



Queensland

# Planning (SEQ Regulatory Provisions) Amendment Regulation 2023

## Subordinate Legislation 2023 No. 195

made under the

*Planning Act 2016*

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[s 1]

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**1 Short title**

This regulation may be cited as the *Planning (SEQ Regulatory Provisions) Amendment Regulation 2023*.

**2 Commencement**

This regulation commences on 11 December 2023.

**3 Regulation amended**

This regulation amends the *Planning Regulation 2017*.

**4 Amendment of s 41 (Deciding whether development is consistent with future planning intent)**

Section 41(4)(a)—

*omit, insert—*

- (a) is consistent with the outcomes and strategies, and subregional directions, stated in the SEQ regional plan; and

**5 Amendment of s 41B (Deciding whether there is an overriding need in the public interest for development)**

- (1) Section 41B(1), after ‘part 16’—

*insert—*

or 16B

- (2) Section 41B(2)(a)(i)—

*omit, insert—*

- (i) any adverse impact on the regional biodiversity network, regional landscape values or natural economic resource areas stated in the SEQ regional plan; and

- (3) Section 41B(2)(a)(ii), from ‘the desirability’ to ‘about’—

*omit, insert—*

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the desirability of achieving the outcomes and strategies, and subregional directions, stated in the SEQ regional plan, particularly the outcomes and strategies about

**6 Amendment of sch 1 (Regions)**

Schedule 1, column 2, entry for SEQ region, from ‘SEQ RP 16’ to ‘2017’—

*omit, insert—*

SEQ RP 1.16 and SEQ RP 1.21, dated December 2023

**7 Replacement of sch 10, pt 15 (SEQ development area)**

Schedule 10, part 15—

*omit, insert—*

**Part 15 SEQ development areas and SEQ major enterprise and industrial areas**

**Division 1 Category 1 SEQ development areas**

**22 Prohibited development—reconfiguring a lot in a category 1 SEQ development area**

- (1) Reconfiguring a lot that is a subdivision and assessable development under section 21 is prohibited development to the extent the lot is in a category 1 SEQ development area.
- (2) However, subsection (1) does not apply to the extent the reconfiguring of the lot is—

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- (a) carried out under a development permit given for an application that was properly made before 20 September 2023; or
- (b) consistent with a development approval—
  - (i) in effect for the premises on which the development is carried out; and
  - (ii) given for an application that was properly made before 20 September 2023; or
- (c) for a coordinated project; or
- (d) in a State development area; or
- (e) in a priority development area.

**22A Prohibited development—material change of use in a category 1 SEQ development area**

- (1) A material change of use of premises is prohibited development to the extent the premises are in a category 1 SEQ development area.
- (2) However, subsection (1) does not apply to the extent the development is—
  - (a) a material change of use of premises for—
    - (i) a dwelling house; or
    - (ii) a dwelling unit; or
    - (iii) caretaker’s accommodation; or
    - (iv) a home-based business; or
    - (v) a rural activity, other than aquaculture, intensive animal industry, intensive horticulture or a permanent plantation, in a rural zone; or
  - (b) carried out under a development permit given for an application that was properly made before 20 September 2023; or
  - (c) consistent with a development approval—

- (i) in effect for the premises on which the development is carried out; and
- (ii) given for an application that was properly made before 20 September 2023; or
- (d) for a coordinated project; or
- (e) in a State development area; or
- (f) in a priority development area.

