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LAWYERS

SEQ Regional Plan 2009-2031

The State's Strategy for Activity Centres - *"Not just shopping centres"*

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Introduction

Two of the priorities in the *South East Queensland Regional Plan 2009-2031* are to direct growth to existing urban areas, particularly activity centres, and to address the planning and delivery of land for employment growth in the region. This paper will examine some of the principles contained in the SEQ Regional Plan relevant to those objectives. In particular, this paper will examine three of the principles contained in the SEQ Regional Plan concerning activity centres, namely *Principle 8.6 – Activity centres and transit corridors*, *Principle 8.7 – Centres that support business* and *Principle 8.8 – Mixed-use activity centres*, and the principles associated with employment land delivery, namely *Principle 9.1 – Balanced and diverse employment*, *Principle 9.2 – Innovation and Technology* and *Principle 9.3 – Enterprise Opportunities*.¹

In examining those principles it is important to keep in mind that local governments in the SEQ region are required to amend their planning schemes to reflect the SEQ Regional Plan². The SEQ Regional Plan also specifically notes that the planning schemes must be consistent with the intent of the desired regional outcomes, principles and policies³. Under the *Integrated Planning Act 1997*, a local government is also required to assess a development application against the SEQ Regional Plan if the SEQ Regional Plan is not identified as being appropriately reflected in the particular planning scheme⁴ and the SEQ Regional Plan is to prevail to the extent of any inconsistency⁵. Under the *Sustainable Planning Bill 2009* planning schemes must also be consistent with the intent of the desired regional outcomes, principles and policies⁶ and a local government is also required to assess a development application against the SEQ Regional Plan if the SEQ Regional Plan is not identified as being appropriately reflected in the particular planning scheme⁷. Where there is conflict it is proposed that the SEQ Regional Plan will again prevail to the extent of any inconsistency⁸. Further, it is proposed that an application must be refused if it conflicts with the SEQ Regional Plan unless there are sufficient grounds for approving the application, despite the conflict⁹. Where development is inconsistent with a regulatory provision there is no discretion for a local government (or the Court) to approve development¹⁰.

Activity centres

The regional policy set out in Desired Regional Outcome 8 – Compact Settlement (DR08) in the SEQ Regional Plan provides for:

"A compact urban structure of well-planned communities, supported by a network of accessible and convenient centres and transit corridors linking residential areas to employment locations establishes the context for achieving a consolidated urban settlement pattern."

The notes to DR08 provide that regional activity centres will play an important role in accommodating the regional dwelling and employment targets set out in the SEQ Regional Plan and will be pivotal to the success of accommodating the population growth projected to 2031. The SEQ Regional Plan not only seeks to place regional activity centres at strategic locations on the transport network but also recognises that an important factor in the creation of better places for people to live is the provision of mixed land uses within the activity centres (whereby alternatives to driving may become more viable).

¹ The author notes that Olivia Williamson's paper deals more particularly with the application of transit orientated principles

² Section 2.5A.20 of the *Integrated Planning Act 1997* and clause 29 of the *Sustainable Planning Bill 2009*

³ See pages 38 and 152 of the SEQ Regional Plan

⁴ Sections 3.5.4(2)(c)iii and 3.5.5(2)(c)iii of the *Integrated Planning Act 1997*

⁵ Section 2.5A.21(3) of the *Integrated Planning Act 1997*

⁶ Clause 29 of the *Sustainable Planning Bill 2009*

⁷ Clause 313(2)(b) and 314(2)(b) of the *Sustainable Planning Bill 2009*

⁸ Clause 26(3) of the *Sustainable Planning Bill 2009*

⁹ Clause 326(1)(b) of the *Sustainable Planning Bill 2009*

¹⁰ Section 3.1.11(4A) of the *Integrated Planning Act 1997* and clause 324(3) of the *Sustainable Planning Bill 2009*

Three of the main principles upon which the State relies in seeking to achieve DR08 are *Principle 8.6 – Activity centres and transit corridors*, *Principle 8.7 – Centres that support business* and *Principle 8.8 – Mixed-use activity centres*.

