



Queensland

Sustainable Planning Amendment Regulation (No. 3) 2011

Explanatory Notes for SL 2011 No. 66

made under the

Sustainable Planning Act 2009

General outline

Short title

Sustainable Planning Amendment Regulation (No. 3) 2011.

Authorising law

Sustainable Planning Act 2009

Policy objectives and the reasons for them

The purpose of the amendment regulation is to amend the *Sustainable Planning Regulation 2009* to acknowledge the Whitsunday, Hinterland and Mackay Regional Planning Committee's (WHAM RPC) special meeting request of 7 February 2011 to rename the 'Whitsunday, Hinterland and Mackay region' (WHAM region) to the 'Mackay, Isaac and Whitsunday region' (MIW region).

Additional amendments to the *Sustainable Planning Regulation 2009* will ensure that development applications for certain types of development are assessed under the draft Mackay, Isaac and Whitsunday Regional Plan State planning regulatory provisions (draft MIWRP SPRP) by the chief

executive of the Department of Infrastructure and Planning acting under concurrence agency authority.

Achievement of policy objectives

The policy objectives will be achieved by amending one title and three tables listed in the *Sustainable Planning Regulation 2009*:

(1) Schedule 1, Part 8 (Whitsunday, Hinterland and Mackay region)

The proposed amendment will change the name of the ‘Whitsunday, Hinterland and Mackay region’ to ‘Mackay, Isaac and Whitsunday region’. The regulatory boundaries defined by this region will not be altered.

(2) Schedule 7, Table 2 (Referral agencies and their jurisdiction).

The proposed amendment (40B) will make the chief executive of the Department of Infrastructure and Planning a concurrence agency for the assessment of development where:

- (a) the development is reconfiguring a lot; and
- (b) the development has been triggered under criteria listed in Division 3 of the draft MIWRP SPRP.

(3) Schedule 7, Table 3 (Referral agencies and their jurisdiction)

The proposed amendment (13B) will make the chief executive of the Department of Infrastructure and Planning a concurrence agency for the assessment of development where:

- (a) the development is reconfiguring a lot; and
- (b) the development has been triggered under criteria listed in Division 3 of the draft MIWRP SPRP.

4) Schedule 18, Table 1, Item 1 (Compliance assessment of particular development)

The proposed amendment (m) will ensure that 1 into 2 lot reconfiguration of a lot is not considered to be compliance assessment if the draft MIWRP SPRP applies.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the *Sustainable Planning Act 2009*, which are set out in the following sections:

Part 2, Division 1, s16

- (1) A State planning regulatory provision is an instrument made under division 2 and part 6 for an area to advance the purpose of this Act by—
 - (a) providing regulatory support for regional planning or master planning
- (2) A State planning regulatory provision includes a draft State planning regulatory provision that under section 73 has effect as a State planning regulatory provision.

Part 2, Division 1, s16

- (1) A State planning regulatory provision is a statutory instrument under the *Statutory Instruments Act 1992* and has the force of law as provided for under this Act.

Part 6, Division 4, s73

- (2) The Minister may state in the gazette notice for the draft instrument, or amendment, that the draft provision has effect as if it were a State planning regulatory provision on the day the notice of the draft instrument, or amendment, is gazetted if the Minister is satisfied any delay in the commencement would increase the risk of—
 - (a) serious harm to the environment or serious adverse cultural, economic or social conditions happening in a planning scheme area; or
 - (b) compromising the implementation of a regional plan, structure plan or proposed regional plan or structure plan.

Concurrence agency jurisdiction provided to the chief executive of the Department of Infrastructure and Planning will ensure the State's interests relating to directing growth in the region are upheld during assessment of development identified as having the potential to jeopardise the achievement of the desired regional outcomes, (Sustainable Planning Act 2009 s28(a)(i)), listed in the draft MIW Regional Plan.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with any policy objectives of any other legislation.

Benefits and costs of implementation

The implementation of the amendment regulation will provide the statutory regulations required to consolidate growth in the MIW region having implications for future infrastructure financing at the local, state and federal government levels.

Furthermore, it will reduce the potential for court costs or the need for Ministerial call-ins to deal with development considered to be inconsistent with State interests.

Consistency with fundamental legislative principles

The amendment regulation raises no issues in regard to fundamental legislative principles.

Consultation

There has been consultation within government and key regional stakeholders on the development of the draft MIW regional plan and draft MIWRP SPRP.

A Regulatory Principles Checksheet and Preliminary Impact Assessment covering the draft MIW Regional Plan and draft MIW SPRP and proposed Sustainable Planning Regulation amendment have been reviewed by the Queensland Treasury – Office of Regulatory Efficiency).

Further consultation will be conducted through the 60-day consultation period of the draft MIWRP SPRP.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Local Government and Planning.

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