State Planning Regulatory Provisions (Regional Plans)

Draft

May 2008
Draft regulatory provisions

Prepared by:
The Honourable Paul Lucas MP, Deputy Premier and Minister for Infrastructure and Planning in accordance with the Integrated Planning Act 1997, Section 2.5A 10.

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Department of Infrastructure and Planning

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Release Notes

The Draft State Planning Regulatory Provisions (Regional Plans) are released for public consultation by the Minister for Infrastructure and Planning in accordance with the Integrated Planning Act 1997, section 2.5C.2(1).

The Draft State Planning Regulatory Provisions (Regional Plans) and associated draft FNQ regulatory maps form a stand-alone document to support the draft regional plan and should be read in conjunction with it. The draft regulatory provisions and the draft regulatory maps have effect from the date of gazettal of the draft regulatory provisions.

Consultation on the draft regulatory provisions

Help shape the future of Far North Queensland – tell us what you think about the draft State Planning Regulatory Provisions (Regional Plans).

Important note: All submissions must be “properly made”. For the purposes of feedback, a “properly made” submission will need to:
- state the name and address of the submitter
- be made in writing and signed by the submitter
- be made on or before 08 August 2008
- be a structured response under the headings of the draft State Planning Regulatory Provisions (Regional Plans) and/or other matters for consideration.

Forward your submission to:
Draft State Planning Regulatory Provisions (Regional Plans) Feedback
Department of Infrastructure and Planning
PO Box 5194 Cairns Qld 4870
or fax +61 7 4039 8866

For further information on the draft State Planning Regulatory Provisions (Regional Plans) contact:
Department of Infrastructure and Planning
Planning Group Northern Region
post PO Box 5194 Cairns Qld 4870 Australia
visit Level 2 Orchid Plaza
79-87 Abbott Street Cairns
tel 1300 721 194
fax +61 7 4039 8866
fnq2025@ dip.qld.gov.au
www.dip.qld.gov.au

Copies of the draft State Planning Regulatory Provisions (Regional Plans) are available:
- online www.dip.qld.gov.au
- for viewing at most council chambers, libraries and customer service centres within the local government areas covered by the regional plan
- for free on CD-ROM or in hard copy by contacting Department of Infrastructure and Planning offices in Cairns and Brisbane
- by phoning 1300 721 194
- by emailing FNQ2025@dip.qld.gov.au

Department of Infrastructure and Planning offices:
- Level 2 Orchid Plaza 79-87 Abbott Street Cairns
- Level 1 65 George Street Brisbane

Draft regulatory maps

A set of draft regulatory maps (151 cadastre based (1:50,000) maps in total) form part of the Draft State Regulatory Provisions associated with the draft regional plan. The draft regulatory maps are available separate to the draft regulatory provisions. The maps allocate all land in the region into three land use categories.

Hard-copy sets of the maps are available for $300 per set (plus postage and handling). This set includes only the 38 maps showing land parcels included in the urban footprint and rural living area land use categories.

Copies are available for purchase or viewing at the Department of Infrastructure and Planning office in Cairns or Brisbane.

Phone 1300 721 194 to place an order. Payment can be made by cash, cheque or credit card.
State Planning Regulatory Provisions (Regional Plans)

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Division 1 Preliminary

1.1 Short title

These draft regulatory provisions may be cited as the draft State Planning Regulatory Provisions (Regional Plans).

1.2 Draft regulatory provisions apply in addition to planning scheme

These draft regulatory provisions apply in addition to any relevant matters applying under a planning scheme for assessing and deciding a development application in the designated regions listed in Schedule 1.

1.3 Definitions

Unless otherwise defined by the dictionary in Schedule 2 of these draft regulatory provisions the Integrated Planning Act 1997, chapter 2, part 5, 5A, 5B, 5C and Schedule 10 define particular words used in these draft regulatory provisions.

1.4 When these draft regulatory provisions do not apply

(1) The draft regulatory provisions do not apply to –

(a) development carried out under a development approval for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region listed in Schedule 1; or

(b) development that is exempt from assessment against a planning scheme under the Integrated Planning Act 1997, Schedule 9; or

(c) development that is generally in accordance with a current rezoning approval given under the Local Government (Planning and Environment) Act 1990 (repealed), section 4.5(6), 4.8(6), 4.10(6) or 8.10(9A); or

(d) development that is generally in accordance with a current rezoning approval given under the Local Government Act 1936 (repealed), section 33(5)(k), to which section 33(5)(m) also applied; or

(e) development that is consistent with a preliminary approval obtained under the Integrated Planning Act 1997, section 3.1.5 that –

(i) was given for development made assessable under section 2.1 or 2.2, 2.4, 2.6, 2.8, 2.10, 2.12, or 2.14; and

(ii) has not lapsed.

(2) Subsection (1)(a) and (e) apply even if further development permits are needed to facilitate an approval mentioned in either subsection.

