

Contents

Part 1	About the planning scheme	3
1.1	Introduction	3
1.2	Planning scheme components	5
1.3	Interpretation	7
1.3.1	Definitions	7
1.3.2	Standard drawings, maps, notes, editor's notes and footnotes	8
1.3.3	Punctuation	8
1.3.4	Zones for roads, closed roads, waterways and reclaimed land	8
1.4	Categories of development	8
1.5	Hierarchy of assessment benchmarks	9
1.6	Building work regulated under a planning scheme	9
1.7	Local government administrative matters	12
1.7.1	Designated bushfire prone area for AS 3959-2009—Construction of buildings in bushfire-prone areas	12
1.7.2	Designated flood hazard area for Queensland Development Code MP3.5...	12
1.7.3	Designated transport noise corridor for Queensland Development Code MP4.4	13
1.7.4	Declaration for amenity and aesthetic impact referral agency assessment	14
1.7.5	Temporary Use	15

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Part 1 About the planning scheme^{1,2}

1.1 Introduction

- (1) The Toowoomba Regional Planning Scheme (planning scheme) has been prepared in accordance with the *Sustainable Planning Act 2009* (the Act) as a framework for managing development in a way that advances the purpose of the Act.
- (2) The planning scheme was amended for alignment with the *Planning Act 2016* (the Act) by the Minister's rules under section 293 of the Act on 3 July 2017.
- (3) In seeking to achieve this purpose, the planning scheme sets out Toowoomba Regional Council's intention for the future development in the planning scheme area over the next 20 years.
- (4) The planning scheme seeks to advance state and regional policies through more detailed local responses, taking into account the local context.
- (5) While the planning scheme has been prepared with a 20 year horizon, it will be reviewed periodically in accordance with the Act to ensure that it responds appropriately to the changes of the community at local, regional and state levels.
- (6) The planning scheme applies to the planning scheme area of Toowoomba Regional Council including all premises, roads, internal waterways and interrelates with the surrounding local government areas illustrated in Map 1.

Editor's note—The planning scheme has been amended to align with the regulated requirements as provided in the *Planning Act 2016*. In accordance with section 16(3) of the Act, the regulated requirements (to the extent chosen) apply to the planning scheme to the extent of any inconsistency.

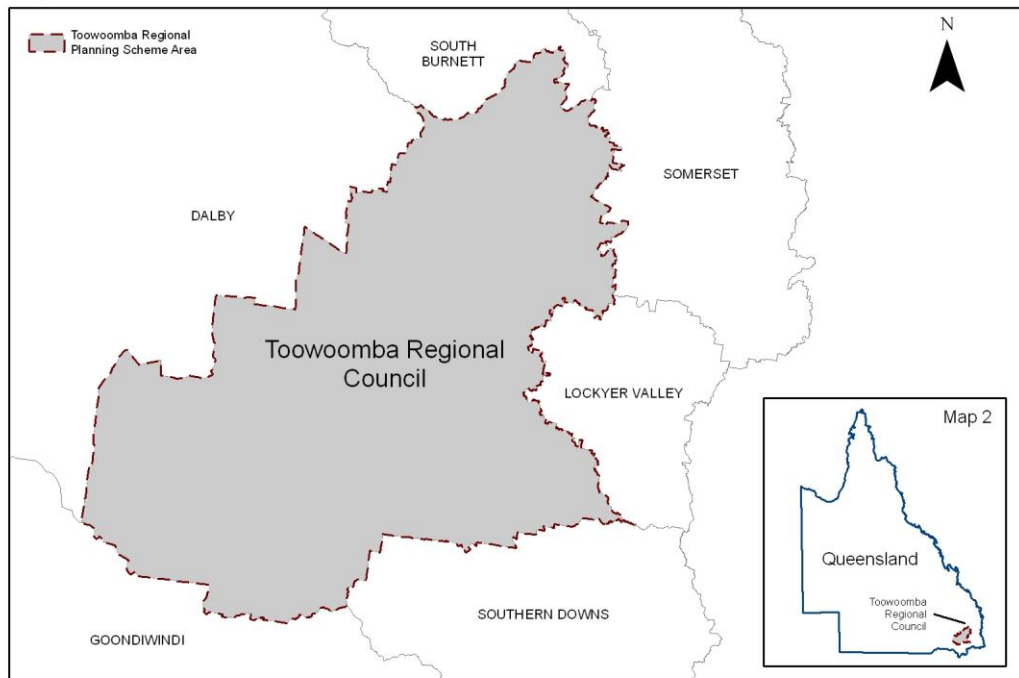
Editor's note—State legislation may state that the planning scheme does not apply to certain areas, e.g. strategic port land where there is a land use plan only to the extent of any inconsistency. In accordance with the provisions of section 24 of the *Sustainable Ports Development Act 2015* a port overlay for a master planned area prevails over the planning scheme, to the extent of any inconsistency.

