape and Rural Production Area;
 - (b) Urban Footprint; and
 - (c) Rural Living Area.
- (2) The maps referred to in schedule 1 show these areas.

1.5 When these State planning regulatory provisions do not apply

- (1) Sections 2.1 and 3.1 of these State planning regulatory provisions do not apply to development in the Regional Landscape and Rural Production Area or Rural Living Area if the premises are in—
 - (a) an urban area under a planning scheme (other than a transitional planning scheme); or
 - (b) a biodiversity development offset area approved under a State Planning Instrument.
- (2) These State planning regulatory provisions do not apply to—
 - (a) development in a rural precinct if the development is consistent with the rural precinct; or
 - (b) development that is exempt from assessment against a planning scheme under the *Sustainable Planning Regulation 2009*, schedule 4; or
 - (c) development carried out under a development approval which has not lapsed for a development application:
 - (i) that was properly made before these State planning regulatory provisions commenced; or
 - (ii) to which Division 2 of these State planning regulatory provisions applied; or
 - (d) development that is consistent with a preliminary approval which has not lapsed, for the part of a development application mentioned in section 242 of the *Sustainable Planning Act 2009* that states the way in which the effect of a local planning instrument is varied, where the development application for the preliminary approval was—

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- (i) properly made before these State planning regulatory provisions commenced; or
 - (ii) assessed against Division 2 of these State planning regulatory provisions; or
- (e) development that is generally in accordance with a rezoning approval where the development entitlements from the rezoning approval are conferred by the following—
- (i) the resulting zone in a transitional planning scheme;
 - (ii) a development permit, a notice of a decision agreeing to a request under section 95(1)(a) of the *Sustainable Planning Act 2009* or an acknowledgement notice mentioned in section 3.2.5(1)(a) of the *Integrated Planning Act 1997* for the application of a superseded planning scheme for the resulting zone in a transitional planning scheme which is a superseded planning scheme;
 - (iii) a planning scheme (other than a transitional planning scheme); or
- (f) development that is—
- (i) declared to be a coordinated project under section 26(1)(a) of the *State Development and Public Works Organisation Act 1971*;
 - (ii) in a State development area under the *State Development and Public Works Organisation Act 1971*.

Division 2 Material change of use

2.1 Material change of use outside the Urban Footprint

A material change of use in the Regional Landscape and Rural Production Area or the Rural Living Area identified in Column 1 of Table 2A–

- (a) does not require assessment by the referral agency for these State planning regulatory provisions, if the material change of use is identified in Column 1 of the applicable table identified in Columns 2 and 3 of Table 2A;
- (b) requires assessment by the referral agency for these State planning regulatory provisions if the material change of use is identified in Column 2 of tables 2C, 2D, 2E, and 2F;
- (c) is assessable development requiring impact assessment against the identified assessment criteria, if the material change of use is identified in Column 2 of the applicable table identified in Columns 2 and 3 of Table 2A.

Table 2A – Material change of use in the Regional Landscape and Rural Production Area and Rural Living Area

Column 1 Use	Column 2 Regional Landscape and Rural Production Area	Column 3 Rural Living Area
Tourist activity	Table 2B	Table 2B
Sport and recreation	Table 2B	Table 2B
Community activities	Table 2C	Table 2C
Urban activities		
Indoor recreation	Table 2D	Table 2D
Residential development	Table 2E	Table 2E
Rural residential	Table 2E	Not applicable
Other urban activities	Table 2F	Table 2F

Table 2B – Tourist activity or sport and recreation activity	
Column 1 Material change of use not requiring referral agency assessment	Column 2 Material change of use requiring impact assessment
Any material change of use for tourist activity or sport and recreation activity	A material change of use– (a) which has a gfa of more than 5000 m² on the premises (excluding short-term accommodation); or (b) that involves an incidental commercial or retail activity on the premises of more than 250 m² in gfa; or (c) that involves short-term accommodation on the premises containing more than 300 persons. A material change of use identified in this column must comply with the site, use and strategic intent requirements under Schedule 4 of these regulatory provisions.