(3) An approval mentioned in subsection (1)(c) includes an approval resulting from the application of the Integrated Planning Act 1997, section 6.1.26.

(4) Subsection (1)(c) applies even if further development permits are needed to facilitate the development in accordance with the current rezoning approval.

(5) Subsections (1)(c) to (d) do not apply for premises zoned for a rural residential purpose.

(6) In this section current rezoning approval means –

(a) an approval for which the resulting zone still exists under a transitional planning scheme; or

(b) if the resulting zone no longer exists –

(i) the development rights conferred by the resulting zone have been preserved under an IPA planning scheme; or

(ii) there is for the premises –

(A) a development permit given for a development application (superseded planning scheme) in relation to the resulting zone; or

(B) an acknowledgement notice mentioned in the Integrated Planning Act 1997, section 3.2.5(1)(a) in relation to the resulting zone.

1 Designated region as defined in s 2.5A.2 Integrated Planning Act 1997
1.5 Designated regions divided into categories

(1) These draft regulatory provisions allocate all land in each of the designated regions in Schedule 1 into one of the following categories –

(a) Regional Landscape and Rural Production Area;

(b) Urban Footprint;

(c) Rural Living Area;

(d) Investigation Area.

(2) The maps referred to in Schedule 1 show these areas for each designated region.

Division 2 Material change of use

Material change of use in a master planned area located in the Urban Footprint

2.1 When an urban activity is assessable in a master planned area

To the extent that a premises is located in a master planned area in the Urban Footprint, a material change of use of the premises for an urban activity is assessable development requiring impact assessment if –

(a) for premises located in an area included in a structure plan - the Integrated Planning Act 1997, section 3.1.6 applies to the application for the material change of use; or

(b) for all other premises –

(i) impact assessment is required under the relevant planning scheme; or

(ii) the area of the premises is more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(iii) the gross floor area of the premises is more than the number stated in Table 1 of Schedule 1 for the relevant designated region.

2.2 When other development is assessable in a master planned area

(1) To the extent that a premises is located in a master planned area in the Urban Footprint, a material change of use of the premises for an activity in Table 1 of Schedule 1 for the relevant designated region is assessable development requiring impact assessment.

(2) To the extent that a premises is located in a master planned area in the Urban Footprint, a material change of use of the premises for residential development involving a rural residential purpose is assessable development requiring impact assessment.

2.3 When assessable development in a master planned area complies with these draft regulatory provisions

A material change of use of a premises that is assessable development under section 2.1 or 2.2 complies with these draft regulatory provisions for the relevant designated region only if –

(a) for premises located in an area included in a structure plan - the material change of use is consistent with the structure plan; or

(b) for all other premises - the material change of use would not compromise the implementation of a structure plan.

Assessable development in the Regional Landscape and Rural Production Area

2.4 When an urban activity is assessable in the Regional Landscape and Rural Production Area

(1) To the extent that a premises is located in the Regional Landscape and Rural Production Area, a material change of use of the premises for an urban activity is assessable development requiring impact assessment.

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* See Integrated Planning Act 1997, s2.5C(2)(a) to (c).
* See Integrated Planning Act 1997/Part 5B
* Material change of use is assessable development under the Integrated Planning Act 1997, Schedule 8.
(2) Subsection (1) does not apply to the extent –

(a) the premises is within a zone listed in Table 2 of Schedule 1 in the relevant designated region; or

(b) for premises in a planning precinct - the material change of use is exempt development, self assessable development or code assessable development; or

(c) the material change of use is for outdoor recreation; or

(d) the material change of use is associated with a residential dwelling on an existing lot and is for associated dwellings, provided the total number of dwellings is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(e) the material change of use is for a restaurant, café, tavern or function room that has capacity for no more people than the number stated in Table 1 of Schedule 1 for the relevant designated region and does not include residential development; or

(f) the material change of use is for a small scale tourist accommodation facility; or

(g) the gross floor area for urban activities on the premises other than an activity referred to in paragraphs (c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(h) the associated outdoor area on the premises other than an area associated with an activity referred to in paragraphs (c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region.

2.5 When an urban activity in the Regional Landscape and Rural Production Area complies with these draft regulatory provisions

A material change of use of a premises that is assessable development under section 2.4 complies with these draft regulatory provisions only if –

(a) for premises in a rural village - the material change of use is consistent with the planning intent for the rural village under the relevant planning scheme; or

(b) for premises in a planning precinct - the material change of use is consistent with the planning intent for the planning precinct under the relevant IPA planning scheme; or

(c) the material change of use predominantly caters for a local demand generated outside of both the Urban Footprint and a rural village and –

(i) does not include residential development; and

(ii) the gross floor area for urban activities on the premises other than an activity referred to in paragraphs 2.4(2)(c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and

(iii) the associated outdoor area on the premises other than an area associated with an activity referred to in section 2.4(2)(c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(d) the material change of use has a direct connection with the rural, natural or resource value of the surrounding area and –