Map 1 – Local Government planning scheme area / Map 2 – Local Government context

¹ Amended on 3 July 2017

² Amended on 4 August 2014

Map 1



1.2 Planning scheme components

- (1) The planning scheme comprises the following elements:
- (a) about the planning scheme
 - (b) state planning provisions
 - (c) strategic framework
 - (d) local government infrastructure plan³
 - (e) tables of assessment
 - (f) the following zones:
 - (i) Low Density Residential Zone:
 - (A) Clifford Park Stables Precinct.
 - (B) Park Residential Precinct.
 - (ii) Low-Medium Density Residential Zone:
 - (A) Urban Residential Precinct.
 - (B) Regional Residential Precinct.
 - (C) Urban Consolidation Precinct.
 - (D) Hospital Support Precinct.
 - (E) Office Residential Precinct.
 - (iii) Principal Centre Zone.
 - (iv) Major Centre Zone.
 - (v) District Centre Zone.
 - (vi) Local Centre Zone.
 - (vii) Sport And Recreation Zone.
 - (viii) Open Space Zone:
 - (A) State Government Conservation and Forestry Precinct.
 - (ix) Low Impact Industry Zone.
 - (x) Medium Impact Industry Zone.
 - (xi) High Impact Industry Zone.
 - (xii) Extractive Industry Zone.
 - (xiii) Community Facilities Zone:
 - (A) Education Precinct.
 - (B) Government Precinct.
 - (C) Higher Education Precinct.
 - (D) Hospital Precinct.
 - (E) Other Community Purposes Precinct.
 - (xiv) Emerging Community Zone.
 - (xv) Limited Development Zone (Constrained Land).
 - (xvi) Mixed Use Zone:
 - (A) Parkland Living Precinct.
 - (B) City South Precinct.
 - (C) West Creek Precinct.
 - (D) Railyards Precinct.
 - (E) Health Support Precinct.
 - (xvii) Rural Zone:
 - (A) 100ha Precinct.
 - (B) 200ha Precinct.
 - (C) Heinemann Road Transport Precinct.

