

# **Planning (Spit Master Plan and Other Matters) Amendment Regulation 2019**

Explanatory notes for SL 2019 No. 243

made under the

*Planning Act 2016*

## **General Outline**

### **Short title**

*Planning (Spit Master Plan 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 (Spit Master Plan and Other Matters) Amendment Regulation 2019* (the Amendment Regulation) are to:

- provide appropriate statutory effect to The Spit Master Plan (the master plan) outcomes to ensure future development is in line with the vision articulated in the master plan, specifically the building height limit of no more than three storeys and 15 metres;
- clarify that vegetation clearing for necessary firebreaks and fire management lines does not require a development approval, thereby ensuring consistency and certainty for landholders clearing for these purposes; and
- give effect to the most current version of the Development Assessment Rules (DA rules).

### **Achievement of policy objectives**

#### The Spit Master Plan

The Amendment Regulation will ensure development on The Spit is in line with the building height limit set out in the master plan by amending Schedule 10 of the *Planning Regulation 2017* (Planning Regulation) to:

- introduce a prohibition on development over three storeys and 15 metres in height within an identified area of The Spit, called ‘The Spit building height control area’, excepting theme park rides at Sea World and the general maintenance, upgrade and replacement of existing buildings and structures over three storeys and 15 metres; and

- identify the master plan as a matter that the assessment manager must have regard to in assessing all code and impact assessable development applications within the area identified as the master plan area.

#### Clarify vegetation clearing exemptions for fire management activities

Schedule 6 and Schedule 7 of the Planning Regulation are amended to clarify that clearing vegetation for necessary firebreaks and fire management lines, as defined in paragraphs (a) and (b) of the definition of essential management, does not require a development approval. The amendment aligns with exempt clearing work provisions and criteria established in Schedule 21 of the Planning Regulation.

The amendment seeks to simplify land clearing requirements, which is aimed at protecting life and property in a bushfire event.

#### Give effect to a new version of the Development Assessment Rules (DA rules)

The Amendment Regulation gives effect to the updated version of the DA rules by amending section 44 of the Planning Regulation to reflect the date the amended DA rules was published on the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) website.

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

The Amendment Regulation is consistent with the main objectives of the *Planning Act 2016*, 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**

#### The Spit Master Plan

Although the planning and development outcomes set out in the master plan are intended to be incorporated into the Gold Coast City Plan 2016 (city plan), this process may not be completed for two-three years.

As the master plan is a non-statutory document, in the intervening period there is a need to introduce statutory planning provisions in the Planning Regulation to ensure future development aligns with building height limits set out in the master plan.

The *Planning Act 2016* establishes the planning and development assessment system and the only way land use can be regulated is under its supporting statutory instruments. Therefore, there are no viable alternative ways of achieving the policy objective.

#### Clarify vegetation clearing exemptions for fire management activities

The Planning Regulation and local categorising instruments (such as a planning scheme) can categorise development as either accepted, assessable or prohibited development. Under section 43(4) of the *Planning Act 2016*, development prescribed as prohibited, assessable or accepted development in the Planning Regulation applies instead of a local planning instrument to the extent of inconsistency. This means development prescribed in Schedules 6 and 7 of the Planning Regulation cannot be made assessable development.

As the intent of the amendment is to ensure consistency and certainty for landholders across the state, the amendment to the Planning Regulation is the only way to achieve the policy objective.

#### Give effect to a new version of the Development Assessment Rules

The DA rules are established under the *Planning Act 2016* and must be prescribed in the Planning Regulation in order to have effect. As such, the policy objective can only be achieved through the Amendment Regulation.

## **Benefits and costs of implementation**

#### The Spit Master Plan

Introducing building height controls in the Planning Regulation will ensure the vision of a low-rise future for The Spit is achieved in the absence of necessary provisions in the city plan. It will also ensure community confidence in the master planning process and the effectiveness and transparency of the state's planning and development assessment framework.

While leaseholders affected by the change are prohibited from developing their land outside the prescribed building height limit, this is the intent of the city plan in its current form, as well as the master plan, which was subject to extensive community and stakeholder engagement.

#### Clarify exempt vegetation clearing for fire management activities

Ensuring vegetation clearing for firebreaks and fire management lines, subject to certain criteria, does not require a development approval will minimise landholder confusion about the process for clearing land for these purposes. This supports the findings and recommendations of the Inspector-General Emergency Management review report.

#### Give effect to a new version of the Development Assessment Rules

The Amendment Regulation gives effect to the most recent version of the DA rules and works towards ensuring the currency and effectiveness of the development assessment process.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with the fundamental legislative principles.

## Consultation

### The Spit Master Plan

The master plan was developed in collaboration with the Gold Coast Waterways Authority and the Gold Coast City Council; and involved an extensive process of engagement with the community, key stakeholders and other interested parties between February 2018 and April 2019.

The consultation process involved four master planning workshops, four public consultation periods, three online surveys, 38 pop up sessions and targeted meetings with stakeholders, community groups and leaseholders with an interest in The Spit. This engagement has resulted in the content of the master plan which has received generally positive feedback from community members, industry and business.

The Department of the Premier (DPC) and Cabinet, Queensland Treasury, Gold Coast City Council and Gold Coast Waterways Authority support the introduction of statutory provisions relating to building height.

Three out of 16 leaseholders affected by the change made a submission to DSDMIP about the building height restrictions. DSDMIP considered these issues and resolved those that aligned with the intended master plan outcome of a low-rise future for The Spit.

The Spit building height amendment was exempt from the regulatory impact analysis process given the extensive community engagement undertaken as part of the master planning process. Therefore, the Office of Best Practice Regulation (OBPR) was not consulted in relation to the need for a Regulatory Impact Statement.

### Clarify exempt vegetation clearing for fire management activities

DPC, Queensland Treasury, the Department of Natural Resources Mines and Energy and Queensland Fire and Emergency Services support the proposed Amendment Regulation. The Department of Environment and Science was consulted.

DSDMIP is working with DNRME and QFES on supporting information for councils and landholders about the changes, including processes that landholders should undertake to ensure responsible vegetation clearing for firebreaks and fire management lines.

The Office of Best Practice Regulation notes the amendments to clarify vegetation clearing exemptions for firebreaks and fire management lines is excluded from further regulatory impact analysis.

### Give effect to a new version of the Development Assessment Rules

A self-assessment by DSDMIP determined that further regulatory impact analysis in relation to giving effect to the updated version of the DA Rules is not required as the proposal is excluded under category (g) of the *Queensland Government Guide to Better Regulation* - regulatory proposals that are of a machinery nature.