(i) does not include residential development; and

(ii) the gross floor area for urban activities on the premises other than an activity referred to in paragraphs 2.4(2)(c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and

(iii) the associated outdoor area on the premises other than an area associated with an activity referred to in section 2.4(2)(c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(e) for a material change of use involving sport and recreational activity –

(i) the capacity of the activity is no more than the number of people stated in Table 1 of Schedule 1 for the relevant designated region; and

(ii) the gross floor area for urban activities on the premises is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and

(iii) the material change of use does not include residential development; or

(f) for a change to an existing urban activity that predominantly involves tourism, sport, recreation, education or a place of worship –
(i) the development approval for the existing urban activity was for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region; and

(ii) the material change of use is for tourism, sport, recreation, education or a place of worship; and

(iii) if the existing urban activity includes tourist accommodation –

(A) the material change of use does not include residential development other than a small scale tourist accommodation facility; or

(B) the increase in gross floor area for tourist accommodation is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day these draft regulatory provisions took effect for the relevant designated region and does not otherwise include residential development; or

(iv) if the existing urban activity does not include tourist accommodation – the material change of use does not include residential development other than a small scale tourist accommodation facility; or

(g) for a change to an existing urban activity that is located in the Regional Landscape and Rural Production Area and does not predominantly involve tourism, sport, recreation, education or a place of worship –

(i) the development approval for the existing urban activity was for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region; and

(ii) any increase in gross floor area is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day these draft regulatory provisions took effect for the relevant designated region; and

(iii) any increase in associated outdoor area is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day these draft regulatory provisions took effect for the relevant designated region; and

(iv) the material change of use does not include residential development other than a small scale tourist accommodation facility; or

(h) where paragraphs (a) to (g) do not apply –

(i) the locational requirements or environmental impacts of the material change of use necessitate its location outside the Urban Footprint; and

(ii) there is an overriding need in the public interest for the material change of use.6

2.6 When a rural residential purpose is assessable in the Regional Landscape and Rural Production Area

(1) To the extent that a premises is located in the Regional Landscape and Rural Production Area a material change of use of the premises for residential development involving a rural residential purpose is assessable development requiring impact assessment.

(2) Subsection (1) does not apply to the extent -

(i) the development application or development application (superseded planning scheme) for the material change of use is properly made within two calendar years from the day the draft regulatory provisions took effect for the relevant designated region; and

(ii) the subdivision relates to land located in a zone listed in Table 3 of Schedule 1 for the relevant designated region.

2.7 When a rural residential purpose in the Regional Landscape and Rural Production Area complies with these draft regulatory provisions

A material change of use of a premises that is assessable development under section 2.6 complies with these draft regulatory provisions for the relevant designated region only if there is an overriding need in the public interest for the material change of use.

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6 See Schedule 3 for guidance on how to determine overriding need in the public interest.
Assessable development in the Rural Living Area

2.8 When an urban activity is assessable in the Rural Living Area

(1) To the extent that a premises is located in the Rural Living Area, a material change of use of the premises for an urban activity is assessable development requiring impact assessment.

(2) Subsection (1) does not apply to the extent–

(a) the premises is within a zone listed in Table 2 of Schedule 1 for the relevant designated region; or

(b) the material change of use is for outdoor recreation; or

(c) the material change of use is associated with a residential dwelling on an existing lot and is for associated dwellings, provided the total number of dwellings does not exceed the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(d) the material change of use is for a restaurant, café, tavern or function room that has capacity for no more people than the number stated in Table 1 of Schedule 1 for the relevant designated region and does not include residential development; or

(e) the material change of use is for a small scale tourist accommodation facility; or

(f) the gross floor area for urban activities on the premises other than an activity referred to in paragraphs (b) to (e) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(g) the associated outdoor area on the premises other than area associated with an activity referred to in paragraphs (b) to (e) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region.

2.9 When an urban activity in the Rural Living Area complies with these draft regulatory provisions

A material change of use of a premises that is assessable development under section 2.8 complies with these draft regulatory provisions for the relevant designated region only if–

(a) for premises in a rural village - the material change of use is consistent with the planning intent for the rural village under the relevant planning scheme; or

(b) the material change of use predominantly caters for a local demand generated outside of both the Urban Footprint and a rural village and–

(i) does not include residential development; and

(ii) the gross floor area for urban activities on the premises other than an activity referred to in paragraphs 2.8(2)(b) to (e) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and

(iii) the associated outdoor area on the premises other than area associated with an activity referred to in paragraphs 2.8(2)(b) to (e) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(c) the material change of use has a direct connection with the rural, natural or resource value of the surrounding area and–

(i) does not include residential development; and

(ii) the gross floor area for urban activities on the premises other than an activity referred to in paragraphs 2.8(2)(b) to (e) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and

(iii) the associated outdoor area on the premises other than an area associated with an activity referred to in section 2.8(2)(b) to (e) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(d) for a material change of use involving sport and recreational activity–

