



Queensland

# Sustainable Planning Amendment Regulation (No. 4) 2011

**Explanatory Notes for SL 2011 No. 77**

made under the

*Sustainable Planning Act 2009*

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## General outline

### Short title

*Sustainable Planning Amendment Regulation (No. 4) 2011.*

### Authorising law

Section 763 of the *Sustainable Planning Act 2009*, section 763.

### Policy objectives and the reasons for them

The regulation proposes amendments to the *Sustainable Planning Regulation 2009* to—

- update and clarify jurisdiction and exemptions for State-controlled roads including State toll roads
- update and clarify development assessment and referral triggers under the Integrated Development Assessment System
- provide for the exemption of the Gold Coast Rapid Transit project from assessment against a planning scheme until 30 June 2013

- update references to special fire services
- correct a typographical error.

On commencement in December 2009, the *Sustainable Planning Regulation 2009* replaced the term ‘land contiguous to a State-controlled road’ used in the former *Integrated Planning Regulation 1998*, with a new defined term ‘land relating to a State-controlled road’, in relation to development assessment and referral triggers. However, the *Sustainable Planning Regulation 2009* retained the term ‘land not contiguous to a State-controlled road’, which was not defined, and has therefore created confusion and inconsistency. The regulation will remove the inconsistency.

The Department of Transport and Main Roads (TMR) has referral jurisdiction for development impacting on State-controlled roads, including toll roads that have been managed by Queensland Motorways Limited (QML). Current exemptions under the *Sustainable Planning Regulation 2009* also enable a range of works to occur on State-controlled roads without the need for a development approval. The regulation will clarify that the referral jurisdiction for these motorways will remain with TMR (which will consult and seek technical advice from the motorway operator as required) and that existing exemptions for certain construction and maintenance related activities on State-controlled roads also apply to State toll road corridor land. The regulation will assist in the completion of the asset sales process.

Amendments are required to clarify or resolve potential inconsistencies, or to reflect changes to related legislation, including the *Water Supply (Safety and Reliability) Act 2008* in relation to the requirement for a failure impact assessment for certain dam works, and to the *Sustainable Planning Act 2009* made under the *Water and Other Legislation Amendment Act 2010* in relation to aquaculture activities, water barrier works and development in declared wild river areas.

Amendment to schedule 4 is necessary to ensure that Stage 1 of the Gold Coast Rapid Transit project is exempt from assessment against a Local Government planning scheme, a requirement to enable financial close for the project to be achieved. While a material change of use for a public utility (which includes light rail) is exempt development under the planning scheme, some operational works required for the project may remain assessable. The Gold Coast City Council is supportive of the regulation amendment.

Amendment to schedule 8 of the *Sustainable Planning Regulation 2009* is necessary to provide greater consistency and clarity of terminology used for special fire services, so that these align with current applicable standards and other legislation, including the Building Code of Australia.

A typographical error in schedule 7 of the *Sustainable Planning Regulation 2009* requires referral of relevant development applications to the Department of Transport and Main Roads (Maritime Safety Queensland) if the work is proposed within 1000m of a swing basin, a commercial shipping wharf, a mooring, anchorage or spoil grounds. The correct distance within which referral is required is 100m.

### **Achievement of policy objectives**

The regulation removes the term ‘land not contiguous’ to a State-controlled, and replaces it with terminology that more appropriately describes the purpose of the provisions, which is to facilitate the assessment of the impact of relevant development on the State-controlled road network. The regulation does not have a substantive effect on the objectives of the *Sustainable Planning Regulation 2009*.

The regulation clarifies the definition of State-controlled road by expressly including State toll road corridor land within the definition. The regulation does not have a substantive effect on the objectives of the *Sustainable Planning Regulation 2009*.

The regulation clarifies those environmentally relevant activities that are self-assessable development and enables a greater range of development to be self-assessable where the activity complies with a code of environmental compliance.

The regulation ensures that low impact aquaculture activities which do not release pollutants to waters can be self-assessable in a wild river area, and that the construction or the raising of waterway barrier works for specified works in a wild river high preservation area may be carried out under certain circumstances. In relation to flood damaged infrastructure or that requiring repair, the regulation will ensure temporary waterway barrier works associated with the repair or maintenance of specified works or an existing waterway barrier can be self-assessable development to ensure the timely repair of vital infrastructure.

Including Stage 1 of the Gold Coast Rapid Transit project in schedule 4 will result in certainty for the project by exempting it from assessment

under the planning scheme until 30 June 2013. This date will provide time during which Gold Coast City Council may amend the planning scheme, to ensure that the entire project is exempt from any further assessment against the planning scheme.

The regulation updates and clarifies the intent of schedule 8 and does not have a substantive effect on the objectives of the *Sustainable Planning Regulation 2009*.

The regulation reflects changes made to the *Water Supply (Safety and Reliability) Act 2008* section 343, identifying when the construction of a dam or works proposed to an existing dam require a dam failure impact assessment to be undertaken.

The regulation corrects the typographical error of 1000m in relation to a port marine operational area to reflect the correct distance of 100m as stated in section 289 of the *Transport Infrastructure Act 1994*.

### **Consistency with policy objectives of authorising law**

The regulation is consistent with the main objects of the *Sustainable Planning Act 2009*, that is to seek to achieve ecological sustainability by—

- (a) managing the process by which development takes place, including ensuring the process is accountable, effective and efficient and delivers sustainable outcomes; and
- (b) managing the effects of development on the environment, including managing the use of premises; and
- (c) continuing the coordination and integration of planning at the local, regional and State levels.

### **Inconsistency with policy objectives of other legislation**

The regulation is consistent with the policy objectives of other legislation, and includes amendments required as a consequence of amendments made to the *Water Supply (Safety and Reliability) Act 2008* and to the *Sustainable Planning Act 2009* under the *Water and Other Legislation Amendment Act 2010*.

## **Benefits and costs of implementation**

The regulation will provide benefits to users by—

- updating and clarifying the application of development assessment and referral triggers for the Integrated Development Assessment System under the *Sustainable Planning Act 2009*
- reducing regulation by including a greater range of development as self-assessable development for which a development permit is not required
- facilitating the timely construction of Stage 1 of the Gold Coast Rapid Transit project, which is a project of regional, State and National significance.

There will be no additional costs for users in implementing the regulation.

## **Consistency with fundamental legislative principles**

The regulation has been drafted with regard to fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

There are no inconsistencies with the fundamental legislative principles.

## **Consultation**

Consultation has been undertaken with the Department of the Premier and Cabinet, Department of Transport and Main Roads, Department of Environment and Resource Management and the Department of Community Safety. All agencies are supportive of the regulation.

The Queensland Office for Regulatory Efficiency (QORE) was consulted in relation to the need for a Regulatory Assessment Statement (RAS) and has advised that a RAS is not required for the proposed regulation. QORE has also confirmed that the amendments required as a consequence of the commencement of the Water and Other Legislation Amendment Act 2010 are outside the scope of the RAS system.

ENDNOTES

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

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