The words “*along high frequency transit corridors*” have been added to *Principle 8.6 – Activity centres and transit corridors* which now seeks to emphasise the transit orientated principles that are a priority in the SEQ Regional Plan by seeking to:

“Focus employment, infill housing and community services in well-planned, vibrant and accessible regional activity centres and along high frequency transit corridors.”

In that context, the notes to Principle 8.6 now provide that “*regional activity centres need to be more than retail and service providers*” and a new policy statement for the achievement of the principle has been introduced to “*encourage mixed-use development along priority transit corridors and other high-frequency transit corridors.*”

While all of the definitions in the activity centres network (see maps 10 and 11) have been retained, the State has made several changes:

- The Brisbane CBD remains as the “primary activity centre” for the region, although the SEQ Regional Plan recognises that the CBD’s influence has now extended beyond South Bank and South Brisbane into the surrounding ‘frame area’ of Fortitude Valley, Spring Hill, Milton, Albion, Newstead, Woolloongabba, Bowen Hills, South Brisbane and West End. The SEQ Regional Plan notes the increasing role that the ‘frame area’ plays in terms of providing distinct commercial, legal, government, retail, community and entertainment precincts and states that it should be supported with appropriate land use forms and services.
- Although the principal regional activity centres at Maroochydore, Caboolture/Morayfield, Chermside, Indooroopilly, Carindale, Capalaba, Cleveland, Upper Mount Gravatt, Springwood, Ipswich, Springfield, Beenleigh, Southport and Robina all remain, they are now to have the sole responsibility for serving major comparison shopping functions. Previously major retail centres were to provide limited comparison retail functions.
- Additional major retail activity centres have been identified at Caloundra South and Helensvale and, as noted above, these centres are no longer to provide limited comparison retail functions as was previously the case. This change to the definition for major retail activity centres is likely to create some confusion given that some of the major retail activity centres already have department stores (e.g. Toombul, Mitchelton, Toowong, Broadbeach, North Lakes, Strathpine and Loganholme).
- Specialist activity centres have been added for the Gold Coast University Hospital Precinct and at Boggo Road/Buranda. In the Draft South East Queensland Regional Plan 2009-2031, specialist activity centres were initially removed from the activity centres network, but were then reinstated in the SEQ Regional Plan. The South East Queensland Regional Plan 2009-2031 Consultation Report dated July 2009 states that they were reinstated in recognition of their importance as destinations and trip generators.

Generally, however, Principle 8.6 maintains the principles and policies from the *South East Queensland Regional Plan 2005-2026* (as amended in October 2006) that it replaced. In particular, the notes to the principle provide that it continues to provide that out-of-centre development is inconsistent with the SEQ Regional Plan and that large format retail facilities (such as bulky goods retail activities) are to be located on the periphery of a centre. If there is no room in the centre for those large format retail facilities then out of centre locations will be considered based on an assessment of community need and potential impact.

It is the change that has been made to the SEQ Regional Plan through the introduction of *Principle 8.7 – Centres that support business* and *Principle 8.8 – Mixed-use activity centres* (and their supporting policies), however, that is likely to be of particular concern to some members of the development industry. The policies prepared in support of these new principles do not necessarily have regard to the viability of development they seek to encourage.

Principle 8.7 – Centres that support business provides as follows:

“Principal and major regional activity centres located on priority transit network and other high-frequency transit corridors should provide for future growth of a broad range of business uses to support employment growth.”

The policy statements that have been prepared to indicate what must be done to ensure that activity centres support not only retail, but business and employment growth, provide that:

- In making a decision on a development application (or in preparing amendments to planning schemes) local governments are to consider whether the activity centre is on an existing or proposed priority transit network or other high frequency transit corridor (Policy 8.7.1).
- Any extensions of more than 10,000 square metres to an existing retail centre in an activity centre provide sufficient land with street frontage to accommodate non-retail business premises (Policy 8.7.2).