³ Amended on 9 June 2017

- (xviii) Rural Residential Zone:
 - (A) 4,000m² Precinct.
 - (B) 1ha Precinct.
 - (C) 2ha Precinct.
- (xix) Specialised Centre Zone.
 - (A) Queensland Government Research Facility Precinct.
 - (B) Toowoomba Airport Precinct.
 - (C) Defence Facilities Precinct.
 - (D) Specialist Retail Centre Precinct.
- (xx) Township Zone:
 - (A) Flood Management Precinct⁴
- (g) the following local plans:
 - (i) Highfields, Meringandan and Meringandan West Local Plan⁵.
 - (ii) Glenvale Local Plan.
 - (iii) Charlton Wellcamp Enterprise Area Local Plan.
- (h) the following overlays:
 - (i) Airport Environs Overlay Code.
 - (ii) Bushfire Hazard Overlay Code.
 - (iii) Flood Hazard Overlay Code.
 - (iv) Landslide Hazard Overlay Code.
 - (v) Heritage Overlay Code.
 - (vi) Neighbourhood Character Overlay Code.
 - (vii) Scenic Amenity Overlay Code.
 - (viii) Regional Infrastructure Corridors and Substations Overlay Code.
 - (ix) Environmental Significance Overlay Code.
 - (x) Extractive Resources Overlay Code.
 - (xi) Agricultural Land Overlay Code.
 - (xii) Water Resource Catchments Overlay Code.
- (i) the following development codes:
 - (i) Advertising Devices Code
 - (ii) Community Residence code requirements, applying to development that may not be made assessable development under the planning scheme
 - (iii) Cropping (involving forestry for wood production) code, applying to development that may not be made assessable development under the planning scheme
 - (iv) Environmental Standards Code
 - (v) Integrated Water Cycle Management Code
 - (vi) Landscaping Code
 - (vii) Reconfiguring a Lot Code

⁴ Amended on 21 August 2020

⁵ Amended on 29 July 2016

- (viii) Reconfiguring a lot (subdividing one into two lots) and associated operational works code, applying to development for which code assessment is required under schedule 10, part 12, and schedule 10, part 14, division 2 of the Regulation.
 - (ix) Transport, Access and Parking Code
 - (x) Works and Service Code
 - (j) there are no other plans
 - (k) schedules and appendices
- (2) The following planning scheme policies support the planning scheme:
- (i) Planning Scheme Policy No. 1 - Development Application Requirements.
 - (ii) Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure.
 - (iii) Planning Scheme Policy No. 3 – Engineering Standards – Water and Waste Water Infrastructure.
 - (iv) Planning Scheme Policy No. 4 -Master Planning.⁶
 - (v) Planning Scheme Policy No. 5 – (intentionally left blank).
 - (vi) Planning Scheme Policy No. 6 – Heritage Places.
 - (vii) Planning Scheme Policy No. 7 – Neighbourhood Character Places.
 - (viii) Planning Scheme Policy No. 8 – Street Trees.

1.3 Interpretation

1.3.1 Definitions

- (1) A term used in the planning scheme has the meaning assigned to that term by one of the following:
- (a) the *Planning Act 2016* (the Act)
 - (b) the Planning Regulation 2017 (the Regulation), to the extent they have been identified in Part 6 and schedule 2 of the planning scheme
 - (c) the definitions in Schedule 1 of the planning scheme
 - (d) the *Acts Interpretation Act 1954*
 - (e) the ordinary meaning where that term is not defined in any of the above.
- (2) In the even a term has been assigned a meaning in more than one of the instruments listed in sub-section 1.3.1(1), the meaning contained in the instrument highest on the list will prevail.
- (3) A reference in the planning scheme to any act includes any regulation or instrument made under it, and where amended or replaces, if the context permits, means the amended or replaced act.
- (4) A reference in the planning scheme to a specific resource document or standard, means the latest version of the resource document or standard.
- (5) A reference to a part, section, table or schedule is a reference to a part, section, table or schedule of the planning scheme.

Editor's note—In accordance with section 5(2)(a) of the Planning Regulation 2017, the regulated requirements apply to this planning scheme only where specifically identified as regulated requirements in the sections containing the zones and definitions as relevant.

⁶ Amended on 27 April 2018

1.3.2 Standard drawings, maps, notes, editor's notes and footnotes

- (1) Standard drawings contained in codes or schedules are part of the planning scheme.
- (2) Maps provide information to support the outcomes and are part of the planning scheme.
- (3) Notes are identified by the title 'note' and are part of the planning scheme.
- (4) Editor's notes and footnotes are extrinsic material, as per the *Acts Interpretation Act 1954*, and are identified by the title 'editor's note' and 'footnote' and are provided to assist in the interpretation of the planning scheme; they do not have the force of law.

Note—This is an example of a note.

