



Queensland

# **Sustainable Planning Amendment Regulation (No. 6) 2011**

## **Explanatory Notes for SL 2011 No. 252**

made under the

*Sustainable Planning Act 2009*

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## **General outline**

### **Short title**

*Sustainable Planning Amendment Regulation (No. 6) 2011.*

### **Authorising law**

Section 763 of the *Sustainable Planning Act 2009*.

### **Policy objectives and the reasons for them**

State Planning Policy 1/02 Development in the Vicinity of Certain Airports and Aviation Facilities (SPP 1/02) and State Planning Policy 2/02 Planning and Managing Development involving Acid Sulfate Soils (SPP 2/02) were made under the *Integrated Planning Act 1997* and took effect on 3 August 2002 and 18 November 2002 respectively. Under section 773 of the *Sustainable Planning Act 2009* (SPA), the SPPs are taken to be State planning policies made under the SPA. Accordingly, under section 45 of SPA, the SPPs will cease to have effect after 10 years on 3 August 2012 and 18 November 2012 respectively, unless a later day is prescribed under a regulation. The regulation prescribes later ending days for both SPPs.

The Department of Transport and Main Roads (DTMR) is currently reviewing SPP 1/02 under the 2011-2012 State Planning Interests Program, however this review cannot be completed until the final Federal aviation standards and noise impact framework is complete, expected by April 2012. DTMR requested the extension of SPP 1/02 in order to consider the impacts of the final Federal standards during the review. If SPP 1/02 is not extended before the current end date of 3 August 2012 there will be no effective policy in place to manage the effects of development in the vicinity of certain airports and aviation facilities until a replacement SPP can be made.

The Department of Environment and Resource Management (DERM) requested an extension to the end date for SPP 2/02, in order to effectively manage resources currently involved in State planning instrument development. If SPP 2/02 is not extended before the current end date of 18 November 2012 there will be no effective policy in place to manage the effects of development on acid sulphate soils until a replacement SPP can be made.

The State Government has committed to implementing a three year reform package which will deliver a simplified, standardised and streamlined infrastructure charging framework. As a first phase, a standardised infrastructure charging schedule was introduced through amendments to the SPA and the introduction of State planning regulatory provision (adopted charges). The new charges schedule supersedes all other infrastructure charges schedules including those located in priority infrastructure plans (PIPs).

Consequently, Statutory Guideline 01/09 – Priority infrastructure plans and infrastructure charges schedules prescribed a process for preparing PIPs that was outdated and the guideline was repealed on 22 July 2011. The amendment to section 27 prescribes the use of a new guideline, Statutory guideline 01/11 – Priority infrastructure plans, which ensures PIPs align with the State Government’s policy on infrastructure charges schedules.

Amendment to schedule 7 is necessary to enable DTMR (Maritime Safety Queensland) to effectively manage the marine pollution impacts of tidal works development. The objective of the regulation is to ensure that affected development, in particular proposals for marina facilities, will be assessed on the provision of appropriate waste reception facilities for ship-sourced waste, particularly sewage, and any approval may be conditioned to require such facilities be provided to manage marine pollution and minimise its impacts.

Amendment to schedule 24 is necessary to facilitate the transition in the process under which DTMR accesses State-owned quarry material for the purpose of road works conducted under the *Transport Infrastructure Act 1994* (TIA). Schedule 24 details those activities for the clearing of native vegetation which are not assessable development.

Currently, DTMR accesses this material under a Forestry Act quarry licence through DERM, however DERM and DTMR have agreed the administrative responsibility for this activity should be transferred to DTMR. The regulation enables this transference to occur.

### **Achievement of policy objectives**

The maximum period permitted under section 45(3) of SPA for the extension of an SPP is two years beyond the initial 10 years. It is expected that replacements to SPP 1/02 and SPP 2/02 will be made before the extended ending dates prescribed by the regulation, and that regulation of the impacts of relevant development will be continuous.

The regulation prescribes 3 August 2013 as the later ending date for SPP 1/02.

The regulation prescribes 18 November 2014 as the later ending date for SPP 2/02.

Section 627 of the SPA stipulates that PIPs must be prepared and made or amended as required by a guideline made by the Minister and prescribed under a regulation. The amendment to section 27 will ensure PIPs are prepared in accordance with Statutory guideline 01/11 – Priority infrastructure plans.

Amendment of schedule 7 will enable DTMR (Maritime Safety Queensland), as a concurrence agency with jurisdiction for marine pollution matters under the *Transport Operations (Marine Pollution) Act 1995*, to assess relevant development applications against the purposes of the *Transport Operations (Marine Pollution) Act 1995* and to impose conditions on development approvals for tidal works relating to the management of marine pollution.

Amendment of schedule 24 facilitates the transference of the administrative responsibility for accessing State-owned quarry materials for road construction purposes from DERM to DTMR. The regulation will provide an exemption for the activity to occur under the authority of the TIA, rather than the general exemption under the Forestry Act. There will

be no increase in the number of activities covered by the new exemption, it merely transfers the administrative responsibility from DERM to DTMR.

### **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. All of the amendments are consistent with this objective.
- (b) managing the effects of development on the environment, including managing the use of premises. The amendments relating to the extension of SPP 1/02 and SPP 2/02 and amendment of schedule 7 are consistent with this objective.
- (c) continuing the coordination and integration of planning at the local, regional and State levels. The amendment relating to the extension of SPP 1/02 and SPP 2/02 are consistent with this objective.

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

The regulation is consistent with the policy objectives of other legislation.

### **Alternative ways of achieving policy objectives**

There are no alternative ways to achieve the policy objectives.

### **Benefits and costs of implementation**

There are no significant costs associated with the regulation.

The amendment of schedule 7 providing Maritime Safety Queensland with jurisdiction for marine pollution matters may result in applicants for marina developments being required to install waste reception facilities which will be an additional cost for the proponent, however this cost is not significant and is necessary to avoid the adverse impacts of marine pollution on the environment. Such facilities are also expected by the broader community in order to prevent effluent being discharged into waterways.

The benefits of the regulation are as follows:

1. Deferring the end date of SPP 1/02 and SPP 2/02 will ensure State agencies preparing replacement SPPs will have adequate time and resources to consider all relevant input including complementary instruments and applicable Federal standards.
2. Statutory guideline 01/11 – Priority infrastructure plans removes the requirement for local governments to produce infrastructure charges schedules. This significantly reduces the burden on local governments when preparing PIPs.
3. Marine pollution can be managed and minimised through conditioning of future development approvals for relevant tidal work including marinas.

### **Consistency with fundamental legislative principles**

There is no inconsistency with fundamental legislative principles.

### **Consultation**

DERM and DTMR were consulted during the preparation of the regulation. Both DERM and DTMR have no objection to the regulation being made.

Public consultation on Statutory guideline 01/11 – Priority infrastructure plans was undertaken in August 2011. Additionally, the Department of Local Government and Planning held workshops across Queensland during July and August 2011 on the PIP guideline. The feedback received during consultation informed the finalisation of the guideline.

Queensland Treasury was consulted in relation to the need to carry out a Regulatory Assessment of the regulation, and has confirmed that a Regulatory Assessment is not required.

ENDNOTES

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

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