(i) the capacity of the activity is no more than the number of people stated in Table 1 of Schedule 1 for the relevant designated region; and

(ii) the gross floor area for urban activities on the premises is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and

(iii) the material change of use does not include residential development; or
for a change to an existing urban activity that predominantly involves tourism, sport, recreation, education or a place of worship—

(i) the development approval for the existing urban activity was for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region; and

(ii) the material change of use is for tourism, sport, recreation, education or a place of worship; and

(iii) if the existing urban activity includes tourist accommodation—

(A) the material change of use does not include residential development other than a small scale tourist accommodation facility; or

(B) the increase in gross floor area for tourist accommodation is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day these draft regulatory provisions took effect for the relevant designated region and does not otherwise include residential development; or

(iv) if the existing urban activity does not include tourist accommodation — the material change of use does not include residential development other than a small scale tourist accommodation facility; or

(f) for a change to an existing urban activity that is located in the Rural Living Area and does not predominantly involve tourism, sport, recreation, education or a place of worship—

(i) the development approval for the existing urban activity was for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region; and

(ii) any increase in gross floor area is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day these draft regulatory provisions took effect for the relevant designated region; and

(iii) any increase in associated outdoor area is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day the draft regulatory provisions took effect for the relevant designated region; and

(iv) the material change of use does not include residential development other than a small scale tourist accommodation facility; or

(g) where paragraphs (a) to (f) do not apply—

(i) the locational requirements or environmental impacts of the material change of use necessitate its location outside the Urban Footprint; and

(ii) there is an overriding need in the public interest for the material change of use.

Assessable development in the Investigation Area

2.10 When an urban activity is assessable in the Investigation Area

(c) To the extent that a premises is located in the Investigation Area a material change of use of the premises for an urban activity is assessable development requiring impact assessment.

(a) the premises is zoned for an urban purpose under an IPA planning scheme other than a transitional planning scheme and these are listed in Table 2 of Schedule 1 in the relevant designated region; or

(b) for premises in a planning precinct - the material change of use is exempt development, self assessable development or code assessable development; or

(c) the material change of use is for outdoor recreation; or

(d) the material change of use is associated with a residential dwelling on an existing lot and is for associated dwellings provided the total number of dwellings is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(e) the material change of use is for a restaurant, café, tavern or function room that has capacity for no more than the number of people stated in Table 1 of Schedule 1 for the relevant designated region and does not include residential development; or
the material change of use is for a small scale tourist accommodation facility; or
the gross floor area for urban activities on the premises other than an activity referred to in paragraphs (c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or
the associated outdoor area on the premises other than area associated with an activity referred to in paragraphs (c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region.

2.11 When an urban activity in the Investigation Area complies with these draft regulatory provisions

A material change of use of a premises that is assessable development under section 2.10 complies with these draft regulatory provisions only if–

(a) for premises in a rural village - the material change of use is consistent with the planning intent for the rural village under the relevant planning scheme; or
(b) for premises in a planning precinct - the material change of use is consistent with the planning intent for the planning precinct under the relevant IPA planning scheme; or
(c) the material change of use predominantly caters for a local demand generated outside of both the Urban Footprint and a rural village and–

(i) does not include residential development; and
(ii) the gross floor area for urban activities on the premises other than an activity referred to in paragraphs 2.10(2)(c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and
(iii) the associated outdoor area on the premises other than an area associated with an activity referred to in section 2.10(2)(c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or
(d) the material change of use has a direct connection with the rural, natural or resource value of the surrounding area and–

(i) does not include residential development; and
(ii) the gross floor area for urban activities on the premises other than an activity referred to in paragraphs 2.10(2)(c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and
(iii) the associated outdoor area on the premises other than an area associated with an activity referred to in section 2.10(2)(c) to (f) is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; or
(e) for a material change of use involving sport and recreational activity–

(i) the capacity of the activity is no more than the number of people stated in Table 1 of Schedule 1 for the relevant designated region; and
(ii) the gross floor area for urban activities on the premises is no more than the number stated in Table 1 of Schedule 1 for the relevant designated region; and
(iii) the material change of use does not include residential development; or
(f) for a change to an existing urban activity that predominantly involves tourism, sport, recreation, education or a place of worship–

(i) the development approval for the existing urban activity was for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region; and
(ii) the material change of use is for tourism, sport, recreation, education or a place of worship; and
(iii) if the existing urban activity includes tourist accommodation–

(A) the material change of use does not include residential development other than a small scale tourist accommodation facility; or
(B) the increase in gross floor area for tourist accommodation is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day the draft regulatory provisions took effect for the relevant designated region and does not otherwise include residential development; or
(iv) if the existing urban activity does not include tourist accommodation – the material change of use does not include residential development other than a small scale tourist accommodation facility; or
(g) for a change to an existing urban activity that is located in the Investigation Area and does not predominantly involve tourism, sport, recreation, education or a place of worship—

- the development approval for the existing urban activity was for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region; and
- any increase in gross floor area is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day these draft regulatory provisions took effect for the relevant designated region; and
- any increase in associated outdoor area is no more than the percentage stated in Table 1 of Schedule 1 for the relevant designated region greater than allowed under a development approval for an application made before the day these draft regulatory provisions took effect for the relevant designated region; and
- the material change of use does not include residential development other than a small scale tourist accommodation facility; or

(h) where paragraphs (a) to (g) do not apply—

- the locational requirements or environmental impacts of the material change of use necessitate its location outside the Urban Footprint; and
- there is an overriding need in the public interest for the material change of use.