Table 2C – Community activity	
Column 1 Material change of use not requiring referral agency assessment	Column 2 Material change of use requiring referral agency assessment and impact assessment
A material change of use having a gfa of no more than 5000 m² on the premises (excluding short-term accommodation) where– (a) any incidental commercial or retail activity on the premises is no more than 250 m²; and (b) short-term accommodation on the premises contains no more than 300 persons.	A material change of use not identified in Column 1 must comply with the site, use and strategic intent requirements under Schedule 5 of these regulatory provisions.

Table 2D – Indoor recreation	
Column 1 Material change of use not requiring referral agency assessment	Column 2 Material change of use requiring referral agency assessment and impact assessment
A material change of use having a gfa of no more than 3000 m² on the premises (excluding short-term accommodation) where— (a) the premises caters for no more than 250 persons; and (b) short-term accommodation on the premises contains no more than 100 persons.	A material change of use not identified in Column 1 must comply with the following assessment criteria— (a) the locational requirements or environmental impacts of the development necessitate its location outside the Urban Footprint; (b) there is an overriding need for the development in the public interest.

Table 2E – Residential development and rural residential development	
Column 1 Material change of use not requiring referral agency assessment	Column 2 Material change of use requiring referral agency assessment and impact assessment
A material change of use for a private residence on an existing lot.	A material change of use not identified in Column 1 must comply with the following assessment criteria— (a) the locational requirements or environmental impacts of the development necessitate its location outside the Urban Footprint; (b) there is an overriding need for the development in the public interest.

Table 2F – Other urban activities	
Column 1 Material change of use not requiring referral agency assessment	Column 2 Material change of use requiring referral agency assessment and impact assessment
1. A material change of use for an industrial and commercial purpose having a gfa of no more than 750 m² on the premises where— (a) any incidental retail activity on the premises is no more than 50 m²; and (b) any associated outdoor area on the premises is no more than 1500 m². 2. A material change of use for a service station having a gfa of no more than 1000 m² on the premises where any— (a) incidental retail activity on the premises is no more than 250 m²; and (b) associated outdoor area on the premises is no more than 2000 m².	A material change of use not identified in Column 1 must comply with the following assessment criteria— (a) the locational requirements or environmental impacts of the development necessitate its location outside the Urban Footprint; (b) there is an overriding need for the development in the public interest.

2.2 Material change of use in a development area

A material change of use in a development area identified in—

- (a) Column 1 of Table 2G, does not require assessment by the referral agency for these State planning regulatory provisions; and
- (b) Column 2 of Table 2G, is required to be assessed by the referral agency for these State planning regulatory provisions against the identified assessment criteria.

Table 2G – Land within a development area	
Column 1 Material change of use not requiring referral agency assessment	Column 2 Material change of use requiring referral agency assessment and impact assessment
A material change of use involving exempt, self and code assessable development under the planning scheme where— (a) the gfa on the premises is no more than 10 000 m²; and (b) the premises is no more than 10 000 m².	Development not identified in Column 1 must be consistent with the future planning intent for the area.

Division 3 Subdivision

3.1 Subdivision in the Regional Landscape and Rural Production Area

- (1) A subdivision of land in the Regional Landscape and Rural Production Area is contrary to these State planning regulatory provisions and may not occur if identified in Column 2 of Table 3A.
- (2) A subdivision of land in the Regional Landscape and Rural Production Area identified in Column 1 of Table 3A does not require assessment by the referral agency for these State planning regulatory provisions.

