

# Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2021

Explanatory notes for SL 2021 No. 167

made under the

*Education (General Provisions) Act 2006*

## General Outline

### Short title

*Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2021*

### Authorising law

Sections 419A and 434 of the *Education (General Provisions) Act 2006*

### Policy objectives and the reasons for them

Under the 2018 *National Partnership Agreement on Universal Access to Early Childhood Education* (NPA), the Queensland Government committed to ensuring all children have the opportunity to access kindergarten in the year before full time school. While more than 95% of Queensland children attend kindergarten, access for children in remote communities remains a challenge, with participation in 2020 estimated to be approximately 73.7%.

It can be challenging for rural and remote communities and other communities experiencing vulnerability to sustain a viable kindergarten service due to difficulties attracting and retaining early childhood teachers and fluctuating cohorts of kindergarten aged children.

In 2016, a Remote Kindergarten Pilot Program (the pilot) was introduced to pilot the delivery of kindergarten from 11 prescribed state schools in remote communities. The pilot was expanded in 2017, with additional state schools prescribed as sites for the program. In October 2018, the Queensland Government approved the pilot be transitioned to an ongoing program and further expanded it to include an additional 30 remote state schools. This program allowed state schools that are at least 50 kilometres (km) by road from the nearest approved kindergarten program provider (KPP) to provide a State Delivered Kindergarten (SDK) program.

In 2020, the Queensland Government committed to expanding the pilot to include state schools at least 40 km from the nearest KPP, in response to feedback from stakeholders and community that the 50 km distance criterion was not fully meeting the needs of children and families in rural and remote Queensland. There are an additional 22 non-prescribed state schools that are at least 40 km from the nearest kindergarten program.

Additionally, the Queensland Government has committed to providing SDK programs in selected schools by allowing the Minister for Education, Minister for Industrial Relations and Minister for Racing (the Minister) to approve the provision of an SDK program outside the 40 km eligibility criteria in certain circumstances where there are barriers to accessing kindergarten.

There are 11 state schools located in communities in which the Minister may apply the discretionary criterion for the SDK program, i.e. experiencing unique challenges in accessing an approved KPP.

Based on Prep enrolments over the past five years, the new SDK programs in these combined locations may register up to 177 children.

The table below lists the 11 schools to be prescribed that do not meet the 40 km distance criterion, and the unique issues for each school identified through community consultation.

<b>Region</b>	<b>School</b>	<b>Reasons for SDK program</b>
Central Queensland Region	Ambrose State School	<p>Index of Relative Socio-economic disadvantage (IRSD) data positions this school within a Quartile (Q) 1, Statistical Area (SA) 2, the most disadvantaged area.</p> <p>Families in the community often reside several kilometres from the school, thus increasing the distance to the nearest KPP and do not travel to the nearest service in West Gladstone due to safety concerns about the condition of the road.</p>
Central Queensland Region	Bororen State School	<p>Australian Early Development Census (AEDC) data (2018) indicates that children in Miriam Vale community are more vulnerable by 3.5% on one or more domains of the AEDC than the Queensland average.</p> <p>IRSD data positions Bororen within a Q1 SA2, the most disadvantaged area.</p> <p>While the Tannum Sands Kindergarten is 38 km from Bororen, many Bororen State School families reside in Turkey Beach which is 68 km (136 km return) from Tannum Sands and 33 km to Bororen.</p> <p>Over the past three years, families from Turkey Beach have been travelling to the eKindy pod at Bororen State School.</p>
Central Queensland Region	Byfield State School	<p>IRSD data positions this school within a Q1 SA2, the most disadvantaged area.</p> <p>While the closest KPP is 38 km from Byfield, families in the Byfield community often reside several kilometres from the school, thus increasing the distance to the nearest KPP. They also do not travel</p>