2.12 When a rural residential purpose is assessable in the Investigation Area

(a) To the extent that a premises is located in the Investigation Area a material change of use of the premises for residential development involving a rural residential purpose is assessable development requiring impact assessment.

(b) Subsection (1) does not apply to the extent -

- the development application or development application (superseded planning scheme) for the material change of use is properly made within two calendar years from the day the draft regulatory provisions took effect for the relevant designated region; and
- the subdivision relates to land located in a zone listed in Schedule 1 Table 3 for the relevant designated region.

2.13 When a rural residential purpose in the Investigation Area complies with these draft regulatory provisions

A material change of use of a premises that is assessable development under section 2.12 complies with these draft regulatory provisions for the relevant designated region only if there is an overriding need for the material change of use in the public interest.

2.14 When an activity is assessable in the Investigation Area

To the extent that a premises is located in an Investigation Area a material change of use of the premises for an activity in Table 1 of Schedule 1 for the relevant designated region is assessable development requiring impact assessment.

2.15 When an activity in the Investigation Area complies with these draft regulatory provisions

A material change of use of a premises that is assessable development under section 2.14 complies with these draft regulatory provisions for the relevant designated region only if the material change of use would not compromise future land use planning options for the Investigation Area.

Division 3 Subdivision

3.1 When subdivision of land not included in a master planned area structure plan complies with these draft regulatory provisions.

(a) Subsection (3) applies to subdivision of land to the extent the land is –

- located in a master planned area in the Urban Footprint; and

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7 See Integrated Planning Act 1997, S2.5C.3(a)-(d)
8 Subdivision of land is assessable development under the Integrated Planning Act 1997, Schedule 8
(b) not included in a structure plan.

(2) However subsection (3) does not apply to the extent that the subdivision—

(a) creates lots with a size greater than the number stated in Table 1 of Schedule 1 for the relevant designated region; or

(b) creates a residual lot; or

(c) creates a single additional lot when an existing lot is severed by a road boundary that was gazetted before these draft regulatory provisions took effect for the relevant designated region and the existing lot is divided along the road boundary; or

(d) creates a single additional lot for—

(i) an emergency services facility; or

(ii) water cycle management infrastructure; or

(iii) a waste management facility; or

(iv) telecommunications infrastructure; or

(v) electricity infrastructure; or

(vi) a cemetery or a crematorium; or

(e) is carried out in association with a development approval for a material change of use of premises that has not lapsed, if the development approval was for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region; or

(f) is carried out in association with a development approval for a material change of use of premises that—

(i) was given for development made assessable under section 2.1 or 2.2; and

(ii) has not lapsed.

(3) A subdivision complies with the draft regulatory provisions for the relevant designated region only if the subdivision would not compromise the implementation of a structure plan.

3.2 When subdivision in the Regional Landscape and Rural Production Area or in the Investigation Area is prohibited

(1) To the extent that land is located in the Regional Landscape and Rural Production Area or in the Investigation Area a subdivision of the land may not occur if any resulting lot would have a lot size less than—

(a) if the relevant planning scheme states a minimum lot size greater than the number stated in Table 1 of Schedule 1 for the relevant designated region - the lot size stated in the planning scheme; or

(b) to the extent the premises are located in a planning precinct – the minimum lot size stated in the relevant planning scheme for the planning precinct; or

(c) in any other case - the number stated in Table 1 of Schedule 1 for the relevant designated region.

(2) However, subsection (1) does not apply to the extent that the subdivision—

(a) creates a residual lot; or

(b) creates a single additional lot when an existing lot is severed by a road boundary that was gazetted before the day these draft regulatory provisions took effect for the relevant designated region and the existing lot is divided along the road boundary; or

(c) creates a single additional lot for—

(i) an emergency services facility; or

(ii) water cycle management infrastructure; or

(iii) a waste management facility; or
(iv) telecommunications infrastructure; or

(v) electricity infrastructure; or

(vi) a cemetery or a crematorium; or

(d) is carried out in association with a development approval for a material change of use of premises that has not lapsed, if the development approval was for a development application that was made before the day these draft regulatory provisions took effect for the relevant designated region; or

(e) is carried out in association with a development approval for a material change of use of premises that—

   (i) was given for development made assessable under section 2.4, 2.6, 2.8, 2.10, 2.12, or 2.14; and

   (ii) has not lapsed; or

(f) is in a rural village; or

(g) is for a rural residential purpose where-

   (i) the development application or development application (superseded planning scheme) for the subdivision is properly made within two calendar years from the day these draft regulatory provisions took effect for the relevant designated region; and

   (ii) the subdivision relates to land located in a zone listed in Table 3 of Schedule 1 for the relevant designated region;

(h) involves the extension of an existing lease or licence over land if –

   (i) no additional lots are created; and

   (ii) any use permitted by a subsequent lease or licence is consistent with a use permitted by the previous lease or licence; and

   (iii) the previous lease was gained the day before these regulatory provisions took effect.