Table 3A – Subdivision in the Regional Landscape and Rural Production Area	
Column 1 Subdivision compliant with Division 3.1	Column 2 Subdivision which may not occur
(1) The subdivision is consistent with a rural subdivision precinct. (2) The subdivision results in lots of 100 hectares or greater. (3) The subdivision of a lot results in no additional lots, for example, amalgamation or boundary realignment. (4) The subdivision is— (a) in an area designated by the regional planning Minister in a gazette notice as having a rural residential purpose; and (b) subject to a development application that is properly made on or before 6 December 2010. (5) The subdivision is limited to one additional lot created to accommodate the following— (a) an emergency services facility; (b) water cycle management infrastructure; (c) a waste management facility; (d) telecommunication infrastructure; (e) electricity infrastructure; (f) a cemetery or crematorium; or (g) a correctional facility. (6) The subdivision divides one lot into two where— (a) the existing lot is severed by a road that was gazetted before 2 March 2006; and (b) the resulting lot boundaries use the road as the boundary of division.	Development not identified in Column 1.

(7) The subdivision is consistent with a development approval for a material change of use of premises that has not lapsed, where— (a) the application for the development approval was properly made before 31 October 2006; or (b) the material change of use was assessed by a referral agency against Division 2 of the applicable State planning regulatory provisions; or (c) the material change of use is identified in Division 2, Table 2B, Column 2.	
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3.2 Subdivision in a development area

A subdivision of land in a development area—

- (a) identified in Column 1 of Table 3B, does not require assessment by the referral agency for these State planning regulatory provisions; and
- (b) identified in Column 2 of Table 3B, requires assessment by the referral agency for these State planning regulatory provisions and impact assessment against the identified assessment criteria.

Table 3B – Subdivision involving land within a development area	
Column 1 Subdivision not requiring referral agency assessment	Column 2 Subdivision requiring referral agency assessment and impact assessment
(1) The subdivision complies with a master plan for a declared master planned area. (2) The subdivision results in no additional lots, for example, amalgamation or boundary realignment. (3) The subdivision is limited to one additional lot created to accommodate the following— (a) an emergency services facility; (b) water cycle management infrastructure; (c) a waste management facility; (d) telecommunication infrastructure; (e) electricity infrastructure; (f) a cemetery or crematorium; or (g) a correctional facility.	Development not identified in Column 1 must be consistent with the future planning intent for the area.

(4) The subdivision divides one lot into two where— (a) the existing lot is severed by a road that was gazetted before 2 March 2006; and (b) the resulting lot boundaries use the road as the boundary of division. (5) The subdivision is consistent with a development approval for a material change of use of premises that has not lapsed, where— (a) the application for the development approval was properly made before 31 October 2006; or (b) the material change of use was assessed by a referral agency against Division 2 of the applicable State planning regulatory provisions.	
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Division 4 Assessment criteria for development applications

4.1 Assessment criteria for development applications

The assessment manager for a development application involving a material change of use involving an extension of more than 10 000 m² of retail floor space must assess the application against the following assessment criteria.

Assessment criteria

The development must have regard to the provision of sufficient land with street frontage for non-retail business premises.

Division 5 Regional Planning Minister Notices

5.1 Regional Planning Minister notices

- (1) The regional planning Minister may by gazette notice designate an area within the SEQ Region to be—
- (a) a local development area;
 - (b) a regional development area;
 - (c) a rural subdivision precinct;
 - (d) a rural precinct; or
 - (e) an area having a rural residential purpose.

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- (2) The referral agency for these State planning regulatory provisions must publish a copy of each gazette notice issued under section 5.1(1) on its webpage.
 - (3) Failure to comply with section 5.1(2) does not affect the validity of the gazette notice.

Division 6 Contrary and inconsistent development

6.1 Contrary and inconsistent development

- (1) Development is only contrary to, or inconsistent with, these State planning regulatory provisions to the extent the development is identified in Column 2 of Table 3A.
- (2) Nothing in this section prevents the referral agency for these State planning regulatory provisions exercising its powers under the IDAS including directing refusal of, or imposing conditions on, a development.

Schedules

Schedule 1—Maps

South East Queensland Regional Plan 2009–2031 regulatory maps numbered SEQ RP 1 to SEQ RP 32.

