

NORTH BURNETT REGIONAL COUNCIL

Planning Scheme

Material change of use

Info Sheet

Development for the purposes of 'making a material change of use of premises' deserves further explanation. This info sheet provides the definition of "material change of use" under the *Planning Act 2016 (the Act)* and discusses in detail each aspect.

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MATERIAL CHANGE OF USE

Material change of use, of premises, means any of the following that a regulation made under section 283(2)(a) does not prescribe to be minor change of use—

- a) the start of a new use of the premises;
- b) the re-establishment on the premises of a use that has been abandoned;
- c) a material increase in the intensity or scale of the use of the premises.

Regulation under s283(2)

The Planning Regulation 2017 does not yet prescribe any 'minor change of use that is not a material change of use'. Schedule 6 of the regulation does however identify development that the scheme cannot make assessable.

Starting a new use of premises

To help determine whether there is a new use starting, answer the following questions—

- What is the existing or former primary use of the premises?
- Is there a change to the primary use of the land?
- Does the new activity affect the use of the premises, or does it only comprise of building or other work or the reconfiguration of a lot?
- If there is a change to the primary use of the land, is the change in character and its potential impacts significant enough to be described as the start of a new use?
- Does the new use fall within the scope of the existing use's rights or any previous development approvals? If so, does the change require an amendment to any conditions of a development permit?

Re-establishing an abandoned use

To help determine whether a use has been abandoned and therefore whether re-establishing it would constitute a 'material change of use', answer the following questions—

- Is the use intermittent in character?
- If not, would a 'reasonable person' conclude the use had been abandoned and not merely suspended, given the facts and circumstances including—
 - * the length of time since activities associated with the use ceased;
 - * whether the premises have been used for other purposes since the use ceased;
 - * the owner's and/or occupier's intentions; and
 - * the physical condition of the premises and the potential for it to accommodate the use once again?

Material increase in intensity or scale

To help determine whether there is a material increase in the intensity or scale of the use answer the following questions—

- Is the intensification a change to the primary use of the premises or only to one or more of the ancillary uses?

- If any ancillary use is intensifying, had the 'ancillary' relationship been severed because that use is no longer subordinate to, or largely dependent on, the primary use?
- Is any intensification a permanent and significant increase in activities of the existing use?
- Is the intensification going to increase the potential impact of the use to neighbouring properties?

What other development approvals may be associated with a material change of use?

A further development approval may be required for any operational work in association with the material change of use. Operational work can relate to landscaping, the construction of roads, water supply services, sewer services, electrical services, telecommunications, stormwater drainage construction, earthworks, retaining walls over 1 metre high etc.

For further information please read the information sheet on operational works.

A further development approval is necessary before carrying out any assessable building work associated with the material change of use.

It is strongly recommended that you provide as much information with your application as you can, as lack of information necessary to assess the application will significantly hold up the process.





Still need help?

This information sheet summarises the key matters to consider for people considering carrying out development. The process and legal aspects relating to property and development can be complex and confusing. Council's development services staff may be able to help.

Sometimes however it may be advisable for you to obtain your own professional help from a qualified practitioner such as a Lawyer, Surveyor, Town Planner, Architect, Building Designer, or Engineer.

Encouraging economic development

The North Burnett Regional Council is a small rural local government but it is big on facilitating good economic development. That is why the planning scheme seeks to enable business growth and expansion while simultaneously creating and protecting the appeal of living in a *naturally beautiful* area. While the Council can encourage or enable good development projects it is up to locals to see opportunities and then to take the initiative.

Make contact with Council's Development Services staff to find out how to streamline your next development project.

Contact Us

Give us a call for more information about the planning scheme and making an application.

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