With respect to retail centres, the notes to Principle 8.7 provide that retail centres are to include “*publicly accessible spaces for social interaction*”, are to incorporate active street frontages and are to include a mix of uses and employment opportunities. They require that local governments have regard to Policy 8.7.2, in particular, in making a decision on a development application (or in preparing amendments to planning schemes). The notes provide that in respect of Policy 8.7.2:

“The policy asks for land that is well located and has sufficient street frontage to accommodate affordable office premises to be identified and secured. This land must be equivalent to at least 15 per cent of the proposed increase in retail floor space. Alternatively, the policy could be met by building up to two storeys, as long as the buildings occupy no more than 40 per cent of the site cover.”

The Consultation Report noted that there was considerable opposition to the policy requiring street frontage for non-retail business premises on extensions greater than 10,000 square metres. Submissions lodged expressed concern that the policy was overly prescriptive and dealt with issues better addressed by local governments. Those concerns were rejected by the State on the basis that the policy was integral to the provision of active street frontages which the State had identified as being a key issue.

The significance of this policy has been elevated as a consequence of Division 4 of the *South East Queensland Regional Plan 2009-2031* State Planning Regulatory Provisions, which provides that an assessment manager for a development application for material change of use involving an extension of more than 10,000 square metres of retail floor space must assess the application against the following assessment criteria:

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

Through its inclusion in the Regulatory Provisions, the policy is given real teeth as there is no discretion for a local government (or the Court) to approve development which is inconsistent with a regulatory provision¹¹.

¹¹ Section 3.1.11(4A) of the *Integrated Planning Act 1997* and clause 324(3) of the *Sustainable Planning Bill 2009*

Principle 8.8 – Mixed-use activity centres is concerned with the achievement of mixed use centres and provides as follows:

“Include a broad mix of land uses in activity centres and structure them as mixed-use centres in a predominantly main-street format to best serve their surrounding communities.”

The notes to Principle 8.8 provide that all centres are to be “*planned as activity centres, not just shopping centres, and provide for high-yielding employment uses as well as retail and residential land uses*”. They provide that the SEQ Regional Plan does not generally support “*enclosed retail formats*”. For extensions to existing retail dominated centres, the notes suggest that developers “*should take the opportunity to introduce active street frontages, more employment and a wider range of services*”.

The policy statements that have been prepared to indicate what must be done to ensure that activity centres are “*not just shopping centres*” provide that:

- A range of land uses are to be incorporated into activity centres, consistent with their function in the activity centres network (see maps 10 and 11 in the SEQ Regional Plan).
- New activity centres are to be developed with street-fronting retail layouts instead of enclosed or parking-lot dominant retail formats.
- Activity centres are to include public areas that will support social interaction.
- Any redevelopment of existing activity centres that are currently dominated by enclosed retail is to achieve a “*main-street format*” through the inclusion of active street frontages, integration with surrounding public spaces and the introduction of more services and employment opportunities.

Employment location

The regional policy set out in Desired Regional Outcome 9 – Employment Location (DR09) provides a:

“Plan for employment to support a strong, resilient and diversified economy that grows prosperity in the region by using its competitive advantages to deliver exports, investment and sustainable and accessible jobs.”

Critics of the *South East Queensland Regional Plan 2005-2026* (as amended in October 2006) said that the Desired Regional Outcome 9, then headed, ‘Economic development’, did not adequately identify nodes of land for future employment. The Consultation Report notes that criticisms of the *South East Queensland Regional Plan 2005-2026* (as amended in October 2006) included that there was too much reliance placed on population based industries such as the retail industry and that more focus was needed on knowledge-based industries. Whereas the then Desired Regional Outcome 9 spoke generally about the identification of employment opportunities, DR09 goes a long way to answering those critics by specifically seeking to protect and enhance employment opportunities by identifying land for industrial and business purposes.

The notes to DR09 provide that to continue economic growth and development the State must, among other things, set aside sufficient land for future economic use and create knowledge centres based on education, scientific and technological institutions. It notes that the creation of highly skilled jobs in ‘knowledge-based industries’ will be important for the State’s economic diversification.

The three principles relied upon by the State in seeking to achieve DR09 are *Principle 9.1 – Balanced and diverse employment*, *Principle 9.2 – Innovation and Technology* and *Principle 9.3 – Enterprise Opportunities*.