(i) is development that is –

   (i) declared to be a significant project under section 26 (i)(a) of the *State Development and Public Works Organisation Act 1971* or located in a State development area; and

   (ii) confirmed in writing by the Regional Planning Minister to be exempt from these draft regulatory provisions.
Schedule 1 – Designated regional planning areas

Designated Region 1: Far North Queensland

Effective Date: the date of gazettal
Maps: FNQ Draft Regional Plan 2025, Regulatory Provisions, Regional Landuse Map Series 1 to 151.

Table 1: Parameters for the types of development identified throughout these draft regulatory provisions.

<table>
<thead>
<tr>
<th>Section</th>
<th>Requirement</th>
<th>Relevant detail</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.(b)(ii)</td>
<td>Area of premises</td>
<td>10,000 m²</td>
</tr>
<tr>
<td>2.(b)(iii)</td>
<td>Gross floor area</td>
<td>10,000 m²</td>
</tr>
<tr>
<td>2.(c)</td>
<td>Activity</td>
<td>Intensive animal husbandry</td>
</tr>
<tr>
<td>2.(d)(g)</td>
<td>No. dwellings</td>
<td>2</td>
</tr>
<tr>
<td>2.(e)</td>
<td>No. people</td>
<td>200</td>
</tr>
<tr>
<td>2.(f)</td>
<td>Gross floor area</td>
<td>500 m²</td>
</tr>
<tr>
<td>2.(f)(h)</td>
<td>Outdoor area</td>
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<tr>
<td>2.(g)(i)</td>
<td>Gross floor area</td>
<td>1,000 m²</td>
</tr>
<tr>
<td>2.(g)(ii)</td>
<td>Outdoor area</td>
<td>1,000 m²</td>
</tr>
<tr>
<td>2.(g)(iii)</td>
<td>Outdoor area</td>
<td>1,000 m²</td>
</tr>
<tr>
<td>2.(h)</td>
<td>No. people</td>
<td>1,000</td>
</tr>
<tr>
<td>2.(i)</td>
<td>Gross floor area</td>
<td>1,000 m²</td>
</tr>
<tr>
<td>2.(j)</td>
<td>Percent increase</td>
<td>100%</td>
</tr>
<tr>
<td>2.(k)</td>
<td>Percent increase</td>
<td>100%</td>
</tr>
<tr>
<td>2.(l)</td>
<td>No. people</td>
<td>2</td>
</tr>
<tr>
<td>2.(m)</td>
<td>Gross floor area</td>
<td>250 m²</td>
</tr>
<tr>
<td>2.(n)</td>
<td>Outdoor area</td>
<td>500 m²</td>
</tr>
<tr>
<td>2.(o)</td>
<td>Gross floor area</td>
<td>500 m²</td>
</tr>
<tr>
<td>2.(p)</td>
<td>Outdoor area</td>
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<tr>
<td>2.(q)</td>
<td>Gross floor area</td>
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<td>2.(r)</td>
<td>Outdoor area</td>
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<tr>
<td>3.(a)(i)</td>
<td>Lot size</td>
<td>60 hectares</td>
</tr>
<tr>
<td>3.(a)(ii)</td>
<td>Lot size</td>
<td>60 hectares</td>
</tr>
<tr>
<td>3.(a)(iii)</td>
<td>Lot size</td>
<td>60 hectares</td>
</tr>
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Table 2: Urban Purposes.