		to the nearest service in Yeppoon due to safety concerns about the condition of the road.
Darling Downs South West Region	Bell State School	<p>Families in the Bell community often reside several kilometres from the school, thus increasing the distance to the nearest KPP.</p> <p>While the Maclagan-Windermere kindergarten is closest by distance to the township of Bell, it is not the direction of travel most families take to access essential services.</p> <p>Families with school-aged children experience barriers to 15 hours participation at the nearest KPP due to limited transport options and no Outside School Hours Care in the community that would enable drop-off and pick-up from kindergarten and school.</p>
Darling Downs South West Region	Leyburn State School	<p>AEDC data indicates that children in the West Warwick community are more vulnerable by 2% on one or more domains (2018) than the Queensland average.</p> <p>IRSD data positions Leyburn within a Q1 SA2, the most disadvantaged area.</p> <p>While the Treasure Island (Clifton) service is the closest to Leyburn, families from this community travel to Warwick, which is 71 km from Leyburn, to access services.</p>
Far North Region	Murray River Upper State School	<p>IRSD data positions Murray River Upper within a Q1 SA2, the most disadvantaged area.</p> <p>Over 60% of the enrolment of Murray River Upper State School are children from the Jumbun Indigenous Community, a further 8.1 km south west of the school.</p> <p>Many families from Jumbun do not have an independent means of transport and there are no public transport options.</p>
Far North Region	Wonga Beach State School	<p>AEDC data indicates that 42.9% of children in the North Douglas community are vulnerable on one or more AEDC domains (2018). This is 17 points above the Queensland average, and 21.2 points above the national average.</p> <p>IRSD data positions Wonga Beach within a Q1 SA2, the most disadvantaged area.</p> <p>Many families from Wonga Beach do not have an independent means of transport and there are no public transport options.</p> <p>A high proportion of children in this community have experienced trauma due to domestic violence, substance abuse, poverty and lack of employment.</p>
North Coast Region	Brooweena State School	<p>AEDC data indicates that 33.3% of children in Woocoo and surrounds are vulnerable on one or more AEDC domains (2018). This is 7.4 points above the Queensland average, and 11.6 points above the national average.</p> <p>IRSD data positions Brooweena within a Q1 SA2, the most disadvantaged area.</p>

		<p>Some families from Brooweena do not have an independent means of transport and there are no public transport options.</p> <p>Members of the community have expressed safety concerns about the condition of roads.</p>
North Coast Region	Rainbow Beach State School	<p>AEDC data indicates that children in the Cooloola community are more vulnerable by 2% on one or more domains (2018) than the Queensland average.</p> <p>Some families from Rainbow Beach do not have an independent means of transport and there are no public transport options.</p> <p>Members of the community have expressed safety concerns about the condition of roads.</p>
North Queensland Region	Gumlu State School	<p>The closest KPP to Gumlu is 39.75 km. However, families in the Gumlu community often reside several kilometres from the school, thus increasing the distance to the nearest KPP.</p> <p>There are no public transport options.</p>
South East Region	Russell Island State School	<p>AEDC data indicates that 31.8% of children in the Russell Island community are vulnerable on one or more AEDC domains (2018).</p> <p>IRSD data positions Russell Island within a Q1 SA2, the most disadvantaged area.</p> <p>Transition data for 2021 for this school indicates that four out of 15 children attending Prep in 2021 attended a kindergarten program in 2020. Transport barriers are cited by parents as a significant contributor to this lack of engagement.</p> <p>A 15-minute ferry service is available from Russell Island to Macleay Island, but many families do not have cars and the ferry terminal is not accessible on foot. Families living in the south of Russell Island with a car would take approximately 45–60 minutes to get to the service at Macleay Island.</p> <p>Bay Island Early Learning and Care on Macleay Island is not accessible on foot from the ferry terminal, but the service does provide a bus service for families from the ferry terminal.</p>

Criteria that were considered in making this decision included:

- little or no impact on market viability of existing services – assessed in consultation with the sector;
- distance to the nearest KPP is prohibitive to access (due to lack of transportation options, location of child’s principal place of residence, etc);
- Indigenous population, including ensuring culturally appropriate programs and qualified workforce;
- vulnerable community, including children from refugee and asylum seeker backgrounds and children with disability (based on available data sets);
- high risk population or community requiring additional support (for example, high ratio of substance abuse or domestic and family violence); and
- sustainability of the service.