Editor's note—This is an example of an editor's note.

1.3.3 Punctuation

- (1) A word followed by ','⁷ or ' and' is considered to be 'and'
- (2) A word followed by '; or' means either or both options can apply.

1.3.4 Zones for roads, closed roads, waterways and reclaimed land

- (1) The following applies to a road, closed road, waterway or reclaimed land in the planning scheme area:
 - (a) if adjoined on both sides by land in the same zone—the road, closed road, waterway or reclaimed land is in the same zones as the adjoining land
 - (b) if adjoined on one side by land in a zone and adjoined on the other side by land in another zone—the road, closed road, waterway or reclaimed land is in the same zone as the adjoining land when measured from a point equidistant from the adjoining boundaries
 - (c) if the road, closed road, waterway or reclaimed land is adjoined on one side only by land in a zone—the entire waterway or reclaimed land is in the same zone as the adjoining land
 - (d) if the road, closed road, waterway or reclaimed land is covered by a zone then that zone applies.

Editor's note—The boundaries of the local government area are described by the maps referred to in the Local Government Regulation 2012.

1.4 Categories of development

- (1) The categories of development under the Act are:

- (a) accepted development;

Editor's note—A development approval is not required for development that is accepted development. Under section 44(6)(a) of the Act, if a categorising instrument does not apply a category of development to a particular development, the development is accepted development. Schedule 7 of the Regulation also prescribes accepted development.

- (b) assessable development

- (i) code assessment
 - (ii) impact assessment

Editor's note—A development approval is required for assessable development. Schedules 9, 10 and 12 of the Regulation also prescribe assessable development.

- (c) prohibited development.

Editor's note—A development application may not be made for prohibited development. Schedule 10 of the Regulation prescribes prohibited development.

⁷ Amended on 9 August 2019

- (2) The planning scheme states the category of development for certain types of development, and specifies the category of assessment for assessable development in the planning scheme area in Part 5.

Editor's note—Section 43 of the Act identifies that a categorising instrument categorises development and specifies categories of assessment and may be a regulation or local categorising instrument. A local categorising instrument includes a planning scheme, a TLPI or a variation approval.

1.5 Hierarchy of assessment benchmarks

- (1) Where there is inconsistency between provisions in the planning scheme, the following rules apply:
 - (a) the strategic framework prevails over all other components to the extent of the inconsistency for impact assessment
 - (b) relevant codes as specified in schedules 6 and 10 of the Regulation – prevail over all other components to the extent of the inconsistency
 - (c) overlays prevail over all other components (other than the matters mentioned in (a) and (b)) to the extent of the inconsistency
 - (d) local plan codes prevail over zone codes, use codes and other development codes to the extent of the inconsistency
 - (e) zone codes prevail over use codes and other development codes to the extent of the inconsistency
 - (f) provisions of Part 10 may override any of the above.

1.6 Building work regulated under a planning scheme^{8, 9}

- (1) Section 8(5) of the Act states that a local planning instrument must not include provisions about building work to the extent the building work is regulated under the building assessment provisions, unless allowed under the *Building Act 1975*.
- (2) The building assessment provisions are listed in section 30 of the *Building Act 1975*.

Editor's note—The building assessment provisions are stated in section 30 of the *Building Act 1975* and are assessment benchmarks for the carrying out of building assessment work or building work that is accepted development subject to any requirements (see also section 31 of the *Building Act 1975*).

- (3) This planning scheme, through Part 5, regulates building work in accordance with sections 32 and 33 of the *Building Act 1975*.

