



Department of State Development, Infrastructure and Planning



# Draft Coastal Protection State Planning Regulatory Provision

Protecting the coastal environment  
October 2012

A draft State Planning Regulatory Provision that sets out the  
requirements for ensuring coastal protection in Queensland.



Queensland  
Government

The Department of State Development, Infrastructure and Planning leads a coordinated Queensland Government approach to planning, infrastructure and development across the state.

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*Sustainable Planning Act 2009*

## **Draft Coastal Protection State Planning Regulatory Provision Protecting the Coastal Environment**

### **Preparing the Draft State Planning Regulatory Provision**

This Draft State Planning Regulatory Provision was made by the Honourable Jeff Seeney MP, Deputy Premier and Minister for State Development, Infrastructure and Planning, under Chapter 2, Part 2, Division 2 of the *Sustainable Planning Act 2009* on 8 October 2012.

### **Commencement**

This Draft State Planning Regulatory Provision came into effect on 8 October 2012.

### **Expiry**

This Draft State Planning Regulatory Provision will operate for 12 months from 8 October 2012 or until earlier repealed.

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## Preamble

Development in the coastal zone is important for the growth of the Queensland economy but development must be carefully managed to protect the environmental, social and economic coastal resources for present and future generations.

The economic and social costs of protecting development against coastal hazard impacts (which are projected to be exacerbated by climate change impacts), and the financial, social and human costs associated with a natural disaster justify development constraints in vulnerable coastal areas.

## Explanation

State Planning Policy 3/11: Coastal Protection (the SPP) was introduced to establish the state's policies in relation to matters of state interest relating to coastal protection.

The state has become aware that the application of the SPP policies is not sufficiently supportive of the Government's commitment to grow the four pillars of Queensland's economy.

The state is undertaking a full review of the Queensland Coastal Plan including the SPP. In the interim, it has been determined that it is necessary to suspend the operation of the SPP.

The situation for applications is as follows:

The SPRP will apply to the assessment of development applications and master plan applications that are properly made when this Coastal Protection Draft State Planning Regulatory Provision (the Draft SPRP) commences.

The provisions set out in this draft SPRP are based on the state coastal management plan policies that were in place before the introduction of the SPP. This draft SPRP will apply while the full review of the Queensland Coastal Plan is undertaken.

## Application of the draft SPRP

A. The draft SPRP is a statutory instrument under the *Sustainable Planning Act 2009* (the SPA).

B. The draft SPRP applies to all local government areas in Queensland that contain areas within the coastal zone.

C. It has effect for up to 12 months from the day it takes effect.

D. The draft SPRP applies to the range of circumstances set out in the SPA. In relation to the assessment of development applications and master plan applications, this draft SPRP only applies in the circumstances identified in Part 2.



E. Terms used in this draft SPRP that are not defined in the Glossary in Annexure 1 have the same meaning as defined in the SPA, the Queensland Planning Provisions and the *Coastal Protection and Management Act 1995*.

## Relationship to other planning instruments

A. The Draft SPRP is a statutory instrument under the *Sustainable Planning Act 2009*.

B. It suspends the operation of State Planning Policy 3/11: Coastal Protection (the SPP) from the date this draft SPRP commences.

C. This draft SPRP will apply to the following from the date of commencement:

- development applications
- the making of local planning schemes and amendments
- the making of regional plans
- the designation of land for community infrastructure.

D. This draft SPRP suspends the operation of:

- part 1.2 of the Far North Queensland Regional Plan
- part 3.3 of the Mackay, Isaac and Whitsunday Regional Plan
- part 2.2 of the Wide Bay Burnett Regional Plan
- parts 1.4.3 and 2.4 of the South East Queensland Regional Plan.

E. This Draft SPRP does not suspend or otherwise affect the operation of the *State Policy for Coastal Management (2012)* which remains in effect.

## Transitional arrangements

From the date this draft SPRP commences:

- (1) the SPP will no longer apply to the assessment of a development application or a master plan application, even if the application was properly made before the date this Draft SPRP commenced
- (2) Part 2 of this draft SPRP applies to the assessment of development applications and master plan applications.