<table>
<thead>
<tr>
<th>Local Government Planning Scheme</th>
<th>Zoning - Urban purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atherton Shire</td>
<td>Residential planning area</td>
</tr>
<tr>
<td></td>
<td>Village planning area</td>
</tr>
<tr>
<td></td>
<td>Commercial planning area</td>
</tr>
<tr>
<td></td>
<td>Business centre core planning area</td>
</tr>
<tr>
<td></td>
<td>Frame (mixed use) planning area</td>
</tr>
<tr>
<td></td>
<td>Frame (service trades) planning area</td>
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<tr>
<td></td>
<td>Frame (residential) planning area</td>
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<tr>
<td></td>
<td>Industrial planning area</td>
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<tr>
<td></td>
<td>Public purposes planning area</td>
</tr>
<tr>
<td></td>
<td>Open space and recreation planning area</td>
</tr>
<tr>
<td>Cairns City</td>
<td>Residential 1</td>
</tr>
<tr>
<td></td>
<td>Residential 2</td>
</tr>
<tr>
<td></td>
<td>Residential 3</td>
</tr>
<tr>
<td></td>
<td>Tourist and residential</td>
</tr>
<tr>
<td></td>
<td>City centre</td>
</tr>
<tr>
<td></td>
<td>Sub-regional centre</td>
</tr>
<tr>
<td></td>
<td>District centre</td>
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<tr>
<td></td>
<td>Local centre</td>
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<tr>
<td></td>
<td>Cityport north</td>
</tr>
<tr>
<td></td>
<td>Cityport south</td>
</tr>
<tr>
<td></td>
<td>Commercial</td>
</tr>
<tr>
<td></td>
<td>Community facilities</td>
</tr>
<tr>
<td></td>
<td>Sport and recreation</td>
</tr>
<tr>
<td></td>
<td>Open space</td>
</tr>
<tr>
<td>Cardwell Shire</td>
<td>Cardwell township zone (excluding Cardwell conservation precinct)</td>
</tr>
<tr>
<td></td>
<td>Industry zone</td>
</tr>
<tr>
<td></td>
<td>Mission Beach coastal zone (excluding Mission Beach low density residential precinct and Mission Beach conservation precinct)</td>
</tr>
<tr>
<td></td>
<td>Port Hinchinbrook zone</td>
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<tr>
<td></td>
<td>Railway infrastructure zone</td>
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<tr>
<td></td>
<td>Tully Heads and Hull Heads zone (excluding Tully Heads and Hull Heads low density residential precinct and Tully Heads and Hull Heads conservation precinct)</td>
</tr>
<tr>
<td></td>
<td>Tully township zone (excluding Tully conservation precinct)</td>
</tr>
<tr>
<td>Douglas Shire</td>
<td>Residential 1 planning area</td>
</tr>
<tr>
<td></td>
<td>Residential 2 planning area</td>
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<tr>
<td></td>
<td>Commercial planning area</td>
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<tr>
<td></td>
<td>Tourist and residential planning area</td>
</tr>
<tr>
<td></td>
<td>Industry planning area</td>
</tr>
<tr>
<td></td>
<td>Community and recreational facilities planning area</td>
</tr>
<tr>
<td>Eacham Shire</td>
<td>Urban expansion zone</td>
</tr>
<tr>
<td></td>
<td>Residential zone</td>
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<tr>
<td></td>
<td>Village zone</td>
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<tr>
<td></td>
<td>Business and retail zone</td>
</tr>
<tr>
<td></td>
<td>Trades and services zone</td>
</tr>
<tr>
<td></td>
<td>Industry zone</td>
</tr>
<tr>
<td></td>
<td>Public purposes zone</td>
</tr>
<tr>
<td></td>
<td>Open space zone</td>
</tr>
<tr>
<td>Herberton Shire</td>
<td>Town centre planning area</td>
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<tr>
<td></td>
<td>Residential planning area</td>
</tr>
<tr>
<td></td>
<td>Potential expansion planning area</td>
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<td>Service/trade planning area</td>
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<td></td>
<td>Community uses planning area</td>
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<td>Parkland planning area</td>
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<td>Industrial planning area</td>
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<td>Village planning area</td>
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<td></td>
<td>Special facilities planning area</td>
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<tr>
<td>Johnstone Shire</td>
<td>Industry zone</td>
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<td></td>
<td>Innisfail zone</td>
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<td></td>
<td>Mission Beach zone</td>
</tr>
<tr>
<td></td>
<td>Village zone</td>
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</table>

* Local Government Planning Schemes listed are those in effect immediately before 15 March 2008.
<table>
<thead>
<tr>
<th>Local Government Planning Scheme**</th>
<th>Rural Residential Zone name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atherton Shire</td>
<td>Rural residential planning area</td>
</tr>
<tr>
<td>Cairns</td>
<td>Low density residential planning area</td>
</tr>
<tr>
<td>Cardwell Shire</td>
<td>Residential rural zone</td>
</tr>
<tr>
<td></td>
<td>Mission Beach coastal zone – Low density residential precinct</td>
</tr>
<tr>
<td></td>
<td>Tully Heads and Hull Heads zone - Low density residential precinct</td>
</tr>
<tr>
<td>Douglas Shire</td>
<td>Rural settlement – in other localities and areas</td>
</tr>
<tr>
<td>Eacham Shire</td>
<td>Residential 1 – located at Rocky Point</td>
</tr>
<tr>
<td>Herberton Shire</td>
<td>Low density residential on the Yungaburra Expansion Area map</td>
</tr>
<tr>
<td>Johnstone Shire</td>
<td>Rural residential planning area</td>
</tr>
<tr>
<td>Mareeba Shire</td>
<td>Rural residential zone</td>
</tr>
</tbody>
</table>

*Local Government Planning Schemes listed are those in effect immediately before 15 March 2008.*
Schedule 2 - Dictionary

**associated outdoor area** means the total outdoor area of the site used for or in association with urban activities and includes parking, manoeuvring, loading and storage areas.