**Division 2            Category 2 SEQ  
development areas**

**Subdivision 1    Reconfiguring a  
lot—referral agency’s  
assessment**

<b>Column 1</b>	<b>Column 2</b>
1    Development application requiring referral	Development application for reconfiguring a lot that is completely or partly in a category 2 SEQ development area, if—  (a) the reconfiguration is assessable development under section 21 and requires impact assessment; and  (b) the reconfiguration is a subdivision other than an exempt subdivision
2    Referral agency	The chief executive
3    Limitations on referral agency’s powers	—

[s 7]

<b>Table 1—Reconfiguring a lot in category 2 SEQ development area</b>	
<b>Column 1</b>	<b>Column 2</b>
4 Matters referral agency’s assessment must be against	Whether the development is consistent with the future planning intent for the area in which the premises are located  <i>Note—</i> See also section 41.
5 Matters referral agency’s assessment must have regard to	—
6 Matters referral agency’s assessment may be against	—
7 Matters referral agency’s assessment may have regard to	—
8 Fee for referral	1,714 fee units

## **Subdivision 2 Assessable development**

### **22B Assessable development—material change of use in a category 2 SEQ development area**

- (1) A material change of use of premises that are completely or partly in a category 2 SEQ development area is assessable development.
- (2) However, subsection (1) does not apply to the extent the development is—
  - (a) a material change of use of premises for—
    - (i) a dwelling house; or
    - (ii) a dwelling unit; or
    - (iii) caretaker’s accommodation; or
    - (iv) a home-based business; or
    - (v) a rural activity, other than aquaculture, intensive animal industry, intensive horticulture or a permanent plantation, in a rural zone; or



- (b) for a coordinated project; or
- (c) in a State development area; or
- (d) in a priority development area.

### **Subdivision 3 Assessment by assessment manager**

<b>Table 1—Assessable development under s 22B</b>	
<b>Column 1</b>	<b>Column 2</b>
1 Category of assessment	Impact assessment
2 Assessment benchmarks	—
3 Matters code assessment must have regard to	—
4 Matters impact assessment must have regard to	—

### **Subdivision 4 Referral agency’s assessment**

<b>Table 1—Assessable development under s 22B</b>	
<b>Column 1</b>	<b>Column 2</b>
1 Development application requiring referral	Development application for a material change of use of premises that is assessable development under section 22B
2 Referral agency	The chief executive
3 Limitations on referral agency’s powers	—

[s 7]

<b>Table 1—Assessable development under s 22B</b>	
<b>Column 1</b>	<b>Column 2</b>
4 Matters referral agency’s assessment must be against	Whether the development is consistent with the future planning intent for the area in which the premises are located  <i>Note—</i> See also section 41.
5 Matters referral agency’s assessment must have regard to	—
6 Matters referral agency’s assessment may be against	—
7 Matters referral agency’s assessment may have regard to	—
8 Fee for referral—  (a) if the material change of use involves reconfiguring a lot for which the chief executive is a referral agency under division 2, table 1, item 1, column 2  (b) otherwise	Nil          1,714 fee units

### **Division 3            SEQ major enterprise and industrial areas**

#### **22C Prohibited development—material change of use in SEQ major enterprise and industrial area**

- (1) A material change of use of premises for accommodation activity is prohibited development to the extent the premises are located in an industry zone in an SEQ major enterprise and industrial area.
- (2) However, subsection (1) does not apply if the material change of use is—

- 
- (a) for caretaker's accommodation; or
  - (b) in an SEQ development area; or
  - (c) carried out under a development permit given for an application that was properly made before 20 September 2023; or
  - (d) consistent with a development approval—
    - (i) in effect for the premises on which the development is carried out; and
    - (ii) given for an application that was properly made before 20 September 2023.
- (3) In this section—
- industry zone* means—
- (a) any industry zone stated in schedule 2; or
  - (b) a zone, other than a zone stated in schedule 2, that is of a substantially similar type to a zone mentioned in paragraph (a).

## **8 Insertion of new sch 10, pt 16, div 1AA**

Schedule 10, part 16, before division 1—

*insert—*

### **Division 1AA Preliminary**

#### **22D Application of part**

This part does not apply if part 16B applies.

## **9 Amendment of sch 10, pt 16, div 1, s 23 (Prohibited development—reconfiguring a lot in SEQ regional landscape and rural production area)**

- (1) Schedule 10, part 16, division 1, section 23(2)(b) and (d) and (3)—

[s 10]

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*omit.*

- (2) Schedule 10, part 16, division 1, section 23(2)(c)—  
*renumber* as schedule 10, part 16, division 1, section 23(2)(b).