## Part 1: Making planning documents

### 1.1 Application of this Part

This part applies to the range of circumstances set out in the SPA for:

- local plan making and amending planning schemes
- regional plan making
- designation of land for community infrastructure.

This part does not apply to:

- the assessment of a development application by an assessment manager and referral agency, or
- the assessment of a master plan application.

These are dealt with later in Part 2 of this draft SPRP.

### 1.2 Provisions about coastal protection

#### Land use planning

- (1) To the extent practicable, the coastal zone is to be conserved in its natural or non-urban state outside of existing urban areas. Urban growth is managed to protect coastal resources and their values by minimising adverse impacts.
- (2) Existing urban settlements on the coast should remain compact and physically separated through the identification and maintenance of non-urban areas. The provision of new infrastructure should promote consolidation and separation of urban areas on the coast. New development within existing urban areas (for example, infill and redevelopment) is preferred and new development should be undertaken so as to avoid or minimise adverse impacts on coastal resources and their values.

#### Coastal hazards

- (3) When determining new areas for urban land uses on the coast, an evaluation is to be carried out to identify the level of potential risk to life and property from coastal hazards. This evaluation should be based on the mapped coastal hazard areas (taking into account any inaccuracy in the mapping) in addition to considering the impact of physical coastal processes, including any impacts from potential sea level rise.
- (4) Planning for the coast must address the potential impacts of coastal hazards through the following hierarchy of approaches:
  - (a) avoid—focus on locating new development in areas not vulnerable to the impacts of coastal hazards
  - (b) planned retreat—focus on systematic abandonment of land, ecosystems and structures in vulnerable areas



- (c) accommodate—focus on continued occupation of near-coastal areas but with adjustments such as altered building design
- (d) protect—focus on the defence of vulnerable areas, population centres, economic activities and coastal resources.

### **Provision for coastal-dependent land uses**

- (5) In planning for appropriate land uses in areas adjoining the foreshore, adequate provision needs to be made for coastal-dependent land uses. Where there is competition for available land, preference should be given to coastal-dependent land uses ahead of other urban land uses.
- (6) Planning for the location and design of new coastal-dependent land uses outside of existing coastal townships should be undertaken so as to avoid or minimise adverse impacts on coastal resources and their values.

### **Areas of high ecological significance**

- (7) Planning instruments locate urban development outside areas of high ecological significance in any coastal management district, except when there is an overriding social and economic need demonstrated to the satisfaction of the Minister.



## Part 2: Development Assessment

### 2.1 Application of this Part

- (1) This part applies to the assessment of a development application:
  - for impact assessable development in a coastal management district by an assessment manager
  - considered by the chief executive administering the *Coastal Protection and Management Act 1995* as assessment manager in accordance with the *Sustainable Planning Regulation 2009*
  - for development in a coastal management district by an agency with jurisdiction under the *Coastal Protection and Management Act 1995*
  - for a master plan application.
- (2) This part applies to the assessment of a development application or master plan application (referred to above), even if the application was properly made before the date this Draft SPRP commenced.

### 2.2 Provisions about coastal protection

#### Coastal hazards

- (1) Development in areas on the coastal zone identified as having a high risk of being affected by coastal hazards needs to be carefully considered and wherever possible, be retained undeveloped. Where an area vulnerable to storm tide inundation is developed, or has a development commitment, further development in these areas needs to address:
  - (a) its vulnerability to sea level rise and storm tide inundation
  - (b) the proposed access to and protection of evacuation routes.
- (2) In such areas, local government may have in place counter-disaster plans to address these coastal hazards.

#### Development in an erosion prone area

- (3) To the extent practicable, erosion prone areas are to remain undeveloped apart from acceptable temporary or relocatable structures for safety and recreational purposes.
- (4) Where building works and activities have been undertaken within an erosion prone area, future use should not be at a greater intensity than the existing level. Redevelopment of these areas or an increase in intensity may only occur in circumstances where it can be clearly demonstrated that it would not compromise coastal management outcomes and principles.
- (5) In areas under constant threat of erosion, a strategy of retreat from erosion prone areas is the preferred option. However, where an area has been developed to a scale and intensity that the retreat option is not achievable, property protection works may be needed to defend land uses and



infrastructure from coastal processes. In such circumstances, any further building or infrastructure including extensions to existing buildings or the location of services (including water, power and sewerage), should not extend any further seaward than the existing building alignment for the neighbouring properties.

