

# Planning Legislation (Fees and Other Matters) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 104

made under the

*Planning Act 2016*

*Regional Planning Interests Act 2014*

## General Outline

### Short title

*Planning Legislation (Fees and Other Matters) Amendment Regulation 2019* (Amendment Regulation)

### Authorising law

Section 112(1), 237(4)(b) and 284 of the *Planning Act 2016* and section 95 of the *Regional Planning Interests Act 2014*.

### Policy objectives and the reasons for them

#### Amendments to the *Planning Regulation 2017* (Planning Regulation)

The objective of the amendments to the Planning Regulation are to:

- update fees in line with the Government indexation rate and the Queensland Roads and Bridges construction index;
- facilitate the timely development of certain youth detention centres;
- clarify when dwelling houses and dual occupancies may or may not be regulated by a local categorising instrument; and
- give effect to the most current version of the State Development Assessment Provisions (SDAP).

#### Amendments to the *Regional Planning Interests Regulation 2014* (RPI Regulation)

The objective of the amendment to the RPI Regulation is to update fees in line with the Government indexation rate.

## Achievement of policy objectives

### Amendments to the Planning Regulation

#### *Fees and charges*

Amendments to sections 33-38 and Schedule 9, 10, 15 and 17 updates the fees charged by the State Assessment and Referral Agency (SARA) in line with the Government indexation rate of 2.25 per cent for the 2019-20 financial year.

Under Schedule 16 of the Planning Regulation, the prescribed amounts for adopted charges for providing trunk infrastructure are based on the producer price index for construction 6427.0, index number 3101 - Road and Bridge construction index for Queensland published by the Australia Bureau of Statistics (PPI). It is proposed to update the prescribed amounts to reflect the latest indexation rate commencing on 1 July 2019.

#### *Development for certain youth detention centres*

The Government has committed to a 16 bed expansion at the existing Brisbane Youth Detention Centre, Wacol and construction of a new 32 bed youth detention centre adjacent to the Brisbane Youth Detention Centre.

The Amendment Regulation facilitates timely delivery of these two youth detention centre development projects. These detention centres are regulated under the *Youth Justice Act 1992*.

Schedule 6, Part 5, new section 31 provides that a local categorising instrument (such as a planning scheme) is prohibited from stating that a material change of use, reconfiguration of a lot and operational works for the prescribed youth detention centres is assessable development, if certain criteria are met.

Development for the prescribed youth detention centres must comply with requirements relating to matters such as building heights, car parking, light emissions and relevant State Planning Policy assessment benchmarks. The necessary building approvals will also apply.

The Amendment Regulation also removes Schedule 6, part 2, section 6A which provides for development of a supervised accommodation service at the site as it is now proposed to be developed as a youth detention centre. The definition and references to supervised accommodation service have also been removed from the Planning Regulation.

#### *Clarifying when dwelling houses and dual occupancies may or may not be regulated by a local categorising instrument*

Schedule 6, Part 2, section 2 of the Planning Regulation currently describes dwelling types by using building classifications under the *Building Act 1975*, rather than the planning land use terms prescribed in the Planning Regulation.

The Amendment Regulation clarifies the policy intent of the provisions and restructures the provisions according to different planning use terms.

### *Giving effect to the updated version of the State Development Assessment Provisions (SDAP)*

The State Assessment and Referral Agency (SARA) assesses development applications against the SDAP, which is a statutory instrument prescribed in the Planning Regulation.

The Amendment Regulation updates the definition of SDAP in Schedule 24 (Dictionary), giving effect to the updated version of SDAP commencing on 1 July 2019, rather than the current version dated 16 November 2018.

### Amendments to the RPI Regulation

The RPI Regulation contains assessment application fees (Schedule 4) and the mitigation values for strategic cropping land (section 16).

The Amendment Regulation updates the assessment application fees and mitigation values to reflect the 2.25 per cent Government indexation rate for the 2019-20 financial year.

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

The Amendment Regulation is consistent with the purposes of the *Planning Act 2016* and the *Regional Planning Interests Act 2014*.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is consistent with the policy objectives of other legislation.

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

There is no alternative way to achieve the policy objectives other than the Amendment Regulation.

## **Benefits and costs of implementation**

The Amendment Regulation provides the following benefits:

- fees and charges that are indexed appropriately;
- ensures the timely development of certain youth detention centres;
- clarifies when dwelling houses and dual occupancies may or may not be regulated by a local categorising instrument; and
- gives effect to the updated version of the SDAP.

No other costs are anticipated to occur due to the implementation of Amendment Regulation.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is not inconsistent with fundamental legislative principles of the *Legislative Standards Act 1992*

## Consultation

The Office of Best Practice Regulation (OBPR), Queensland Productivity Commission, was consulted under the *Queensland Government Guide to Better Regulation* (the guidelines) to determine if further assessment was required for development for certain youth detention centres under the Regulatory Impact Analysis (RIA) system. OBPR has confirmed that further assessment under the RIA system is not required for this part of the Amendment Regulation.

The following amendments to the Planning Regulation are machinery in nature and are excluded from the Regulatory Impact Analysis system (agency assessed):

- the proposal to describe dwelling types by using land use term in the Planning Regulation instead of building classifications; and
- the change to the definition of State Development Assessment Provisions to reflect a new version of the document is machine in nature.

The proposal to update fees and charges to reflect Government indexation rates for 2019-20 financial year is excluded from the Regulatory Impact Analysis system (agency assessed) under category (h) Regulatory proposals that put forward standard annual fees variations in line with or below a government endorsed indexation factor.