

Sustainable Planning Amendment Regulation (No. 3) 2016

Explanatory notes for SL 2016 No. 111

made under the

Sustainable Planning Act 2009

General Outline

Short title

Sustainable Planning Amendment Regulation (No. 3) 2016.

Authorising law

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

Policy objectives and the reasons for them

- Queensland Treasury has set the Government Index rate at 3.5 per cent for the 2016-2017 financial year. To amend the fees related to the State Assessment and Referral Agency (SARA), Planning and Environment Court, and Building and Development Committee, amendments need to be made to Schedule 7A, 20 and 21 respectively.
- An update to the statutory guideline for making and amending local planning instruments has been developed and the correct reference needs to be inserted into the Sustainable Planning Regulation 2009 (SPR) to replace the outdated version. This is achieved by amending Part 2, sections 4A, 5 and 7 to reflect the new version of the guideline.
- An update to the State Development Assessment Provisions has been developed and the correct reference needs to be inserted into the SPR to replace the outdated version. This is achieved by amending Schedule 26 to reflect the date of the new version of the guideline.
- Wind farms are a land use that can generate negative impacts on surrounding sensitive land uses. Few local governments include provisions in their planning schemes that address the complex characteristics of wind farms and their impacts on other land uses. To ensure that wind farms are able to be appropriately assessed consistently across the state, it is intended that the state (Chief Executive) becomes the assessment manager for a material change of use for a wind farm. To ensure that the state is the assessment manager for a material change of use for wind farms, Schedule 3, Part 1, Table 2;

Schedule 4, Table 1; Schedule 4, Table 2; Schedule 5, Part 1, Table 2; Schedule 6, Table 1; Schedule 6, Table 3 and Schedule 26 has been amended.

- North Queensland is currently the only region in Queensland that has not been designated as part of Schedule 1 of the SPR. A region's designation in Schedule 1 allows for a regional plan to be developed. Through these amendments, a regional plan for North Queensland is able to be developed.
- Currently, all aspects of development in reference to the BaT project is exempt from local government assessment to remove duplicated assessment and to fast track the infrastructure project. The Queensland Government has recently deprioritised the BaT infrastructure project and have replaced it with Cross River Rail infrastructure project. The exemptions in Schedule 4, Table 5, Item 10C now apply to the Cross River Rail infrastructure project.
- In the SPR, there are currently two instances of the phrase 'if an allocation notice is required' where removing quarry material from a watercourse or lake. This phrase has caused confusion for applicants as an allocation notice is always required if removing quarry material from a watercourse or lake. The wording 'if an allocation notice is required (Schedule 3, Part 1, Table 5, Item 1 and Schedule 6, Table 3, Item 5) has been removed.

Achievement of policy objectives

Fees

The *SPR* prescribes:

- i. Schedule 7A – Assessment Manager and Concurrence agency fees (SARA)
- ii. Schedule 20 – Court fees
- iii. Schedule 21 – Building and development committee fees.

Queensland Treasury advise that the annual government indexation rate for fees and charges from 1 July 2016 to 30 June 2017 will be 3.5 per cent.

Statutory guideline 04/14 Making and amending local planning instruments (MALPI)

Statutory guideline 04/14 Making and amending local planning instruments, dated 9 October 2014 is the current version of the statutory guideline, which will be amended to *Statutory guideline 01/16 – Making and amending local planning instruments* 19 April 2016. This change is to take effect in Part 2, Section 4A, 5 and 7 of the regulation.

Reference to the updated State Development Assessment Provisions (SDAP)

Schedule 26 gives effect to the SDAP. The publication date has been amended to 22 July 2016 to reflect the latest version of SDAP. The previous version was dated 22 April 2016.

Wind farms

The following sections of the regulation have been amended to enable the state to be the assessment manager for wind farms.

Section 22

This section was amended to ensure that the Chief Executive is the assessment manager for a material change of use for a wind farm. This amendment also provides for, in the event of an application for a material change of use for a wind farm and other assessable development that the state would not assess, the Minister decides the entity to assess the other assessable development.

Schedule 3, Part 1, Table 2

The amendment makes wind farms assessable development.

Schedule 4, Table 1

This amendment means local governments are unable to make building work ‘for a wind farm’ assessable against their planning scheme.

Schedule 4, Table 2

This amendment means local governments are unable to make a material change of use ‘for a wind farm’ assessable against their planning scheme.

Schedule 5, Part 1, Table 2

This amendment prescribes SDAP as the code that applies for the assessment of material change of use applications for a wind farm.

Schedule 7A, Part 1

This amendment prescribes the fee of \$12,095 for assessment of a wind farm.

Schedule 26

This amendment provides the definition of wind farm, wind turbine and non-host lot.

Designated region for North Queensland

Schedule 1 gives effect to North Queensland as a designated region. This will allow the State to develop a regional plan for North Queensland.

Cross River Rail exemptions

Exemptions in Schedule 4, Table 5, Item 10C have been amended to apply to the Cross River Rail infrastructure project. The BaT project is no longer being developed by the State Government and has been replaced by the Cross River Rail project. References to the BaT project have been amended to apply to the Cross River Rail project.

Allocation notice when removing quarry material

‘If an allocation notice is required’ is used in Schedule 3, Part 1, Table 5, Item 1 and Schedule 6, Table 3, Item 5 and has been causing confusion amongst applicants as an allocation notice will always be required where removing quarry material from a watercourse or lake. To fix this, the two occurrences of the phrase ‘if an allocation notice is required’ have been removed.

Consistency with policy objectives of authorising

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

Alternative ways of achieving policy objectives

The amendments were proposed following a complete and detailed review of each issue by each relevant state agency and The Department of Infrastructure, Local Government and Planning. 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:

- Updating the State Assessment and Referral Agency (SARA), Planning and Environment Court fees; and Building and Development Committee fees, in line with the Government Indexation rate
- Ensuring that the latest version of the statutory guideline for making and amending local planning instruments is used.
- Ensuring that the latest version of the SDAP is used
- Making the state the assessment manager for wind farms will lead to a more consistent, accurate and cost-effective assessment process
- Identifying North Queensland as a region allows the state to develop a regional plan for the region
- Replacing reference to BaT (infrastructure project) with Cross River Rail allows the Cross River Rail to be streamlined through state assessment
- The removal of 'if an allocation notice is required' clarifies the process when removing quarry material from a watercourse or lake.

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 the regulation 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.

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