Schedule 2—Dictionary

2.1 Use definitions

community activities means an activity limited to a place of worship, an education facility, a community hall, a childcare centre, hospice, institution, associated short-term accommodation and incidental commercial and retail activity.

indoor recreation means an activity limited to indoor sport, recreation and entertainment purposes. It includes an indoor sport and function centre facility, wedding chapel, restaurant, tavern with associated short-term accommodation and an incidental commercial and retail activity.

institution means an activity limited to—

- (a) the care, treatment or accommodation of a mentally ill person admitted thereto pursuant to legislation; or
- (b) the detention, reform or training of a person admitted thereto pursuant to legislation.

outdoor recreation means a recreation or sports activity that—

- (a) has a direct connection to the rural, natural or resource value of the premises;
- (b) is carried on outside of a building;
- (c) requires areas of open space; and
- (d) may include works necessary to manage safety and ecological impacts.

overriding need in the public interest has the meaning provided for by schedule 3.

primary industry means agriculture, apiculture, aquaculture, horticulture, pastoral industry, intensive animal husbandry and extractive industry.

private residence means a residential activity limited to no more than—

- (a) a primary residence;
- (b) secondary residence (e.g. granny flat); and
- (c) manager's residence.

residential development means development for a residential purpose. It includes a rural residential development, relocatable home park, retirement village and a private residence. It does not include short-term accommodation or an institution.

short-term accommodation means a facility which is purpose built for non-permanent accommodation and makes individual units or spaces available for separate hire for periods of no more than 12 weeks to tourists and travellers. It includes, but is not limited to a holiday cabin, motel, hotel, holiday apartment, guesthouse, dormitory, backpackers hostel, camping site and caravan park. It does not include residential development.

sport and recreation activities means a purpose-built outdoor sport and recreation facility, including a clubhouse, short-term accommodation, grandstand and storage facility.

tourist activities means an activity which is reliant on the tourist trade. It includes short-term accommodation and an incidental commercial and retail activity.

urban activity means a residential, industrial, retail, or commercial activity. It does not include the following—

- (a) tourist activity;
- (b) sport and recreation activity;
- (c) community activity;

- (d) outdoor recreation;
- (e) forestry and primary industry activity or an activity reasonably associated with such a purpose for which the premises or surrounding area is used, including, for example the following—
 - (i) farm workers' accommodation;
 - (ii) a mechanical repair workshop for farm machinery or vehicles;
 - (iii) vehicle storage associated with transporting forestry or primary industry produce or resources;
 - (iv) processing and packaging forestry or primary industry goods, including crushing and screening of extracted materials and wholesale nurseries.
- (f) an aeronautical facility;
- (g) an emergency services facility;
- (h) water cycle, waste management, telecommunications and electricity infrastructure;
- (i) a cemetery crematorium;
- (j) an animal boarding facility.

2.2 Administrative definitions

applicable State planning regulatory provisions means the version of the State planning regulatory provisions for the SEQ region in effect at the time the application for the development approval was properly made.

associated outdoor area means the total outdoor area of the site used for or in association with an urban activity, tourist activity or sport and recreation. It includes an unenclosed covered area, parking area and a manoeuvring, loading and outdoor storage area. It does not include a landscaped area and driveway.

development area means land designated by the regional planning Minister in a gazette notice as:

- (a) a local development area; or
- (b) a regional development area

for the purposes of these State planning regulatory provisions.

gross floor area (gfa) means the total floor area of all stories of a building measured from the outside of the external walls or the centre of a common wall.

rezoning approval means an approval given under the following—

- (a) the *Local Government (Planning and Environment) Act 1990* (repealed), section 4.5(6), 4.8(6), 4.10(6) or 8.10(9A);
- (b) the *Local Government Act 1936* (repealed), section 33(5)(K) to which section 33(5)(M) also applied;
- (c) the *Integrated Planning Act 1997* (repealed), section 6.1.26.

