

Planning (Regulated Requirements and Other Matters) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 215

made under the

Planning Act 2016

General Outline

Short title

Planning (Regulated Requirements and Other Matters) Amendment Regulation 2019

Authorising law

Section 284 of the *Planning Act 2016*.

Policy objectives and the reasons for them

The objectives of the *Planning (Regulated Requirements and Other Matters) Amendment Regulation 2019* (the amendment regulation) are to:

- apply the regulated requirements to all planning schemes made under the repealed *Sustainable Planning Act 2009* (SPA) in the same way they apply to planning schemes made under the *Planning Act 2016* (PA) to ensure all planning schemes made under SPA and PA apply the regulated requirements; and
- align the *Planning Regulation 2017* (the planning regulation) provisions with the intent of section 19 of the *Sustainable Ports Development Act 2015* (SPDA), that a port overlay cannot regulate certain priority development area (PDA) development under the *Economic Development Act 2012* (EDA) or regulate development for a state development area under the *State Development and Public Works Organisation Act 1971* (SDPWOA). This amendment is required as a consequential amendment to ensure consistency between SDPWOA and the planning regulation.

Achievement of policy objectives

Regulated Requirements

The amendment regulation will apply the regulated requirements to all planning schemes made under SPA in the same way they apply to planning schemes made under PA.

This will ensure consistency of terms and application of terms in the planning scheme is maintained across the state. The exception to this will be where the planning scheme included low-impact industry, medium-impact industry, high-impact industry or special industry uses. In these instances, the regulated requirement terms will not apply and instead the existing scheme definition will continue to apply.

Under SPA the provisions included within the regulated requirements were set by the Queensland Planning Provisions (QPP). The QPP had the effect of providing a consistent format and structure to local planning schemes and applied to all schemes made under SPA.

The amendment regulation will ensure the original policy intent for transition of the provisions to the regulated requirements in the planning regulation is achieved. The intent was that all terms, zone names and purpose statements from QPP would have the same intent in the planning regulation and that the regulated requirements were to continue to have the same effect of 'prevailing' over a local planning scheme in the event of any inconsistency between the two, regardless of whether the scheme was made under PA or SPA.

Port Overlay

The amendment regulation will align the provisions in the planning regulation with the intent of section 19 of SPDA, that a port overlay cannot regulate certain PDA development under EDA or regulate development for a state development area under SDPWOA.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objectives of PA that is to establish efficient, effective, transparent, integrated, coordinated, and accountable land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability.

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

Regulated Requirements

The amendment for the application of the regulated requirements to apply to planning schemes made under SPA was proposed following the identification that the drafting of section 5(2)(a) of the planning regulation removed these schemes from having to comply.

The application of the regulated requirements was intended to carry through from QPP to ensure that all terms, zone names, zone purpose statements and mapping colours were consistent for planning schemes made under both SPA and PA.

The achievement of this consistency can only be made by a regulated approach.

Port Overlays

The amendment regulation is necessary to ensure alignment with the intent of SPDA, that a port overlay cannot regulate certain PDA development under EDA, or regulated development for a state development area under SDPWOA.

To leave the provisions as they are currently worded in the planning regulation creates inconsistency between the primary and subordinate legislation.

The amendment regulation is the most appropriate way of achieving the policy objects for these matters.

Benefits and costs of implementation

Regulated Requirements

The implementation of the amendment regulation will provide for consistency with planning schemes made under SPA and PA. It will also ensure the policy intent of the regulated requirements is maintained. The intent of the amendment regulation was that all terms, zone names and purpose statements from QPP under SPA were redrafted to have the same intent in the planning regulation. The regulated requirements will continue to have the same effect of 'prevailing' over a local planning scheme in the event of any inconsistency between the two, regardless of whether the scheme was made under PA or SPA.

Port Overlays

The amendment regulation will ensure that the planning regulation is consistent with provisions of section 19 of SPDA, that a port overlay cannot regulate certain PDA development under EDA or regulate development for a state development area under SDPWOA.

There are no anticipated costs associated with the amendment regulation as the amendment will align the planning regulation with other existing applicable legislation.

Consistency with fundamental legislative principles

The amendment regulation is consistent with the fundamental legislative principles.

Consultation

The Department of Transport and Main Road was consulted during drafting and support the amendment regulation.

A self-assessment by the Department of State Development, Manufacturing, Infrastructure and Planning for the regulated requirements, and port overlays determined that further regulatory impact analysis is not required as the proposals are excluded under the *Queensland Government Guide to Better Regulation* categories: (a) regulatory proposals that make consequential amendments - for the port overlays; and (f) regulatory proposals that correct technical errors or amend legislation to take account of current Queensland drafting practice - for the regulated requirements.

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