- (6) For developed areas, structural engineering and stabilisation works will be initiated only as a last resort where erosion presents an immediate threat to public safety or property and infrastructure that is not expendable. The siting, design and materials used for works will not cause any significant adverse impacts on the coastal resources of the location nor significantly impact on the natural cycles of erosion and accretion of beaches.
- (7) Construction of structures for the purpose of beach protection (including artificial reefs, banks, wrecks, breakwaters and groynes) in coastal waters will only be approved where:
  - (a) there is a demonstrated need in the public interest
  - (b) comprehensive investigation has been carried out and it can be demonstrated that:
    - (i) there would not be any significant adverse impacts on the longshore transport of sediments
    - (ii) there would be no increase in coastal hazards for the neighbouring foreshore.

### Nature conservation

- (8) Biodiversity on the coast is to be safeguarded through conserving and appropriately managing the diverse range of habitats including coral reefs, seagrass, soft bottom (benthic) communities, dune systems, salt flats, coastal wetlands and riparian vegetation.
- (9) The following matters are to be addressed to achieve the conservation and management of Queensland's coastal biodiversity:
  - (a) the maintenance and re-establishment of the connectivity of ecosystems; particularly to ensure viable populations of protected native species continue to exist throughout their range, by maintaining opportunities for long-term survival, genetic diversity and the potential for continuing evolutionary adaptation. This includes the protection of significant wildlife habitats, such as:
    - (iii) protecting beaches providing significant wildlife habitats (including roosting, nesting and breeding habitat for turtles, birds or crocodiles) through suitable management measures including buffers for those habitats
    - (iv) protecting the values and integrity of intertidal communities such as tidal flats, salt flats and rocky reefs, including natural fluctuations of location



- (v) retaining the current extent and quality of migratory and resident shorebird roosting and feeding habitat. If habitat is to be lost it should be replaced, where practicable, before loss, by an equivalent artificial habitat in a location that minimises any alteration of distribution and abundance of shorebirds
  - (vi) maintaining the values and integrity of fish habitats and fish migratory pathways through suitable management measures including buffers for those habitats
  - (vii) protecting the values and integrity of soft bottom (benthic) communities
  - (viii) retaining and protecting the existing extent, quality and functionality of seagrass beds, particularly in dugong protection areas or known areas of turtle habitat
- (b) the retention of native vegetation wherever practicable
  - (c) the retention of and appropriate management of riparian vegetation along waterways of sufficient width to provide for a self-sustainable linked network. The width of the corridor will be determined from the size, values and functions of the vegetation and the nature of potential threats to its functions and integrity from the specific activity or land use. However, the buffer should be of sufficient width to maintain bank stability, existing water quality, maintain aquatic and wildlife habitats and movement corridors for native animals, and long-term viability of existing isolated stands of vegetation.

### Areas of high ecological significance

- (10) Development and development infrastructure is to be located outside of, and not have a significant impact on, an area of high ecological significance in any coastal management district, unless the development or development infrastructure is for a purpose specified below:
  - (a) urban or rural residential purposes within an urban area
  - (b) development for tourism purposes
  - (c) any purpose within a maritime development area or aquaculture development area
  - (d) development associated with a port or airport
  - (e) low impact tidal water intake or discharge infrastructure for aquaculture development on land
  - (f) minor public marine development and associated pedestrian and vehicle access facilities, or
  - (g) extraction purposes within a key resource area.

### Public access

- (11) There is no net loss of public access to the foreshore. Public access is to be maintained, protected and enhanced where the provision and operation of



infrastructure of state economic significance and protection of coastal resources is not compromised. In planning for new urban land uses on the coast, the following additional matters are to be considered with respect to public access and use of the foreshore:

- (a) the need for new or upgraded public access facilities (such as boat ramps, jetties, boat moorings, pedestrian boardwalks, carparks and vehicle access)
  - (b) appropriate location and design with respect to sensitive coastal resources and their values
  - (c) the safety of the public, if access is provided.
- (12) Any new private structures proposed over state land on the coast or public waters that are not major private infrastructure of state economic importance, should maintain or enhance public access, useability or enjoyment of the land or water, subject to ensuring safety of the public.