**10 Amendment of sch 10, pt 16, div 2, sdiv 1, s 24  
(Assessable development—material change of use for  
tourist activity or sport and recreation activity)**

- (1) Schedule 10, part 16, division 2, subdivision 1, section 24(c)—  
*insert*—
- (iii) for a tourist activity that is in an SEQ significant tourist activity area.

- (2) Schedule 10, part 16, division 2, subdivision 1, section 24—

*insert*—

- (2) In this section—

***SEQ significant tourist activity area*** means an area in the SEQ region identified in a gazette notice by the Minister as an SEQ significant tourist activity area.

**11 Amendment of sch 10, pt 16, div 2, sdiv 3 (Referral agency's assessment)**

- (1) Schedule 10, part 16, division 2, subdivision 3, table 1, item 4, column 2, paragraph (f)—

*omit, insert*—

- (f) The material change of use avoids adversely impacting the regional biodiversity network, regional landscape values or natural economic resource areas stated in the SEQ regional plan or, if the adverse impact can not be avoided, the adverse impact is minimised

- 
- (2) Schedule 10, part 16, division 2, subdivision 3, table 1, item 4, column 2, paragraph (k), from ‘goals’—

*omit, insert—*

outcomes and strategies, and subregional directions, stated in the plan

**12 Amendment of sch 10, pt 16, div 3, sdiv 4 (Referral agency’s assessment)**

- (1) Schedule 10, part 16, division 3, subdivision 4, table 1, item 4, column 2, paragraph (f)—

*omit, insert—*

(f) The material change of use avoids adversely impacting the regional biodiversity network, regional landscape values or natural economic resource areas stated in the SEQ regional plan or, if the adverse impact can not be avoided, the adverse impact is minimised

- (2) Schedule 10, part 16, division 3, subdivision 4, table 1, item 4, column 2, paragraph (k), from ‘goals’—

*omit, insert—*

outcomes and strategies, and subregional directions, stated in the plan

**13 Amendment of sch 10, pt 16, div 4, sdiv 3 (Referral agency’s assessment)**

Schedule 10, part 16, division 4, subdivision 3, table 1, item 4, column 2, paragraph (g), from ‘goals’—

*omit, insert—*

outcomes and strategies, and subregional directions, stated in the plan

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**14 Insertion of new sch 10, pt 16, div 6, sdiv 2, s 27EA**

Schedule 10, part 16, division 6, subdivision 2, after section 27E—

*insert—*

**27EA Assessable development—material change of use for transport depot**

A material change of use of premises for a transport depot is assessable development if—

- (a) all or part of the premises are in—
  - (i) the SEQ regional landscape and rural production area; or
  - (ii) the SEQ rural living area; and
- (b) either—
  - (i) the use results in a gross floor area of more than 800m<sup>2</sup> on the premises; or
  - (ii) the total area of all outdoor areas on the premises associated with the use is more than 4,000m<sup>2</sup>; and
- (c) the material change of use is not—
  - (i) excluded development; or
  - (ii) an exempt material change of use.

**15 Amendment of sch 10, pt 16, div 6, sdiv 2, s 27F (Assessable development—material change of use for another urban activity)**

Schedule 10, part 16, division 6, subdivision 2, section 27F, after ‘industry’—

*insert—*

, transport depot

**16 Amendment of sch 10, pt 16, div 6, sdiv 4 (Referral agency's assessment)**

- (1) Schedule 10, part 16, division 6, subdivision 4, table 1, item 4, column 2, paragraph (f)—

*omit, insert—*

- (f) The material change of use avoids adversely impacting the regional biodiversity network, regional landscape values or natural economic resource areas stated in the SEQ regional plan or, if the adverse impact can not be avoided, the adverse impact is minimised

