



Queensland

Sustainable Planning Amendment Regulation (No. 5) 2011

Explanatory Notes for SL 2011 No. 139

made under the

Sustainable Planning Act 2009

General outline

Short title

Sustainable Planning Amendment Regulation (No. 5) 2011

Authorising law

Sustainable Planning Act 2009

Policy objectives and the reasons for them

Adopted infrastructure charges notice

The State Government has committed to implementing a three year reform which will deliver a simplified, standardised and streamlined infrastructure charging system. As a first phase, the Government is working to introduce a three year standard infrastructure charging framework – adopted infrastructure charges framework.

Section 26(2) of the *Sustainable Planning Regulation 2009* specifies experience and qualifications that are not required of a member of the building and development committee. Under a new Government policy for infrastructure charges, adopted infrastructure charges notices assume the

equivalent function as other infrastructure charges notices, which are included in section 26(2).

It is proposed to align the experience and qualifications required by a member of the building and development committee under the new infrastructure charges system with that of the previous infrastructure charges system.

Statutory guideline 1/09 Priority infrastructure plans and infrastructure charges schedules

Section 27(1) and of the *Sustainable Planning Regulation 2009* prescribes the guideline for preparing priority infrastructure plans (PIPs) as ‘Statutory guideline 1/09 Priority infrastructure plans and infrastructure charges schedules’ (guideline 1/09). Due to new Government policy on infrastructure charges and amendments to the *Sustainable Planning Act 2009*, guideline 1/09 prescribes a process for preparing PIPs that is outdated.

It is proposed to remove reference to guideline 1/09 from the regulation thereby removing the requirement for Local Government to use this outdated guideline. Following drafting and consultation, a reference to an updated version of guideline 1/09 will be included in the *Sustainable Planning Regulation 2009*.

Statutory guideline 2/09 Making and amending local planning instruments

Sections 5, 6 and 27(2) of the *Sustainable Planning Regulation 2009* prescribes the guideline for making or amending planning schemes including PIPs as ‘Statutory guideline 2/09 Making and amending local planning instruments’, (guideline 2/09).

Recent amendments to the *Sustainable Planning Act 2009* have negated the need for some components of PIPs, thereby simplifying the purpose of a PIP. Subsequently, guideline 2/09 has been amended to remove a review stage in the planning scheme making process and to remove reference to redundant charging components of the PIP. It is proposed to amend the reference to guideline 2/09 under section 5, 6 and 27(2) thereby prescribing the use of the amended version of this document by Local Government.

Infrastructure charges schedules

Section 29 of the *Sustainable Planning Regulation 2009* prescribes guideline 1/09 and guideline 2/09 for preparing, making or amending infrastructure charges schedules. As recent amendments to *Sustainable*

Planning Act 2009 have negated the need for infrastructure charges schedules, section 29 is redundant.

Planning and Environment Court fees

The regulation proposes amendments to the fees stated in schedule 20 of the *Sustainable Planning Regulation 2009*, to provide for an increase of the Planning and Environment Court fees in accordance with the 2011 Consumer Price Index (CPI).

The fees payable for a proceeding in the Planning and Environment Court are stated in schedule 20 of the *Sustainable Planning Regulation 2009*. Court fees, including the Planning and Environment Court fees, are reviewed in accordance with the CPI on 1 July each year by the Department of Justice and Attorney-General, who has responsibility for the administration of the Courts.

Planning and Environment Court fees are generally equivalent to the comparable District Court fee, as stated in the *Uniform Civil Procedure (Fees) Regulation 2009*, schedule 1. However, the Planning and Environment Court fees did not increase in July 2010 in accordance with the 2010 CPI and consequently are now lower than the comparable fee for the District Court.

Other minor amendments

The regulation also includes several minor formatting corrections to the *Sustainable Planning Regulation 2009*, identified by the Office of the Queensland Parliamentary Counsel. The regulation also updates the website address for the Department of Local Government and Planning.

Achievement of policy objectives

Adopted infrastructure charges notice

To ensure consistency with current practice, it is proposed to include adopted infrastructure charges notices, under section 26(2) of the regulation, thereby excluding the requirement of a member of the building and development committee to have experience or qualifications in adopted infrastructure charges notices.

Statutory guideline 1/09 Priority infrastructure plans and infrastructure charges schedules

It is proposed to remove reference to guideline 1/09 under section 27(1) of the *Sustainable Planning Regulation 2009* thereby removing the requirement for Local Government to prepare PIPs in a manner that is outdated.

Statutory guideline 2/09 Making and amending local planning instruments

Changing the date of guideline 2/09 in the *Sustainable Planning Regulation 2009* will prescribe the use of an amended version of the guideline which is consistent with the Government's policy on infrastructure charges.

Infrastructure charges schedules

It is proposed to amend the *Sustainable Planning Regulation 2009* to remove section 29 thereby removing the requirement for Local Government to prepare PIPs that include infrastructure charges schedules.

Planning and Environment Court fees

Schedule 20 of the *Sustainable Planning Regulation 2009* states the applicable fees for proceedings relating to the Planning and Environment Court under the *Sustainable Planning Act 2009*. The regulation increases the fees by the March 2011 Quarter CPI increase of 3.6%.

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.

Benefits and costs of implementation

Adopted infrastructure charges notice

Amendment to section 26(2) ensures the appropriate experience and qualification are required of a member of the committee. This approach is consistent with current practice and therefore the cost and benefits are expected to be neutral.

Guideline 1/09 and guideline 2/09 and infrastructure charges schedules

Amendments to remove reference to guideline 1/09, remove reference to infrastructure charges schedules and update guideline 02/09 will ensure Local Government do not consume resources preparing and making PIPs in a manner that is outdated. No significant costs are anticipated as a result of these amendments.

Planning and Environment Court fees

As the fees are increased only by the annual CPI increase, a government approved indexation factor, the regulation does not impose significant additional costs for individuals or corporations for proceedings relating to the Planning and Environment Court under the *Sustainable Planning Act 2009*. Rather, the benefit and cost of implementing the regulation is neutral.

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

Infrastructure charging amendments

Queensland Treasury was consulted in relation to the need to comply with the RAS system and have confirmed that the amendments are consequential amendments and are excluded from the RAS system.

Relevant State agencies (Department of Transport and Main Roads, Department of Education and Training, Department of Community Safety, Queensland Treasury) were consulted on the amendments to guideline 02/09. They were all supportive.

Planning and Environment Court fees

Consultation has been undertaken with the Department of Justice and Attorney-General, who as administrator of the Courts, has requested the amendment of the Court fees.

Consultation has also been undertaken with the Department of the Premier and Cabinet and Queensland Treasury, who are supportive of the amendments.

The Queensland Office for Regulatory Efficiency (QORE) was consulted in relation to the need for a Regulatory Assessment Statement (RAS). QORE has confirmed that the amendment is outside the scope of the RAS system, as the fee increase is in line with an actuarially determined assessment (the CPI), and is required for court administration purposes. Consequently, a RAS has not been prepared for the Planning and Environment Court fee amendments.

ENDNOTES

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