

Sustainable Planning Amendment Regulation (No. 6) 2013

Explanatory notes for Subordinate Legislation No. 197

made under the

Sustainable Planning Act 2009

General Outline

Short title

The short title of the regulation is the *Sustainable Planning Amendment Regulation (No. 6) 2013*.

Authorising law

Sections 232(2), 255A(2)(b), 255B(2)(b), s255C(2)(b) and 763 of the *Sustainable Planning Act 2009*.

Policy objectives and the reasons for them

Moreton Bay Rail Link

The Moreton Bay Rail Link is a project funded by all three levels of government to address public transport needs by delivering a new heavy rail passenger line between Petrie and Kippa-Ring by 2016.

The regulation will ensure that development for the Moreton Bay Rail Link project is exempt from assessment under Moreton Bay Regional Council's planning scheme.

Assessment against the planning scheme would essentially duplicate processes and approvals resulting in outcomes that have already been agreed upon during the planning and funding stages of the project.

The exemption means that assessment or development approval under the planning scheme will not be required. However, any other state assessments or approvals will continue to apply e.g. building work and coastal approvals.

Moreton Bay Regional Council supports the exemption, and intends to complement the exemption through mechanisms available in local planning instruments. The regulation amendment effectively removes the possibility of any potential procedural delays associated

with the preparation of local planning instruments, which would consequently delay delivery of the Moreton Bay Rail Link.

Transport related amendments

The State Assessment and Referral Agency (SARA) commenced operating on 1 July 2013, and delivers a coordinated, whole-of-government approach to the state's assessment of development applications under the *Sustainable Planning Act 2009* (SPA).

Since commencement, it has been identified that amendments are necessary to clarify a number of Integrated Development Assessment System (IDAS) provisions applying to various transport related development applications, to ensure that SARA operates as intended and that development applications are referred and assessed as required.

Achievement of policy objectives

Moreton Bay Rail Link project amendment

The regulation will provide an exemption from development assessment against the Moreton Bay Regional Council planning scheme for all aspects of development for the construction of the Moreton Bay Rail Link project. The exemption means that assessment or development approval under the planning scheme will not be required, but any other state assessments or approvals will continue to apply e.g. building work and coastal approvals.

The policy objective is achieved by insertion of a new item 10B in table 5 of Schedule 4, *Development that can not be declared to be development of a particular type – Act, section 232(2)* which ensures that development for the construction of the Moreton Bay Rail Link cannot be made self-assessable, development requiring compliance assessment, assessable or prohibited under a local planning instrument, such as a planning scheme, or under a preliminary approval to which section 242 applies.

Transport related amendments

In summary, the amendments:

- clarify that for certain development applications on airport land, the chief executive as the assessment manager assesses the development against the airport land use plan and not the State development assessment provisions, which simply refers to the land use plan. This is achieved by omitting reference to the 'the relevant provisions of the state development assessment provisions' in Schedule 5, part 1, table 2, item 5, column 2 and in Schedule 5, part 1, table 5, item 2, column 2;
- remove the requirement in Schedule 7, table 2, item 7 that applications for a material change of use premises on airport land that is inconsistent with the approved land use plan be referred to the chief executive for assessment against the land use plan. This provision is redundant since Schedule 6, table 2, item 2 already provides that the chief executive is the assessment manager for the same aspects of development;
- clarify that where the port authority is the assessment manager for development applications on strategic port land requiring code assessment under Schedule 3, part 1, table 2, item 3, assessment is against the current land use plan approved under the section

286 of the *Transport Infrastructure Act 1994*, and that where the Transport Minister is the concurrence agency, section 287A of the *Transport Infrastructure Act 1994* applies to the assessment of the development application. Schedule 5, part 1, table 2, item 4 is amended to provide these assessment requirements;

- clarify that for development on strategic port land other than development requiring code assessment under Schedule 3, part 1, table 2, item 3, the current land use plan approved under section 286, *Transport Infrastructure Act 1994* applies to the assessment of the development by the port authority as the assessment manager. This is achieved by providing this requirement in Schedule 5, part 1, table 5, item 1, column 2;
- remove a potential duplicate referral assessment of certain operational works relating to a State-controlled road. This is achieved by amending Schedule 7, table 2, item 3, column 1 to clarify that the referral does not apply to operational work if it is associated with a material change of use as provided in Schedule 7, table 3, item 1; and
- amend the definition of ‘public passenger transport corridor’ to ensure that development within 25 metres of the corridor is triggered for assessment of its impacts on the corridor from the time the corridor construction process begins.

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 managing the process by which development takes place, including ensuring the process is accountable, effective and efficient and delivers sustainable outcomes.

Inconsistency with policy objectives of other legislation

The legislation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

Moreton Bay Rail Link project amendment

Transport in the Moreton Bay region is heavily geared towards cars. More than half the region’s population departs the area everyday to travel to work with the vast majority (83%) using a private vehicle for their journey.

The Moreton Bay Rail Link will significantly improve public transport in the area providing an incentive for people to switch from private vehicles to public transport. This will in turn free up capacity on the road network for journeys that can’t be made using public transport.

Transport related amendments

The amendments will clarify the IDAS provisions applying to various transport related development applications, ensuring that development applications are referred and assessed as required, reducing confusion and delays to applicants. The amendments will not incur additional costs on the applicant or on SARA.

Consultation

The Department of Transport and Main Roads was consulted during the preparation of the regulation, and is supportive of the amendment regulation. Moreton Bay Regional Council is also supportive of the amendment regulation.

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