- (2) Schedule 10, part 16, division 6, subdivision 4, table 1, item 4, column 2, paragraph (k), from 'goals'—

*omit, insert—*

outcomes and strategies, and subregional directions, stated in the plan

- (3) Schedule 10, part 16, division 6, subdivision 4, table 2, heading, after 'section 27E'—

*insert—*

**, 27EA**

- (4) Schedule 10, part 16, division 6, subdivision 4, table 2, item 1, column 2, after 'section 27E'—

*insert—*

**, 27EA**

**17 Amendment of sch 10, pt 16, div 7, sdiv 1, s 27G (Assessable development—material change of use for combined use)**

Schedule 10, part 16, division 7, subdivision 1, section 27G(1)(d)—

*insert—*

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- (iii) if the material change of use of premises includes 2 or more urban activities—results in a gross floor area of more than 800m<sup>2</sup>.

## **18 Insertion of new sch 10, pt 16B**

Schedule 10—

*insert—*

### **Part 16B SEQ northern inter-urban break**

#### **Division 1 Reconfiguring a lot**

##### **27I Prohibited development—reconfiguring a lot in SEQ northern inter-urban break**

- (1) Reconfiguring a lot is prohibited development to the extent the lot is in the SEQ northern inter-urban break, if the reconfiguration—
  - (a) is a subdivision; and
  - (b) is assessable development under section 21.
- (2) However, subsection (1) does not apply if—
  - (a) the reconfiguration is an exempt subdivision; or
  - (b) each lot created by the reconfiguration is at least 100ha.

#### **Division 2 Tourist or sport and recreation activity**



**27J Assessable development—material change of use for tourist activity or sport and recreation activity**

A material change of use of premises for a tourist activity or sport and recreation activity is assessable development if—

- (a) all or part of the premises are in the SEQ northern inter-urban break; and
- (b) the material change of use—
  - (i) results in a gross floor area of more than 2,500m<sup>2</sup> on the premises, excluding any part of the premises that is used for tourist accommodation or accommodation for employees; or
  - (ii) involves an ancillary commercial or retail activity with a gross floor area of more than 100m<sup>2</sup>; or
  - (iii) provides accommodation for more than 100 persons; and
- (c) the material change of use is not—
  - (i) excluded development; or
  - (ii) an exempt material change of use.

**Division 3            Community activity**

**27K Prohibited development—material change of use for residential care facility**

A material change of use of premises for a residential care facility is prohibited development if—

- (a) all or part of the premises are in the SEQ northern inter-urban break; and

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- (b) the material change of use results in a gross floor area of more than 5,000m<sup>2</sup> on the premises; and
- (c) the material change of use is not excluded development.

### **27L Assessable development—material change of use for residential care facility**

A material change of use of premises for a residential care facility is assessable development if—

- (a) all or part of the premises are in the SEQ northern inter-urban break; and
- (b) the use results in a gross floor area of not more than 5,000m<sup>2</sup> on the premises; and
- (c) the material change of use is not excluded development.

### **27M Assessable development—material change of use for other community activity**

A material change of use of premises for a community activity, other than for a residential care facility, is assessable development if—

- (a) all or part of the premises are in the SEQ northern inter-urban break; and
- (b) the material change of use—
  - (i) results in a gross floor area of more than 800m<sup>2</sup> on the premises, excluding any part of the premises that is used for tourist accommodation or accommodation for employees; or
  - (ii) involves an ancillary commercial or retail activity with a gross floor area of more than 250m<sup>2</sup>; or

- (iii) provides accommodation for more than 50 persons; and
- (c) the material change of use is not—
  - (i) excluded development; or
  - (ii) an exempt material change of use.

