



Queensland

Coastal Protection and Management Amendment and Repeal Regulation 2012

Explanatory Notes for SL 2012 No. 2

made under the

Coastal Protection and Management Act 1995

General outline

Short title

Coastal Protection and Management Amendment and Repeal Regulation 2012.

Authorising law

Section 167 of the Coastal Protection and Management Act 1995 (the Coastal Act).

Policy objectives and the reasons for them

The purpose of the subordinate legislation is to support amendments to the Coastal Act made under the *Environmental Protection and Other Acts Amendment Act 2011* (EPOLA 2011), which was assented to in April 2011. The Coastal Act amendments were necessary to:

- support the implementation of the new Queensland Coastal Plan (coastal plan);
- implement the adopted recommendations of the Webbe-Weller Review of statutory bodies;

- implement the Government's planning reform agenda; and
- clarify provisions dealing with the allocation of quarry materials from tidal waters.

The coastal plan addresses sustainable development of the Queensland coast and includes provisions for managing the social and economic risks of climate change and coastal hazards, and for the conservation of social and ecological values.

Once the coastal plan commences, it will replace the current State Coastal Management Plan (2001) and four regional coastal management plans.

The amendments to the *Coastal Protection and Management Regulation 2003* are required to support commencement of the coastal plan which was approved by the government and publicly released in April 2011.

Achievement of policy objectives

The *Coastal Protection and Management Regulation 2003* is to be amended to approve a coastal zone map to define the coastal zone, the area where the Coastal Act and the coastal plan apply. Previously, there was a word based definition of the coastal zone. This amendment clarifies the meaning of the coastal zone

The *Coastal Protection and Management Regulation 2003* is also being amended to declare new coastal management districts for the coastal zone. Coastal management districts identify the area where certain development activities under the *Sustainable Planning Act 2009* are triggered for assessment or referral to the Department of Environment and Resource Management (DERM) as a concurrence agency. They are also areas for which regulations made under the Coastal Act apply.

Previously, a coastal management district was declared through the making of a regional coastal management plan. Where such plans had not been prepared, the default coastal management district was either 'coastal management control districts' declared under the repealed Beach Protection Act or erosion prone areas, also declared under the repealed Act, both being preserved via transitional arrangements under the Coastal Act.

The requirement to prepare regional coastal management plans has been removed from the Coastal Act by EPOLA 2011. Existing regional coastal management plans are to be repealed as they are in conflict with the coastal plan. This will also have the effect of removing the existing coastal

management districts. Consequently, the *Coastal Protection and Management (Coastal Management Districts) Regulation 2003* will be repealed.

The *Coastal Protection and Management Regulation 2003* is also being amended to reflect changes to the Coastal Act concerning the way the allocation of rights to remove quarry material from tidal waters can be sought. The Coastal Regulation will clarify when royalty is payable for quarry material removed under an allocation notice and will remove references to dredge management plans. The provisions for dredge management plans were removed from the Coastal Act under EPOLA 2011. However, transitional provisions have been included to allow continuation of existing dredge management plans in force prior to commencement of these amendments.

Consistency with policy objectives of authorising law

This subordinate legislation is consistent with how the objects of the Coastal Act are to be achieved, including:

- defining the coastal zone, which is the area to which the Coastal Act applies;
- preparing a coastal plan to protect and manage coastal resources; and
- declaring coastal management districts in the coastal zone as areas requiring special development controls and management practices.

Inconsistency with policy objectives of other legislation

This subordinate legislation is not inconsistent with the policy objectives of any other legislation.

Benefits and costs of implementation

This subordinate legislation is consistent with the whole-of-government Regulatory Simplification Plan. Replacing regional coastal management plans with a single coastal plan results in regulatory simplification.

The coastal zone is the area where the Coastal Act and Coastal Plan apply. The amendments clarify the inland extent of the coastal zone by reference to a statutory map. This results in improved certainty for government and

industry in applying the Coastal Act and the coastal plan. The inland extent of the coastal zone has also been reduced as a result of the amendments. This will result in reduced regulatory and approval requirements for development activities along with the assessment load for government that is related to development applications.

The coastal management districts are based on the erosion prone area which is now calculated using a higher sea level rise factor than previously applied (0.8 metres by 2100). This will increase the area of the coastal management districts and number of affected lots for certain locations. However, given the high coastal hazard risk faced by these properties and associated protection and maintenance costs, the extension is warranted and aligns with the Government's policy as decided by Cabinet in February 2011 (decision no. 7771). Further, the affect of these changes will be limited because:

- The proposed coastal management districts exclude any erosion prone areas landward of the first built assets or feature that can reasonably be expected to be defended from coastal erosion. This means most built-up urban areas are outside any coastal management districts. It is assumed that the first built asset will be defended from coastal erosion, thereby negating the need to regulate development across the entire erosion prone area.
- The proposed coastal management districts exclude small properties where it is anticipated built assets will exist or will be undertaken as provided for by a previous subdivision approval.

The coastal management districts were reviewed to take into account contemporary science on the projected impacts of climate change on sea erosion. They were also reviewed to align them with property boundaries where practicable to improve the ease of application in development assessment and land-use planning matters.

A preliminary impact statement has been prepared for the amendments that conclude that the amendments will not have a significant adverse impact on industry, the community or government. However, there is sensitivity associated with policies contained in the coastal plan. Consequently, the coastal plan will undergo a post-implementation regulatory assessment statement within two years of its commencement. This will include consideration of the costs and benefits of declaring new coastal management districts.

Consistency with fundamental legislative principles

This subordinate legislation is generally consistent with fundamental legislative principles.

The principal amendments to the *Coastal Protection and Management Regulation 2003* and repeal of the *Coastal Protection and Management (Coastal Management Districts) Regulation 2003* are necessary to reflect the requirements of the amended Coastal Act with respect to approval of the coastal zone and declaration of new coastal management districts. The amendments made to the Coastal Act (due to EPOLA 2011) were assented to in April 2011.

Consultation

The coastal plan was prepared following two rounds of public consultation (2008 and 2009 respectively) under a statutory process. This included consultation on the proposed changes to the coastal zone on which the authority to introduce legislation was subsequently approved by the government in 2010 and the coastal plan approved and publicly released by the government in April 2011.

The initial invitation to make public submissions spanned 40 business days from 25 August 2009. However, the consultation period was extended through a further public notice with the final submission date being 30 November 2009.

Following the second round of submissions, targeted consultation was held to expand on particular issues. Stakeholders included:

- local government (including Indigenous and Torres Strait Island Councils)
- State government agencies
- non-government organisations, including environment and industry groups.

A dedicated website was also made available, providing on-line mapping to demonstrate how the proposed coastal plan would apply for example following proposed changes to the definition of the coastal zone under the Coastal Act.

In addition, as required under the Coastal Act (section 57), a public consultation process was undertaken regarding the proposed abolition,

change and declaration of new coastal management districts. Consistent with the Coastal Act, public submissions about the proposed coastal management districts were invited between Monday 31 October and Friday 23 December 2011. Forty-five submissions were received and considered in preparing the coastal management districts for declaration.

Reasons for non-inclusion of information

A Regulatory Impact Statement has not been included. A preliminary impact assessment was prepared for the Coastal Regulation and it was determined that it is unlikely to impose significant impacts on the community, business or government or part of the community, business or government.

The Queensland Treasurer requested that a regulatory assessment statement be prepared for the coastal plan within two years of its commencement and that this include associated matters such as the declaration of changed coastal management districts.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Environment and Resource Management.

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