Editor's note—The *Building Act 1975* permits planning schemes to:

- regulate, for the Building Code of Australia (BCA) or the Queensland Development Code (QDC), matters prescribed under a regulation under the *Building Act 1975* (section 32). These include variations to provisions contained in parts MP1.1, MP 1.2 and MP 1.3 of the QDC such as heights of buildings related to obstruction and overshadowing, siting and design of buildings to provide visual privacy and adequate sight lines, on-site parking and outdoor living spaces. It may also regulate other matters, such as designating land liable to flooding, designating land as bushfire prone areas and transport noise corridors
- deal with an aspect of, or matter related or incidental to building work prescribed under a regulation under section 32 of the *Building Act 1975*
- specify alternative boundary clearances and site cover provisions for Class 1 and 10 structures under section 33 of the *Building Act 1975*.

Refer to Schedule 9 of the Regulation to determine assessable development, the type of assessment and any referrals applying to the building work.

- (4) The building assessment provisions in the planning scheme are identified in:
 - (a) Table 1.6.1 for the assessment manager for a development application;
 - (b) Table 1.6.2 for the Council acting as a referral agency for a development application.

⁸ Amended on 21 August 2020

⁹ Amended on 25 Feb 2022

Table 1.6.1 - Building assessment provisions in the planning scheme for an assessment manager

Item	Building Act 1975 (BA), Building Regulation 2021 (BR) or QDC reference	Description	Planning scheme part
1	Section 32(a) BA and section 7 BR.	Designation of bushfire prone areas for the BCA or QDC	1.7.1
2	Section 32(a) BA and section 8(1)(a) BR.	Designation of flood hazard area	1.7.2
3	Section 32(a) BA and section 8(1)(b)(i) BR.	Declaration within the flood hazard area of the defined flood level	1.7.2
4	Section 32(a) BA and section 8(1)(b)(iv).	Declaring within the flood hazard area of a freeboard that is more than 300mm	1.7.2
5	Section 32(a) BA and section 8(1)(b)(v).	Declaration within the flood hazard area of the finished floor level of class 1 buildings built in all or part of the flood hazard area	1.7.2
6	Sections 32(c) and 33 BA	Alternative provisions to performance criteria 1 under QDC parts MP1.1 of the QDC boundary clearance and site cover provisions for particular buildings	9.3.10:1 Small Lot Housing Design Code AO3.1 <i>(site cover/setbacks)</i>
7	Sections 32(c) and 33 BA	Alternative provisions to performance criteria 2 under QDC parts MP1.1 of the QDC boundary clearance and site cover provisions for particular buildings	9.3.10:1 Small Lot Housing Design Code AO4.1 <i>(Daylight and amenity to adjoining lots)</i>
8	Section 32(b) BA and section 6 BR	Qualitative statements and quantifiable standards for matters provided for under performance criteria 5 under QDC parts MP 1.1 for a single detached class 1 building or a class 10 building or structure located on the same allotment as a single detached class 1 building	9.3.10:1 Small Lot Housing Design Code AO12.1 <i>Privacy for neighbours</i>
9	Section 32(b) BA and section 6 BR	Qualitative statements and quantifiable standards for the matters provided for under performance criteria 8 under QDC parts MP1.1 for a single detached class 1 building or a class 10 building or structure located on the same allotment as a single detached class 1 building	9.3.10:1 Small Lot Housing Design Code AO7.1, AO7.2 AO8.1, AO8.2 <i>Onsite car parking</i>
10	Section 32(b) BA and section 6 BR	Qualitative statements and quantifiable standards for the matters provided for under performance criteria 9 under QDC parts MP1.1 for a single detached class 1 building or a class 10 building or structure located on the same allotment as a single detached class 1 building	9.3.10:1 Small Lot Housing Design Code AO9.1 <i>Private open space</i>

Table 1.6.2—Building assessment provisions in the planning scheme for the Council acting as referral agency

