

# Sustainable Planning Amendment Regulation (No. 3) 2015

Explanatory notes for SL 2015 No. 156

made under the

*Sustainable Planning Act 2009*

## General Outline

### Short title

The short title of the regulation is the *Sustainable Planning Amendment Regulation (No. 3) 2015*.

### Authorising law

Sections 232, 254, 255A, 255B, 260, 272, 763 of the *Sustainable Planning Act 2009*

### Policy objectives and the reasons for them

The overall objective of the regulation amendment is to create greater operational efficiency with the State Assessment and Referral Agency (SARA) by improving the clarity of referral triggers and definitions and reducing the number of low risk applications that are referred to the State for assessment.

#### Excluded uses for State transport infrastructure triggers

State transport infrastructure triggers at Schedule 7, table 3, item 1; Schedule 7, table 3, item 14 and Schedule 7, table 3, item 15A are amended to include 'excluded material change of uses'. The excluded material changes of uses do not require referral as they pose a very low risk to the safe and efficient operation of the State transport infrastructure network. The development applications that include excluded material change of uses are material change of use development applications that would be referred for proximity to a State-controlled road or public passenger transport corridor (where not involving new or changed access) or railway. The State consistently has no requirements for these development applications.

#### Access to public passenger transport corridors

Schedule 7, table 3, item 14 is amended to capture development applications that involve access works. If a development application is proposing works associated with access to a public passenger transport corridor, the application should be referred to the state for assessment of the impacts on the safety and operational integrity of the public passenger transport corridor.

### Schedule 9 consistency with Queensland Planning Provisions (QPP) definitions

Schedule 9 is amended to ensure consistency with the standard planning scheme provisions the QPP. The amendment ensures that referrals to the State are not missed due to a discrepancy between the Sustainable Planning Regulation (SPR) and the QPP. Specifically items 19, 20 and 22 are amended to read ‘high impact industry other than an abattoir’, ‘special industry’ and ‘high impact industry that is an abattoir’ respectively.

### Definition of dwelling for Schedule 9

Schedule 26 is amended to ensure the term ‘dwellings’ in Schedule 9 captures all self-contained dwellings, such as a dwelling house, dwelling unit, multiple dwelling, dual occupancy, retirement facility and caretaker’s accommodation. The amendment removes ambiguity through the inclusion of a separate definition for the term dwellings in relation to schedule 9.

### Definition of new or changed access

The amendments to state transport infrastructure triggers use the term ‘new or changed access’ in State-controlled road and public passenger transport triggers. The intent of this amendment is to clarify interpretation of the term and ensure it is consistently applied.

### State development assessment provisions (SDAP) version

Amending the definition of the state development assessment provisions (SDAP) in Schedule 26 of the SPR gives effect to the current version of the SDAP. SDAP contains the matters the Chief Executive may have regard to when assessing a development application through SARA. The SDAP is endorsed by the Director-General of the Department of Infrastructure, Local Government and Planning.

## **Achievement of policy objectives**

SPR support the achievement of the overall policy objectives by:

### Excluded uses for State transport infrastructure triggers

The amendment excludes certain low risk uses from the State transport infrastructure triggers Schedule 7, table 3, item 1; Schedule 7, table 3, item 14 and Schedule 7, table 3, item 15A. Amending the State transport infrastructure triggers reduces low risk development applications requiring referral to the State, thereby saving time and resources for applicants.

### Access to public passenger transport corridors

The amendment ensures that development applications with works associated with access to a public passenger transport corridor are referred to the State. The amendment provides consistency across State transport infrastructure triggers to require referral for operational works adjoining a State transport corridor that involves works associated with access.

### Schedule 9 consistency with Queensland Planning Provisions (QPP) definitions

The amendment ensures consistency of terminology with the standard planning scheme provisions the QPP. This amendment ensures that all development applications for the uses defined in the QPP are referred to the State where they may potentially adversely impact the safe and efficient operation of the State transport infrastructure are referred for assessment.

#### Definition of dwelling

The amendment to Schedule 26 will remove ambiguity of the term ‘dwellings’ in Schedule 9 and ensure development that may potentially adversely impact the safe and efficient operation of the State transport infrastructure is referred for assessment.

#### Definition of new or changed access

The amendment clarifies interpretation of ‘new or changed access’ and ensures it is consistently applied.

#### State development assessment provisions (SDAP) version

Amending the definition of the SDAP in Schedule 26 of the SPR gives effect to the current version of the SDAP.

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

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

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

The amendments to the SARA triggers were proposed following a complete and detailed review of each issue by each relevant state agency and DILGP. The amendments are the only way of achieving the policy objectives for these matters.

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

The package of amendments reflects the broader government policy of a balanced planning system that is focussed on the three core objectives of liveability, sustainability and prosperity.

The amendment will have the following benefits:

- introduce excluded uses for State transport infrastructure triggers for low risk development applications, which will reduce unnecessary referrals to the State thereby also saving time and resources for applicants

- correct an error in Schedule 7, table 3, item 14 to ensure that development applications involving access and may potentially adversely impact the safe and efficient operation of the public passenger transport corridors are referred to the State for assessment
- amend terminology within Schedule 9 to be consistent with the standard planning scheme provisions to ensure that all development applications for the uses defined in the QPP are referred to the State where they may potentially adversely impact the safe and efficient operation of the State transport infrastructure are referred for assessment.
- clarifying the meaning of dwelling in Schedule 26 will remove ambiguity in the interpretation and ensure development applications that may potentially adversely impact the safe and efficient operation of the State transport infrastructure are referred to the State for assessment
- introduce a definition of new or changed access to clarify interpretation of the term and ensure it is consistently applied
- giving effect to the latest version of the SDAP, which allows SARA and the development industry to use the current version of the document

## **Consistency with fundamental legislative principles**

The subordinate legislation is not inconsistent with the fundamental legislative principles of the *Legislative Standards Act 1992*.

## **Consultation**

Amendments relating to improving SARA operational efficiency have been developed in conjunction with the relevant state agencies.

The Office of Best Practice Regulation (OBPR) has been consulted in relation to the need for a Preliminary Impact Assessment or Regulatory Impact Assessment for all matters. OBPR advised that for all matters, no further assessment was required under the Treasurer's Regulatory Impact Statement Guidelines.