rural subdivision precinct means an area designated by the regional planning Minister in a gazette notice as a rural subdivision precinct for the purposes of these State planning regulatory provisions.

rural precinct means land endorsed by the regional planning Minister in a gazette notice as a rural precinct for the purposes of these regulatory provisions.

subdivision means creating a lot by subdividing another lot, or dividing land into parts by agreement rendering different parts of a lot immediately available for separate disposition or separate occupation, and does not include a lease for a term, including renewal options, not exceeding 10 years.

transitional planning scheme has the meaning given by the *Integrated Planning Act 1997*, Chapter 6, Part 1, Division 2.

Schedule 3 – How to determine overriding need for the development in the public interest

To determine an overriding need for the development in the public interest an application must establish—

- (a) the overall social, economic and environmental benefits of the material change of use weighed against—
 - (i) any detrimental impact upon the natural values of the site; and
 - (ii) conflicts with the desired regional outcomes of the SEQ Regional Plan, especially in relation to promoting the consolidation of development within the Urban Footprint and preventing land fragmentation in the Regional Landscape and Rural Production Area; and
- (b) that the community would experience significant adverse economic, social or environmental impacts if the material change of use proposal were not to proceed.

This may require an assessment to determine if the material change of use could reasonably be located in the Urban Footprint.

The following do not establish an overriding need in the public interest—

- (a) activities with relatively few locational requirements such as residential development and shopping centres; or
- (b) interests in or options over the site; or
- (c) the site's availability or ownership.

Schedule 4—Site, use and strategic intent requirements for a tourist activity or sport and recreation activity

For Division 2, Section 2.1, Table 2B, Column 2 of these State planning regulatory provisions the site, use and strategic intent requirements are as follows:

- (1) The proposed site must—
 - (a) be directly accessible to appropriate existing or proposed transport infrastructure, commensurate with the scale and type of development;
 - (b) be able to be serviced with efficient provision of physical infrastructure, including water and appropriate waste treatment and disposal;
 - (c) have timely access to a suitable workforce;
 - (d) be physically suitable; and
 - (e) be appropriately separated from incompatible uses.
- (2) Development on the proposed site must exclude areas of—
 - (a) significant biodiversity values;
 - (b) unacceptable risk from natural hazards, including predicted impacts of climate change.
- (3) To the extent relevant, development must comply with the *South East Queensland Koala Conservation State planning regulatory provisions*.
- (4) The use of the premises must not include residential development (other than to accommodate workers employed at the tourist activity or sport and recreation activity) and any urban activities (other than short term accommodation) must be incidental to the tourist activity or sport and recreation activity.
- (5) The strategic intent of the SEQ Regional Plan must be met, including all relevant Desired Regional Outcomes.

Schedule 5—Site, use and strategic intent requirements for a community activity

For Division 2, Section 2.1, Table 2C, Column 2 of these State planning regulatory provisions the site, use and strategic intent requirements are as follows:

- (1) The proposed site must—
 - (a) be directly accessible to appropriate existing or proposed transport infrastructure, including public transport;
 - (b) be able to be serviced with efficient provision of physical infrastructure, including water and sewerage;
 - (c) have timely access to a suitable workforce;
 - (d) be physically suitable; and
 - (e) be appropriately separated from incompatible uses.
- (2) Development on the proposed site must exclude areas of—
 - (a) significant biodiversity values;
 - (b) unacceptable risk from natural hazards, including predicted impacts of climate change.
- (3) To the extent relevant, development must comply with the *South East Queensland Koala Conservation State planning regulatory provisions*.
- (4) The use of the premises must not include residential development and limits—
 - (a) short-term accommodation to a maximum of 300 persons; and
 - (b) use of the premises for urban activities (other than short term accommodation) to no more than 250 m² gfa.
- (5) The strategic intent of the SEQ Regional Plan must be met, including all relevant Desired Regional Outcomes.