## Coastal-dependent land use

- (13) Maritime infrastructure has an important role in the state's economy and is appropriate where there is no net loss of public access to the coast and adverse impacts on coastal resources and their values are avoided where practicable, or minimised.
- (14) Unless otherwise demonstrated, a public facility would be the most appropriate arrangement for a jetty, pontoon or ramp required on or connected to state land on the coast. New private jetties, pontoons and ramps are not supported on or connected to state land on the coast above high water mark, except where it is major private infrastructure of state economic importance or:
- (a) there are no public landing facilities serving the same part of the coast
  - (b) there is a demonstrated need and public support for the facility
  - (c) the provision of private facilities in that location would not cause significant adverse impacts (either in isolation or cumulatively) on coastal resources
  - (d) there is no conflict with an approved management plan for the land
  - (e) such facilities were clearly identified as being intended as part of an assessment for new urban development on adjacent land and the facilities are connected to that land.

This provision does not apply to dry land marinas.

- (15) New private jetties, pontoons and ramps on or connected to freehold land (used for existing or future residential and tourist purposes) on the coast are not supported in largely undeveloped tidal waterways or largely undeveloped sections of tidal waterways. These structures may only be supported in tidal waterways where they are major private infrastructure of state economic importance or:
- there are existing private jetties, pontoons and ramps on or connected to nearby freehold land and the proposal is infill (located in the vicinity of existing structures)
  - the new structure does not result in the need for the construction of revetment walls or hardening of the river bank.
- (16) Aquaculture on the coast will be located and undertaken in a manner that results in no significant adverse impacts on the coastal resources and their values. In particular, aquaculture will be undertaken so as to:
- (a) have no significant adverse impacts on water quality
  - (b) maintain any wastewater discharge to meet relevant standards and requirements
  - (c) have no significant adverse impacts on groundwater levels and quality
  - (d) maintain coastal habitats, such as wetlands and shorebird roost sites, including their protection from potential significant adverse impacts from the disturbance of acid sulfate soil



- (e) have no significant adverse impacts on fisheries (commercial, Indigenous Traditional Owner and recreational), fishing grounds, or spawning and nursery areas
- (f) maintain natural coastal processes
- (g) be compatible with coastal landscape values and recreational amenity of the area.

This provision applies to land-based aquaculture and does not address coastal management requirements for marine-based aquaculture (such as cage culture of fin fish).

- (17) Discharge of wastewater onto the foreshore is not supported and should proceed only if there is no feasible alternative and it would not result in significant adverse impacts on coastal resources and their values.
- (18) Dredging from land below highest astronomical tide (e.g. within coastal waters) provides navigational and economic benefits to Queensland, and is to be appropriately located and sustainably managed to avoid or minimise adverse impacts on coastal resources and their values.
- (19) Dredging activities within coastal waters will be undertaken so as to:
  - (a) maintain the ability of the site or adjoining land to function as a barrier protecting lands from coastal waters
  - (b) maintain beach or foreshore stability
  - (c) maintain natural coastal processes that supply sand to beaches
  - (d) maintain the stability of the dredging area
  - (e) maintain:
    - (ix) water quality
    - (x) groundwater levels of underlying aquifers and coastal wetlands
    - (xi) the local drainage regime on the site and adjoining areas
  - (f) have no significant adverse impacts on fisheries (commercial, Indigenous Traditional Owner and recreational), fishing grounds, or spawning and nursery areas
  - (g) maintain coastal habitats (including their protection from potential adverse impacts from the disturbance of acid sulfate soils)
  - (h) not cause unacceptable risk to existing land uses from coastal hazards
  - (i) not adversely impact on any cultural resources of Indigenous Traditional Owners.
- (20) When deciding where dredged material comprising muds, clays and silts will be placed, the choice of site is to provide the best coastal management outcome, having regard to the nature of the spoil, the cost of alternative sites, and potential impacts on coastal resources and their values.
- (21) A dredge management plan should be prepared and implemented for maintenance dredging. Dredged material comprising clean sand will generally



be kept within the active beach system. Dredging operations will, where appropriate, use fauna-excluding devices.