## **Division 4      Indoor recreation**

### **27N Assessable development—material change of use for indoor recreation**

A material change of use of premises for indoor recreation is assessable development if—

- (a) all or part of the premises are in the SEQ northern inter-urban break; and
- (b) the material change of use—
  - (i) results in a gross floor area of more than 800m<sup>2</sup> on the premises, excluding any part of the premises that is used for tourist accommodation or accommodation for employees; or
  - (ii) involves more than 100 persons, including employees, being on the premises at any time; or
  - (iii) provides accommodation for more than 50 persons; and
- (c) the material change of use is not—
  - (i) excluded development; or
  - (ii) an exempt material change of use.

## **Division 5      Residential development**

**27O Prohibited development—material change of use for residential development**

- (1) A material change of use of premises for a residential development is prohibited development to the extent the premises are in the SEQ northern inter-urban break.
- (2) However, subsection (1) does not apply if the material change of use is—
  - (a) excluded development; or
  - (b) an exempt material change of use.

**Division 6      Urban activity**

**27P Prohibited development—material change of use for shopping centre**

- (1) A material change of use of premises for a shopping centre is prohibited development to the extent the premises are in the SEQ northern inter-urban break.
- (2) However, subsection (1) does not apply if the material change of use is excluded development.

**27Q Assessable development—material change of use for urban activity**

A material change of use of premises for an urban activity, other than for a shopping centre, is assessable development if—

- (a) all or part of the premises are in the SEQ northern inter-urban break; and
- (b) either—
  - (i) the material change of use results in a gross floor area of more than 400m<sup>2</sup> on the premises; or

- (ii) the total area of all outdoor areas on the premises associated with the use is more than 1,500m<sup>2</sup>; and
- (c) the material change of use is not—
  - (i) excluded development; or
  - (ii) an exempt material change of use.

## **Division 7      Combined uses**

### **27R Assessable development—material change of use for combined use**

- (1) A material change of use of premises for a combined use is assessable development if—
  - (a) all or part of the premises are in the SEQ northern inter-urban break; and
  - (b) the material change of use is for 2 or more of the following uses—
    - (i) a community activity;
    - (ii) indoor recreation;
    - (iii) a sport and recreation activity;
    - (iv) a tourist activity;
    - (v) an urban activity; and
  - (c) no part of the material change of use is assessable development under division 2, 3, 4 or 6; and
  - (d) the material change of use—
    - (i) results in a gross floor area of more than 2,500m<sup>2</sup> on the premises, excluding any part of the premises that is used for tourist accommodation or accommodation for employees; or

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- (ii) provides accommodation for more than 100 persons.
- (2) However, subsection (1) does not apply to the extent the material change of use is—
  - (a) excluded development; or
  - (b) an exempt material change of use.
- (3) Subsection (4) applies if—
  - (a) the material change of use involves excluded development or an exempt material change of use; and
  - (b) because of the carrying out of the excluded development or exempt material change of use only, the use results in a gross floor area of more than 2,500m<sup>2</sup> on the premises, or provides accommodation for more than 100 persons.
- (4) The material change of use is not assessable development under subsection (1).

## **Division 8      Assessment by assessment manager**

<b>Table 1—Assessable development under ss 27J, 27L, 27M, 27N, 27Q or 27R</b>	
<b>Column 1</b>	<b>Column 2</b>
1    Category of assessment	Impact assessment
2    Assessment benchmarks	—
3    Matters code assessment must have regard to	—
4    Matters impact assessment must have regard to	—

## Division 9      Referral agency's assessment

Column 1	Column 2
1    Development application requiring referral	Development application for a material change of use of premises that is assessable development under section 27J, 27L, 27M, 27N, 27Q or 27R
2    Referral agency	The chief executive
3    Limitations on referral agency's powers	—
4    Matters referral agency's assessment must be against	<p>(a) When the use starts, the premises—</p> <ul style="list-style-type: none"> <li>(i) will have direct access to transport infrastructure that is reasonably required for, and adequate to service, the use; and</li> <li>(ii) will be serviced by infrastructure (including, for example, infrastructure for electricity, stormwater, water supply and the treatment and disposal of waste) that is adequate for the use</li> </ul> <p>(b) The provision of the infrastructure mentioned in paragraph (a)(i) and (ii) is practical and economically feasible having regard to the location and characteristics of the premises</p> <p>(c) The use is compatible with the physical characteristics of the premises</p> <p>(d) The use is compatible with the use of other premises in the surrounding area</p>