The prescription of state schools that provide SDK programs in a regulation is necessary because state schools are defined in Schedule 4 Dictionary of the *Education (General Provisions) Act 2006* (EGP Act) to mean an educational institution established under section 13 of the EGP Act. Section 13 of the EGP Act provides that the Minister may establish schools at which the State provides primary, secondary or special education, but makes no reference to kindergarten programs.

To allow for SDK programs, section 419A of the EGP Act provides that the Minister may approve a program focused on literacy and numeracy for preparing a child for education in the preparatory year, to be a kindergarten learning program for a prescribed state school. In order for a state school to commence delivery of a kindergarten learning program (after the creation of section 419A in 2009) it must be prescribed in a regulation.

Section 74 of the *Education (General Provisions) Regulation 2017* (EGP Regulation) provides that the state schools mentioned in Schedule 4 are the state schools prescribed for section 419A(5) of the EGP Act. There are currently 71 prescribed state schools under Schedule 4.

The *Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2021* (Amendment Regulation) prescribes 33 additional state schools so that they may provide a kindergarten program.

## **Achievement of policy objectives**

The Amendment Regulation achieves its policy objectives by prescribing 33 state schools, comprising 22 schools in areas at least 40 km distance by road from the nearest approved KPP and 11 schools located in communities which experience unique challenges that impact on the ability of the community to attend an approved KPP. The prescription of these state schools will allow them to provide a kindergarten program.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objectives of the EGP Act.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The implementation cost for prescribing the new schools will be funded from the existing Department of Education (DoE) budget, and is estimated at approximately \$17 million over four years. These costs include professional development, resourcing, teacher aide salaries and infrastructure costs to build a purpose-built kindergarten facility on Russell Island. Costs for this new building are indicative and subject to change. Any additional costs will be absorbed as part of the internal departmental infrastructure budget.

Expanding delivery of kindergarten programs in communities will contribute to the Queensland Government's commitment to ensure all kindergarten-age children in Queensland have access to a quality early childhood education program.

## Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

## Consultation

In 2020, DoE held face-to-face consultation sessions with key stakeholders and also provided the opportunity for written feedback in response to a consultation paper on expansion of the criteria for SDK programs. Stakeholders included:

- Central Governing Bodies:
  - Independent Schools Queensland;
  - Queensland Catholic Education Commission;
  - Queensland Lutheran Early Childhood Services;
  - Crèche and Kindergarten Association (C&K);
- Isolated Children's Parents' Association Queensland;
- Queensland Teachers' Union;
- Queensland Independent Education Union; and
- Queensland Association of State School Principals.

Initial consultation with key community stakeholders indicated support for expanding the eligibility criteria for SDK programs in state schools where there is community need, subject to consultation with the community and existing services prior to expansion of any new SDK programs that do not meet the 40 km distance criterion.

Further community consultation and engagement was conducted by school principals and regional staff in the communities where SDK programs are proposed due to the unique barriers to accessing kindergarten. The consultation and engagement processes undertaken within local communities indicated high levels of support for the introduction of a kindergarten program at the 11 additional school sites.

Overall, feedback from the consultation was predominately positive with stakeholders recognising the need to provide access to families who are living in circumstances that make it difficult to access a kindergarten service. While there is a high level of community support there was a concern raised by C&K and one other approved KPP about possible impacts (currently unknown) to kindergarten services. DoE will monitor the impact of the introduction of SDK programs in these locations, and will work closely with local stakeholders including central governing bodies and other approved KPPs.

The Office of Best Practice Regulation (OBPR) was also consulted in relation to the requirements under the Queensland Guide to Better Regulation when Cabinet approval was being sought for a change to the distance criterion as part of the policy. OBPR advised that the proposal appeared unlikely to result in significant adverse impacts and that no further regulatory impact analysis was required.