- (22) For any dredging operations, consideration will be given to:
- (a) whether the sediment contains toxicants
  - (b) the level and nature of the toxicant
  - (c) whether disturbance of the contaminated sediment is likely to result in unacceptable impacts on coastal resources and their values.
- (23) Reclamation of tidal waters creates adverse impacts on coastal resources and their values and therefore requires clear justification and the avoidance or minimisation of such adverse impacts.
- (24) Land below the highest astronomical tide is maintained in its natural state. It may only be reclaimed where:
- (a) it is necessary for erosion control or beach nourishment purposes
  - (b) it is necessary for protecting the natural environment and its processes
  - (c) it is for coastal-dependent land uses or other areas of state significance and there is a demonstrated net benefit for the state or a region
  - (d) it is necessary for the operation of a port or harbour
  - (e) it is necessary for the development of a public or private facility and there is public support and a demonstrated public benefit from the proposal
  - (f) it is necessary to reinstate land that has been eroded, or
  - (g) it is for reclamation within a canal or marina.
- (25) For provision 24(c), (d) and (e), it needs to be demonstrated that there are no alternative sites available that do not require reclamation. For provision 24(f) above, reclamation should be undertaken in a coordinated manner with neighbouring properties also subject to erosion.

### Canals and dry land marinas

- (26) In view of the potential adverse impacts of canals and dry land marinas, further development of canals and dry land marinas should proceed only if the development does not adversely affect coastal resources and their values, in particular if the development does not contribute to:
- (a) degradation of water quality
  - (b) an increased risk of flooding
  - (c) degradation and loss of coastal wetlands
  - (d) degradation and loss of declared fish habitat areas
  - (e) degradation and loss of shorebird roost areas.
- (27) Any new canal and dry land marina developments will address the provision of land above highest astronomical tide for maintenance dredge spoil disposal.

# Annexure 1

## Glossary

**Acid sulfate soils** means soils or sediments containing highly acidic soil horizons or layers (actual acid sulfate soils), and iron sulfides or other sulfidic material that has not been exposed to air and oxidised (potential acid sulfate soils).

**Aquaculture** has the same meaning as in the *Fisheries Act 1994*.

**Aquaculture development area** means an aquaculture development area shown on a map prepared for the purposes of the SPRP.

**Area of high ecological significance** means an area shown as an area of high ecological significance on the Map of Areas of Ecological Significance published by the Department of Environment and Heritage Protection, other than an area:

- determined to the satisfaction of the Department of State Development, Infrastructure and Planning that the attribute's values are not present within the area, or
- of exempt development under the *Sustainable Planning Regulation 2009*, Schedule 3.

**Coastal-dependent land use** means land use for which a location adjoining the waterfront or access to the water is essential to function, including industrial and commercial facilities, such as ports, harbours, jetties, pontoons, marinas, ramps and slipways, coastal or marine (boating) tourism facilities and appropriate marine service industries. It may also include residential and tourist land uses that are part of an integrated development proposal incorporating a marina and such land uses are located landward of the marina and are protected from coastal processes and hazards by the marina. Coastal-dependent land use also includes aquaculture for salt-water species. Coastal-dependent land uses do not include residential land uses, waste management facilities (landfills, sewage treatment plants) and transport infrastructure (other than for access to the coast). Coastal-dependent land uses includes tourist accommodation which achieves to the greatest extent practicable, the principles and policies of this plan.

**Coastal hazard area** means an area shown on a map published by the Department of Environment and Heritage Protection or one published by a local government following completion of a coastal hazard study. The maps allow for a sea level rise of 0.8 metre and a ten per cent increase in the maximum potential intensity of cyclones at the year 2100.