Principle 9.1 – Balanced and diverse employment is concerned with the development of a ‘diversified regional economy’ in each of the nine identified sub-regions. The policy statements that have been prepared to indicate what must be done to ensure that that diversification is achieved provide that:

- The expansion of the services sector and the growth of specialised technology-based manufacturing will be supported through the identification of suitable locations and the provision of suitable infrastructure.
- High value-added and knowledge-based industries will be encouraged.
- Appropriate locations for future employment and enterprise expansion will be identified (having regard to the particular opportunities identified for each of the sub-regions) and protected.

The notes to Principle 9.1 provide that:

- The SEQ Regional Plan provides for employment growth by both providing for employment opportunities (in transit corridors, development areas, activity centres and enterprise opportunity areas) and planning for industry and business land, areas of science and technology, areas of health, education and training and protecting those areas from incompatible development.
- There is a particular need for office based businesses and government and community services at the Sunshine Coast, Moreton Bay, Gold Coast, Ipswich, Toowoomba and Logan and for manufacturing and logistics employment at the Sunshine Coast, Ipswich, Moreton Bay, Gold Coast, scenic Rim, Toowoomba, Lockyer Valley, Somerset and Logan.
- Local governments are to consider employment needs when preparing their strategic frameworks (giving particular consideration to the type, location and timing of their employment land requirements) so as to ensure that there is sufficient employment land available in each sub-region.

Maps 13 and 14 identify those areas recognised as being suitable for 'new economy' science and technology areas, while maps 15 and 16 identify those areas recognised as being suitable locations for new health, education and training institutes (such as hospitals and education facilities).

Maps 17 and 18 combine those areas into larger employment opportunity areas that local governments are to have regard to when preparing their planning schemes so that essential land can be set aside for long term employment opportunities and incompatible land uses prevented. In this way the State seeks to ensure that these areas are not lost before proper consideration is given to their potential for employment creation.

Principle 9.2 – Innovation and Technology provides a:

“Plan for existing and emerging clusters of science and technology, and health, education and training, and protect them from incompatible development.”

The notes to Principle 9.2 say that the State considers the continued growth of Queensland's reputation internationally for research and development and economic specialisations as being crucial to the region's future competitive advantage.

The policy statements that have been prepared in support of this principle provide that:

- Where there has already been a significant investment in science and technology, and health, education and training infrastructure, those areas are to be secured and provision made for not only the future expansion of these activities but also for the development of complementary businesses and services.
- Those areas identified on maps 13 to 16 as being suitable either for science and technology, or health, education and training clusters are to be protected from incompatible development when local governments prepare planning schemes or make decisions on development applications.

Principle 9.3 – Enterprise Opportunities is as follows:

“Provide sufficient land for business and industry to enable diversified, broad-based, future economic and employment growth across the region.”

Map 19 identifies enterprise opportunity areas that are considered most suitable for businesses and industry that benefit from good access to regional freight corridors, proximity to workforce and separation from incompatible land uses.

The policy statements that have been prepared in support of this principle include:

- Strategically located land is to be secured to meet both current and future business and industry need (including for the period beyond the timeframe of the SEQ Regional Plan).
- Suitable areas are to be protected from incompatible development when local governments prepare planning schemes and consider development applications.
- Large existing industrial, warehousing, transport and storage businesses are to be encouraged to relocate from inner suburbs so that those sites may be used for use that are considered higher and better uses for each of those sites.

Conclusion

While the existing centres are not necessarily true activity centres in that in many instances they do not have the complete range of uses now contemplated by the SEQ Regional Plan, it will take some time before we see whether the types of activity centres sought by the SEQ Regional Plan are able to satisfy the commercial requirements of institutional owners. The prescriptive nature of some of the policies about activity centres, and in particular those relating to Principles 8.7 and 8.8, have the potential to act as a major disincentive to investment in Queensland.

The SEQ Regional Plan has gone a long way to silence critics of the previous Regional Plan, who were of the view that the State did not adequately identify nodes of land for future employment. By identifying land for current and future industrial and business purposes and seeking to protect that land from incompatible land uses, the SEQ Regional Plan has made a significant contribution towards the planning and delivery of land for employment growth in the region.

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