Item	Relevant legislation	Description	Building assessment provisions in planning scheme
1	Schedule 9, Part 3, Division 2, Table 1 of the Regulation	Whether a single detached class 1(a)(i) building, class 1(a)(ii) building made up of not more than 2 attached dwellings or a class 10 building or structure will impact on the amenity or the aesthetics of the locality	Neighbourhood Character Overlay Code where the building work is in the Neighbourhood Character Overlay: Tables 8.3.2:1 and 8.3.2:2
2	Schedule 9, Part 3, Division 2, Table 3, Item 1, Column 2(c) of the Regulation	If all of the following apply: - under Building Regulation 2021, section 6, the planning scheme includes a provision about a matter provided for under performance criteria P5, P8 or P9 of the QDC, part 1.1; - the provision applies for building work; - under the provision, the proposed building or structure is not of the quantifiable standard for a relevant qualitative statement under the provision, whether the proposed building or structure complies with the qualitative statement	The performance outcomes contained in Items 8, 9 and 10 of Table 1.6.1 Privacy for neighbours Onsite car parking
3	Schedule 9, Part 3, Division 2, Table 12, Item 1, Column 2(a) of the Regulation	The matters the local government considers relevant in determining whether the defined flood level stated in the building development application is appropriate, if all or part of the premises the subject of the development application are in a flood hazard area and the application states a defined flood level that is lower than a defined flood level declared by the local government under the Building Regulation 2021, section 8 for the part of the flood hazard area where the premises are.	Flood hazard overlay code where the building work is in the Flood hazard overlay: Table 8.2.3:1
4	Schedule 10, Part 8, Division 1, Subdivision 3, Table 1, Item 4, Column 2(b) of the Regulation	Building work on a local heritage place	Heritage Overlay Code where the building work is in the Heritage overlay: Table 8.3.1:1

- (5) In designating land liable to flooding, the following is also declared pursuant to the *Building Act 1975* section 32(a) the *Building Regulation 2006* section 13(1)(a):
- (a) in the FR4, FR3, FR2 and FR1 flood risk areas identified on the Flood hazard overlay:

- (i) the defined flood event;
- (ii) a freeboard that is more than 300mm; and
- (iii) finished floor level of Class 1 buildings in a flood hazard area;
- (b) in the Balance (mixed) flood risk area and in the OFP1 and OFP2 overland flow areas identified on the Flood hazard overlay:
 - (i) a freeboard that is more than 300mm;
 - (ii) finished floor level of Class 1 buildings.

1.7 Local government administrative matters¹⁰

1.7.1 Designated bushfire prone area for AS 3959-2009—Construction of buildings in bushfire-prone areas

- (1) For the purpose of section 32(a) of the Building Act 1975 and section 7 of the Building Regulation 2021, the land identified in Table 1.7.1 is a 'designated bushfire prone area'.

Table 1.7.1—Designated bushfire prone area for AS 3959-2009

Designated bushfire prone area	Land identified in the following categories on the Bushfire overlay map: • Medium bushfire hazard • High bushfire hazard
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1.7.2 Designated flood hazard area for Queensland Development Code MP3.5

- (1) For the purpose of section 32(a) of the Building Act 1975, section 8(1)(a) of the Building Regulation 2021 and Queensland Development Code MP 3.5 Construction of buildings in flood hazard areas, the land identified in Table 1.7.2 is a 'designated flood hazard area'.

¹⁰ Amended on 25 Feb 2022

Table 1.7.2—Designated flood hazard area for Queensland Development Code MP3.5

Designated flood hazard area	Land identified in the following sub-categories on the Flood overlay map: • Flood Risk Area 1 (FR1); • Flood Risk Area 2 (FR2); • Flood Risk Area 3 (FR3); • Flood Risk Area 4 (FR4); • Balance (mixed) flood risk area; • Flood island area; • Overland Flow Path Area 1 (OFP1 (low)); • Overland Flow Path Area 2 (OFP2 (high)); and • Vulnerable Uses Restriction Area.
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- (2) For the purpose of section 32(b) of the *Building Act 1975* and section 8(1)(b) of the *Building Regulation 2021*, the Flood overlay addresses the following:
- the defined flood event;
 - a freeboard that is more than 300mm;
 - the finished floor levels of habitable rooms.