**draft regulatory provisions** means the draft State Planning Regulatory Provisions (Regional Plans)

**gross floor area** 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.

**intensive animal husbandry** means the use of premises for commercial or other non-domestic operations involving the raising, keeping or farming of animals requiring supplementary feeding and containment in feedlots, sheds, pens, ponds or tanks.

**outdoor recreation** means a use of premises for recreation or sport activity, where these activities take place primarily outdoors, and
(a) is carried on outside of a building; and
(b) requires areas of open space; and
(c) may include work necessary to manage safety and ecological impacts; and
(d) includes only minor ancillary facilities such as amenities and change rooms.

**planning precinct** means land identified in a planning scheme as a planning precinct if the planning scheme states that the Regional Planning Minister is satisfied that the planning precinct complies with the planning precinct guidelines issued by the Regional Planning Minister.

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

**residential development** means development for a residential purpose that is at a scale greater than a single dwelling on an existing lot.

**residual lot** means
(a) for premises located partly in the Urban Footprint or Rural Living Area and partly in either a contiguous Regional Landscape and Production Area or Investigation Area – a single lot in each Regional Land Use Category; or
(b) for premises located partly in a Master Planned Area and partly in a contiguous Urban Footprint area – a single lot in the Master Planned Area; or
(c) for premises located in the Investigation Area – a single lot on the part of a premises not located in a zone or equivalent designated area mentioned in Table 2 of Schedule 1 for the relevant designated region; or
(d) for premises located in the Regional Landscape and Rural Production Area or in the Investigation Area – a single lot on the part of a premises not contained within a zone referred to in Table 3 of Schedule 1 if the application is for:
(i) the part of the premises partly within a zone referred to in Table 3 of Schedule 1; and
(ii) the application is made within 2 years of these draft regulatory provisions taking effect.

**residential purpose** means a purpose that is predominantly a residential purpose involving a single dwelling on a lot greater than 2,500m².

**rural village** means a location–
(a) designated for urban purposes in a planning scheme; and
(b) comprising residential dwellings, and some urban activity; and
(c) not located within the Urban Footprint.

**small scale tourist accommodation facility** –

1. Small scale tourist accommodation facility means a facility that makes units or space available for separate hire over a short term by tourists or travellers including, and not limited to a holiday cabin, a motel room, a hotel room, an apartment, a guesthouse, a camping site and a caravan park site provided:
(a) the total number of separate units or spaces made available is no more than twenty; and
(b) the total capacity of the facility is for no more than 100 people; and
(c) the gross floor area for tourist accommodation is no more than 1,000m².

2. Small scale tourist accommodation facility also means a dormitory or backpackers hostel - provided the total capacity of the facility is for no more than 100 people.

3. Small scale tourist accommodation facility does not include residential development used for permanent accommodation.

**State development area** has the meaning given by the *State Development and Public Works Organisation Act 1971*.

**subdivision** means –
(a) creating a lot by subdividing another lot; or
(b) dividing land into parts by agreement (other than a lease for a term, including renewal options, not exceeding 10 years) rendering different parts of a lot immediately available for separate disposition or separate occupation; or
(c) rearranging the boundaries of a lot by registering a plan of subdivision.
**tourist accommodation** means residential development that is not used for permanent accommodation and includes a small scale tourist accommodation facility.

**transitional planning scheme** has the meaning given by the *Integrated Planning Act 1997*, chapter 6, part 1, division 2.

**urban activity**—

1. Urban activity means a residential, industrial, retail, commercial, sporting, recreation, tourism or community activity.

2. Urban activity does not include a forestry or primary industry purpose or an activity reasonably associated with such a purpose for which the premises or surrounding area is used, including, for example—
   - (a) farmworkers accommodation; or
   - (b) a mechanical repair workshop for farm machinery or vehicles; or
   - (c) vehicle storage associated with transporting forestry or primary industry produce or resources; or
   - (d) processing and packaging forestry or primary industry goods.

3. Urban activity does not include the following—
   - (a) a single residential dwelling on a lot; or
   - (b) a rural residential purpose; or
   - (c) an extractive industry, including, for example, crushing and screening; or
   - (d) an aeronautical facility; or
   - (e) an emergency services facility; or
   - (f) water cycle management infrastructure; or
   - (g) a waste management facility; or
   - (h) telecommunications infrastructure; or
   - (i) electricity infrastructure; or
   - (j) a cemetery or crematorium; or
   - (k) a wholesale nursery; or
   - (l) an animal boarding facility.
Schedule 3 – Miscellaneous

How to determine overriding need in the public interest

1. To determine an overriding need in the public interest an applicant 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 Regional Plan, especially in relation to promoting consolidation of development within the Urban Footprint and preventing land fragmentation in the Regional Landscape and Rural Production Area or Investigation 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.

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

3. 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.