

Coastal Protection and Management Amendment Regulation (No. 1) 2015

Explanatory notes for Subordinate Legislation No. (180) 2015

made under the

Coastal Protection and Management Act 1995

General Outline

Short title

Coastal Protection and Management Amendment Regulation (No. 1) 2015

Authorising law

Coastal Protection and Management Act 1995 (the Coastal Act), sections 58 and 167

Policy objectives and the reasons for them

Sea level rise is a factor determining the boundary of the coastal management district (CMD), which is used by the *Sustainable Planning Regulation 2009* to identify the area where certain types of development are triggered for assessment by the State.

The current CMD is based on declared erosion prone area (EP Area) mapping that does not include consideration of climate change sea level rise in the hazard assessment. This is a result of the previous Government's decision that the 0.8m sea level rise factor from climate change would be removed from planning and development decisions in Queensland.

The Queensland Government made an election commitment to reinstate world-class coastal planning laws, based on the best available science and make allowance for sea level rise. A key part of that commitment was to reinstate a sea level rise factor from climate change into coastal hazard mapping. The CMD is a key tool for the Government to identify and manage coastal hazard risk. Inclusion of sea level rise into coastal hazard mapping is not new – it has been incorporated into Queensland mapping since 1995, with the exception of the period December 2014 to July 2015.

Achievement of policy objectives

Amendments to the EP Areas and CMD declared under the Coastal Act were required to achieve the policy objectives.

The sea level rise component has been reinstated in the EP Area mapping and new EP Areas were declared in July 2015. The CMD has been remapped based on the new EP Areas and action is required to abolish the existing, and declare a new CMD in the *Coastal Protection and Management Regulation 2003* to give effect to these changes.

Consistency with policy objectives of authorising law

The *Coastal Protection and Management Amendment Regulation (No. 1) 2015* is consistent with the main objects of the Coastal Act to provide for the protection, conservation, rehabilitation and management of the coastal zone and ensure decisions about land use and development safeguard life and property from the threat of coastal hazards.

Inconsistency with policy objectives of other legislation

The *Coastal Protection and Management Amendment Regulation (No. 1) 2015* is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

While reinstating sea level rise will increase the number of lots in the CMD by approximately 5% (and therefore potentially triggered for development assessment under the *Sustainable Planning Regulation 2009*), this is a decision of the Government. Reinstating sea level rise in the CMD will ensure the risks associated with coastal hazards are avoided or mitigated to protect people and property and enhance the community's resilience to natural hazards (including minimising future costs to community and business).

There are no additional costs for implementation.

Consistency with fundamental legislative principles

The *Coastal Protection and Management Amendment Regulation (No. 1) 2015* is consistent with fundamental legislative principles defined in the *Legislative Standards Act 1992*. The proposed amendment will effect a change to the area of the CMD by changing the map reference. The *Coastal Protection and Management Amendment Regulation (No. 1) 2015* will not change in any way the purpose for which the CMD is used, being a trigger layer for assessable development under the *Sustainable Planning Regulation 2009*.

Consultation

Section 57 of the Coastal Act requires that before a regulation is made under section 54(1), the Chief Executive must give public notice of the proposed declaration, change or abolition. Section 57 of the Coastal Act also sets out how notice must be given and the timeframe for public submissions.

To satisfy this requirement public notice was given of the proposal to abolish the existing, and declare a new CMD in the Queensland Government Gazette on Friday 17 July 2015. The notice was also advertised in the following newspapers on Saturday 18 July 2015 or in the next available issue:

- Brisbane Courier Mail;
- Bundaberg News Mail;
- Cairns Post;
- Gladstone Observer;
- Mackay Daily Mercury;
- Rockhampton Bulletin;
- Townsville Bulletin;
- Gold Coast Bulletin; and
- Sunshine Coast Daily.

The proposal was advertised on the Queensland Government's 'Get involved' website from Friday 17 July 2015.

The notice stated where copies of the proposed new CMD could be inspected, free of charge. Opportunities were provided to lodge submissions through written or electronic formats via the Department of Environment and Heritage Protection's (EHP) website or the department's Brisbane office. Submissions were invited from 20 July 2015 until 14 September 2015, with late submissions being considered up to 25 September 2015.

In addition to the public notices, the department sent the details of the proposal to all affected local governments, the Local Government Association of Queensland, port authorities and port operators and invited their submissions.

To support the proposal, EHP hosted information sessions in key regional centres during August and September 2015. The aim of the information sessions was to provide further information about the recent changes to the EP Area and coastal hazard mapping and the proposed changes to the CMD. Stakeholders had the opportunity to ask questions or raise any concerns that they may have had, prior to making a submission on the proposal to change the CMD.

Sixty-two submissions were received in response to the notice to abolish the existing, and declare a new CMD. Each submission was recorded and acknowledged on receipt.

A report on the public submissions was prepared and presented to the Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef. The report includes details of the public submissions, proposed action to address concerns and recommendations for further action. Key matters raised by submitters included:

- the new CMD should not commence until the Government's planning reform is completed, including revision of the State Planning Policy and introduction of a climate change adaptation strategy;
- lots which have committed development (e.g. preliminary, master planning or material change of use approvals) be removed from the CMD or transitional arrangements made so as to avoid adverse impacts on the development; and
- inclusion of an entire lot in the CMD when it is only partially in the erosion prone area triggers unnecessary development assessment; hence mapping or development

assessment trigger changes were requested.

The Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef duly considered the submissions made and the proposed CMD mapping was modified where this was justified. The report also included a submission analysis table which provides analysis, recommended decisions and reasons in relation to issues raised. The report advises that there were no issues identified that would prevent the declaration of a new CMD and recommended proceeding with the regulation amendment.

Consultation was undertaken with the Office of Best Practice Regulation (OBPR) regarding the proposed amendments and Regulatory Impact Statement (RIS) process. OBPR assessed the proposed amendments and determined they were not likely to result in significant adverse impacts, and therefore a RIS is not required.