Editor's note — This mapping and other flood hazard data/information may be updated periodically by Council as the need arises.

1.7.3 Designated transport noise corridor for Queensland Development Code MP4.4

- (1) For the purpose of section 32(b) of the *Building Act 1975* and the Queensland Development Code MP 4.4 Buildings in a transport noise corridor, the land identified in Table 1.7.3 is a 'designated transport noise corridor'.

Table 1.7.3—Designated transport noise corridor for Queensland Development Code MP4.4

Designated transport noise corridor	Land identified in the following sub-categories on the Transport noise corridor overlay map: a. State designated noise corridor - State - controlled road (mandatory area): • Category 0: Noise Level < 58 dB(A); • Category 1: 58 dB(A) – 63 dB(A); • Category 2: 63 dB(A) – 68 dB(A); • Category 3: 68 dB(A) – 73 dB(A); • Category 4: Noise Level > 73 dB(A).
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Editor's note — for the purposes of the *Building Act 1975* and application of the *Queensland Development Code* in relation to declaration of transport noise corridors, the planning scheme has not declared such transport noise corridors.

1.7.4 Declaration for amenity and aesthetic impact referral agency assessment

- (1) For the purpose of Schedule 9, Part 3, Division 2, Table 1 of the Planning Regulation 2017, building work for a building or structure which is:
 - (a) for a single detached class 1(a)(i) building and/or class 1(a)(ii) building comprising not more than 2 attached dwellings; and/or
 - (b) for a class 10 building or structure in the Low Density Residential zone, the Low-medium Density Residential zone, the Rural Residential zone or the Township zone, and covered by the Heritage Overlay and/or the Neighbourhood Character Overlay of the Toowoomba Regional Planning Scheme 2012; and/or
 - (i) for a class 10 building or structure that exceeds 8.5 metres in height above natural ground level; and
 - (c) located in the residential zones categories outlined in Table 1.7.4; and
 - (d) not development that already has a Development Permit for Material Change of Use or Development Permit for Building Works/Planning Scheme Works assessable against the Toowoomba Regional Planning Scheme 2012; and
 - (e) not identified as 'Accepted Development' in the Toowoomba Regional Planning Scheme 2012; and
 - (i) of a form/type (including repair, renovation, alteration or addition) that exceeds the maximum stated preferred height; and/or
 - (ii) that does not comply with the Acceptable Outcomes of the applicable Planning Scheme Codes listed in Table 1.7.4.

Table 1.7.4—Declared locality and building form for amenity and aesthetic referral agency assessment

Locality	Codes
Land in the following zones:	
Low Density Residential Zone	Low Density Residential Zone Code
Low-medium Density Residential Zone	Low-medium Density Residential Zone Code
Mixed Use Zone	Mixed Use Zone Code
Township Zone	Township Zone Code
Rural Residential Zone	Rural Residential Zone Code
Rural Zone	Rural Zone Code
Emerging Communities Zone	Emerging Community Zone Code
Land in the following local plan areas:	
Highfields, Meringandan and Meringandan West Local Plan	Highfields, Meringandan and Meringandan West Local Plan Code
Glenvale Local Plan	Glenvale Local Plan Code
Land in the following overlays:	
Neighbourhood Character Overlay	Neighbourhood Character Overlay Code
Heritage Overlay	Heritage Overlay Code
Scenic Amenity Overlay	Scenic Amenity Overlay Code

1.7.5 Temporary Use

- (1) For the purpose of definition of “Temporary use” in Schedule 1 – Table SC1.2:2, Temporary Uses are impermanent if carried out in duration as specified in the table below.

Performance outcomes	Acceptable outcomes
Duration	
PO ₁ Development is temporary in nature, having regard to: (a) duration of time; and (b) works, built form or services required for the operation of the use.	AO _{1.1} The temporary use: (a) does not occur at equal or expected intervals in any 12 month period; and (b) does not exceed a total of 12 days in a year, where one single period does not exceed 5 days duration.