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<b>Table 1—Assessable development under ss 27J, 27L, 27M, 27N, 27Q or 27R</b>	
<b>Column 1</b>	<b>Column 2</b>
	<p>(e) The material change of use avoids an area that involves a risk of serious harm to persons or property from natural events or processes, including, for example, bush fires, coastal erosion, flooding or landslides</p> <p>(f) If the material change of use can not avoid an area mentioned in paragraph (e), the material change of use minimises the risk of serious harm mentioned in that paragraph</p> <p>(g) The material change of use is consistent with the SEQ regional plan, including the outcomes and strategies, subregional directions, and northern inter-urban break core values stated in the plan</p> <p>(h) The locational requirements or environmental impacts of the material change of use require it to be inside the SEQ northern inter-urban break</p> <p>(i) The locational requirements or environmental impacts of the material change of use require it to be outside the SEQ urban footprint</p> <p><i>Note—</i> See also section 41A.</p> <p>(j) There is an overriding need, in the public interest, for the material change of use to be carried out</p> <p><i>Note—</i> See also section 41B.</p>
5 Matters referral agency’s assessment must have regard to	—



<b>Table 1—Assessable development under ss 27J, 27L, 27M, 27N, 27Q or 27R</b>	
<b>Column 1</b>	<b>Column 2</b>
6 Matters referral agency’s assessment may be against	—
7 Matters referral agency’s assessment may have regard to	—
8 Fee for referral	1,714 fee units

## 19 Amendment of sch 24 (Dictionary)

- (1) Schedule 24, definitions *regulatory maps* and *SEQ development area*—  
*omit.*
- (2) Schedule 24—  
*insert—*

***category 1 SEQ development area*** means an area in the SEQ region identified in a gazette notice by the Minister as a category 1 SEQ development area.

***category 2 SEQ development area*** means an area in the SEQ region identified in a gazette notice by the Minister as a category 2 SEQ development area.

***regulatory maps*** means SEQ RP 1.1 to 1.32, SEQ RP 2.1 to 2.9, SEQ RP 3.1 and SEQ RP 4.1 dated December 2023 and published on the department’s website.

***SEQ development area*** means—

- (a) a category 1 SEQ development area; or
- (b) a category 2 SEQ development area.

***SEQ major enterprise and industrial area*** means an area in the SEQ region shown as being a major enterprise and industrial area in the department’s development assessment mapping system

published on the department's website.

***SEQ northern inter-urban break*** means an area in the SEQ region identified in a gazette notice by the Minister as the SEQ northern inter-urban break.

***SEQ rural subdivision precinct*** means an area in the SEQ region identified in a gazette notice by the Minister as an SEQ rural subdivision precinct.

(3) Schedule 24, definition *exempt subdivision*—

*insert*—

(g) is the reconfiguration of a lot and both of the following apply—

- (i) the lot is in an area identified in a gazette notice by the Minister as having a rural residential purpose;
- (ii) an application for the reconfiguration was properly made under the old Act or the repealed IPA on or before 6 December 2010;

(h) is the reconfiguration of a lot and all of the following apply—

- (i) the lot is in an SEQ rural subdivision precinct;
- (ii) the reconfiguration is consistent with the purpose statement and minimum lot size for the zone applying to the lot under a local planning instrument;
- (iii) an application for the reconfiguration was properly made on or before 11 December 2023.

(4) Schedule 24, definition *indoor recreation*, paragraph (a)—

*omit, insert*—

(a) a function facility; or

ENDNOTES

- 1 Made by the Governor in Council on 7 December 2023.
- 2 Notified on the Queensland legislation website on 11 December 2023.
- 3 The administering agency is the Department of State Development, Infrastructure, Local Government and Planning.

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