

Planning (Development in Priority Port's Master Planned Area) Amendment Regulation 2021

Explanatory notes for SL 2021 No. 178

made under the

Planning Act 2016

General Outline

Short title

Planning (Development in Priority Port's Master Planned Area) Amendment Regulation 2021

Authorising law

Section 284 of the *Planning Act 2016*

Policy objectives and the reasons for them

The objective of the *Planning (Development in Priority Port's Master Planned Area) Amendment Regulation 2021* (Amendment Regulation) is to provide that the relevant port authority is the assessment manager for development that is completely on strategic port land made assessable by a port overlay for a priority port's master planned area.

Explanatory notes for the *Sustainable Ports Development Act 2015* (Ports Act) expresses an intention that the port authority, as the authority responsible for planning and development on strategic port land within the master planned area, is to have autonomy of decision making under its port land use plan.

However, the effect of provisions in the *Planning Regulation 2017* (Planning Regulation) is that the local government is the assessment manager, rather than the port authority, for development made assessable by a port overlay in a priority port master planned area and on strategic port land.

Achievement of policy objectives

To reflect the original intent of the provisions, the Amendment Regulation amends Schedule 8, Table 2 to have the effect that the relevant port authority is the assessment manager for

development completely on strategic port land that is made assessable by a port overlay for a priority port's master planned area.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the *Planning Act 2016* to establish an efficient, effective, transparent, and accountable system of land use planning and development assessment. The Amendment Regulation is reflecting the original intent of the assessment manager provisions for development on strategic port land.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Amending the assessment manager provisions within the Planning Regulation is the only way to give effect to the changes.

Benefits and costs of implementation

The Amendment Regulation will enable the port authority to continue to perform its intended role as assessment manager for development on strategic port land. This removes the unintended consequence of a local government assessing development applications on strategic port land, on which a local categorising instrument does not apply.

The Amendment Regulation confirms the regulatory framework that was understood to have been in place since two port overlays for a priority port's master planned area came into effect earlier in 2021. The port authorities are expected to be required to resource the undertaking of the assessment manager role prior to this Amendment Regulation. Therefore, there are no training costs associated with the implementation of the Amendment Regulation.

As only two port authorities would be affected by the Amendment Regulation, there is very limited application of these provisions in terms of stakeholder engagement and advertising of the regulatory changes.

The Amendment Regulation ensures the planning system continues to operate efficiently and effectively and maintains the integrity of the planning and development assessment framework established under the Planning Act.

Consistency with fundamental legislative principles

The Amendment Regulation has been drafted with regard to the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

The amendments contained in the Amendment Regulation are consistent with fundamental legislative principles.

Consultation

The Department of Transport and Main Roads has consulted with the Port of Townsville Limited and the Gladstone Ports Corporation, who were advised about the Planning Regulation drafting and implications for decision making on strategic port land. Both port authorities support amending the Planning Regulation to resolve assessment manager roles on strategic port land.

A self-assessment by the Department of State Development, Infrastructure, Local Government and Planning determined that further regulatory impact analysis is not required as the proposal seeks to address an unintended consequence of drafting and is excluded under category (f) of the *Queensland Government Guide to Better Regulation* - regulatory proposals that correct technical errors or amend legislation to take account of current Queensland drafting practice.

©The State of Queensland 2021