**Coastal zone** has the same meaning as in the *Coastal Protection and Management Act 1995*.





**Development** has the same meaning as in the *Sustainable Planning Act 2009*.

**Development commitment** means a development:

- (a) that arises from and is necessary to give effect to a relevant development approval
- (b) is located within a state development area and is consistent with the development scheme prepared for the state development area
- (c) where the Coordinator-General has evaluated an environmental impact statement under Part 4 of the *State Development and Public Works Organisation Act 1971*, and the report recommends the approval of the development (with or without conditions)
- (d) that is carried out for government supported transport infrastructure for which the funding and construction arrangements were approved by the state before the date of commencement of this SPP
- (e) that is carried out for transport infrastructure in the *Transport Infrastructure Act 1994*, for which the funding and construction arrangements were approved by the Commonwealth before the date of commencement of this SPRP, or
- (f) that is consistent with a designation of land for community infrastructure in the *Sustainable Planning Act 2009*.

**Development infrastructure** means:

(a) land or works, or both land and works, for:

- (i) urban and rural residential water cycle management infrastructure, including infrastructure for water supply, sewerage, collecting water, treating water, stream managing, disposing of waters and flood mitigation, but not urban and rural residential water cycle management infrastructure that is state infrastructure
- (ii) transport infrastructure, including roads, vehicle lay-bys, traffic control devices, dedicated public transport corridors, public parking facilities predominantly serving a local area, cycle ways, pathways, ferry terminals and the local function, but not any other function, of state-controlled roads

*Note—*

The chief executive administering the Transport Infrastructure Act may make guidelines, including guidelines defining the local function of State-controlled roads.

- (iii) public parks infrastructure supplied by a local government, including playground equipment, playing fields, courts and picnic facilities, or

(b) land, and works that ensure the land is suitable for development, for local community facilities, including, for example:



- (i) community halls or centres
- (ii) public recreation centres, or
- (iii) public libraries.

**Dry land marina** means a marina created by the excavation of land above high water mark.

**Existing urban area** includes areas currently developed for urban purposes, areas with current approvals to be developed for urban purposes and areas identified to be developed for urban purposes in currently approved planning instruments, for example local government planning schemes.

**Highest Astronomical Tide (HAT)** means the highest level that can be predicted to occur under average meteorological conditions and any combination of astronomical conditions. This level will not be reached every year, and is less than the extreme levels that can be caused by storm tides.

**Low impact tidal water intake or discharge infrastructure** means an area for aquaculture development on land, pipes and drains constructed for the purpose of accessing, distributing or releasing seawater or waste water from or to tidal waters. It includes associated structures that are integral to the stability or structural integrity of the infrastructure.

**Maritime development area** means a maritime development area shown on a map prepared for the purposes of the SPRP.

**Minor public marine development** means maritime facilities, such as boat ramps, pontoons, slipways, wharves and jetties that serve a public purpose. To remove any doubt, a new navigation channel is not minor public marine development.

**No net loss of public access** means the provision of alternative or mitigatory measures to ensure access to the foreshore or the public useability of coastal waters is maintained over time.

**Net benefit for the region** means there is a net benefit (taking into account all financial, social and environmental impacts) to the regional community, which is for the benefit of the whole community, as distinct from sectoral, commercial or private gain, and the proposal delivers the greatest net benefit of all viable alternatives.

**Net benefit for the state** means there is a net benefit (taking into account all financial, social and environmental impacts) to the state as a whole, as distinct from sectoral, commercial, private or regional gain, and the proposal delivers the greatest net benefit of all viable alternatives.

**State land on the coast** means state land located on the coast excluding freehold and leasehold land.



**Storm tide** means the effect on coastal water of a storm surge combined with the normally occurring astronomical tide.

**Tourism purposes** means short-term accommodation; tourist facilities, including buildings for entertainment, recreation, information and cultural activities; and other ancillary services, including food and beverage, retail, commercial and other integrated services that serve tourism and residents alike.

**Urban area** means an area in the urban footprint identified in a regional plan, or identified on a map in a planning scheme or development scheme as an area for urban purposes, including residential, industrial, commercial, rural residential, major tourist developments, ports and future urban purposes.

**Urban development** means development for urban or rural residential purposes. It does not include rural land uses such as agriculture and horticulture.



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