Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012 Overview

FACT SHEET

Planning reform

The *Sustainable Planning and Other Legislation Amendment Act (No.2) 2012* (SPOLAA (No. 2) 2012) is the first step towards legislative planning reform and simplifying the planning framework under the *Sustainable Planning Act 2009* (SPA).

SPOLAA (No. 2) 2012 contains seven policy objectives which together streamline the State government's involvement in development assessment, reduce red tape and remove inefficiencies in the operation of the planning and development system.

What are the policies?

The seven policy objectives are:

1. Establish a single state assessment and referral agency (SARA)
2. Remove ineffective master planning and structure planning arrangements
3. Reduce regulatory 'red tape' for development applications involving a state resource
4. Provide some flexibility in the requirements for supporting information accompanying a development application
5. Ensure certain provisions in the Queensland Planning Provisions (QPP) apply to all local government planning schemes (including those made under the repealed *Integrated Planning Act 1997* [IPA])
6. Give the Planning and Environment Court discretion in relation to costs
7. Allow the Alternative Dispute Resolution (ADR) registrar to hear and decide minor disputes and routine procedural applications.

What do the policies mean?

1. *Establish a single state assessment and referral agency (SARA)*

This change means that where the State is an assessment manager or referral agency for a development application, the chief executive administering the SPA will assess and may decide the application.

In assessing an application, the chief executive will consider the application from a state perspective, resolving any conflicts between state agencies, codes and policies, and ensuring conditions are reasonable and relevant to the proposal.

This change will streamline the process for applications involving the state's jurisdiction, as applicants will need to deal with only one central state agency, the Department of Infrastructure, Local Government and Planning (DILGP). DILGP will coordinate and balance the responses from state agencies with technical expertise and ensure that any inconsistencies are resolved prior to issuing the decision notice or referral response.

This change commenced on 1 July 2013. Subsequent amendments to the *Sustainable Planning Regulation 2009* gave effect to the new arrangements to prescribe the chief executive as the single state assessment and referral, and the matters relevant to the assessment of particular development.

2. *Remove ineffective master planning and structure planning arrangements*

SPOLAA (No. 2) 2012 removed the inefficient arrangements for declared master planned areas and structure planning under SPA.

Outcomes sought by structure plans can now be achieved in other ways, for example through more focussed regional planning, and enabling local governments to carry out effective integrated strategic land use and infrastructure planning in their planning schemes.

The use and development rights established by existing structure plans and master plan approvals are preserved. SPOLAA (No. 2) 2012 also requires a local government to make or amend their SPA local planning instrument within three years to incorporate any existing or proposed structure plan.

This change is relevant only to master planned areas declared under former chapter 4 of the SPA.

This change commenced on assent of the SPOLAA (No. 2) 2012 on 22 November 2012. No new master planned areas can be declared, nor can structure plans be made, after this date.

3. *Reduce regulatory 'red tape' for development applications involving a state resource*.

SPOLA 2012 (No.2) has streamlined the development application process for applications involving a state resource by decoupling the SPA application process from the allocation or entitlement process required under other legislation.

The change enables an applicant to apply for a state resource allocation or entitlement prior to, concurrent with, or following the development application process. It *does not* mean that the development, if approved, can progress without the necessary resource entitlement.

This will make the development assessment process more efficient for both the applicant and the assessment manager, as the development application can be accepted by the assessment manager and processed without waiting for the evidence of an allocation or entitlement to the state resource.

This change commenced on assent of the SPOLAA (No. 2) 2012 on 22 November 2012. However, it applies only to development applications made after commencement. Applications made prior to this date must provide evidence of the allocation or entitlement if relevant, to be properly made.

4. *Provide some flexibility in the requirements for supporting information accompanying a development application.*

This change streamlines the development application process by enabling assessment managers to accept applications despite non-compliance with certain mandatory supporting information. Previously, such applications were deemed not properly made and could not be accepted until the information was provided, regardless of its relevance to the proposal.

The assessment manager now has the discretion to accept those development applications as being properly made, provided there is sufficient information for assessment of the proposal.

This change commenced on assent of the SPOLAA (No. 2) 2012 on 22 November 2012. However, it applies only to development applications made after commencement. Applications made prior to this date must provide mandatory supporting information to be properly made.

5. *Ensure certain provisions in the Queensland Planning Provisions (QPP) apply to all local government planning schemes (including those made under the repealed Integrated Planning Act 1997 [IPA])*.

The amendment allows certain aspects of the QPP to apply to IPA planning schemes as well as SPA planning schemes. This will ensure consistency across all local government planning schemes for certain matters.

For example, the QPP will be able to require a maximum level of assessment for both IPA and SPA planning schemes, such as compliance assessment, for certain low risk operational works, such as car parking, sediment and erosion control, electrical drawings, internal electrical reticulation, and landscaping. The QPP requirements will override planning schemes to the extent of any inconsistency.

Local governments have the flexibility to adopt an even lower level of assessment, such as self-assessable or exempt for the example given above, in their planning instruments.

This change ensures that red tape can be minimised or even removed for low-risk developments.

This change commenced on assent of the SPOLAA (No. 2) 2012 on 22 November 2012.

6. *Give the Planning and Environment Court discretion in relation to costs*

The SPOLAA (No. 2) 2012 gives the Planning and Environment Court the ability to order costs for a proceeding in the court.

The court now has discretion when determining costs orders, with the legislation providing guidance about matters the court may consider in exercising its discretion – for example, consideration of public interest, commercial interests, unreasonable behaviour of parties, and consistency with decision rules about development assessment.

The change will impact on any party commencing a proceeding or involved in a planning appeal, as the court may determine which costs are payable by which parties, rather than the own costs rule which previously applied.

This change commenced on assent of the SPOLAA (No. 2) 2012 on 22 November 2012, and applies to proceedings commenced after this date.

Please refer to the Planning and Environment Court costs fact sheet for more detailed information.

7. *Allow the Alternative Dispute Resolution (ADR) registrar to hear and decide minor disputes and routine procedural applications*

The changes allow the alternative dispute resolution process to be used to resolve minor disputes and routine procedural applications.

This change enables the ADR registrar, at the direction of the court, to hear and decide minor matters. If the matter is resolved early through this process, parties will bear their own costs, providing a cost effective and efficient alternative to court hearings for these matters.

This change commenced on assent of the SPOLAA (No. 2) 2012 on 22 November 2012, and applies to proceedings commenced after this date.

Please refer to the Planning and Environment Court costs fact sheet for more detailed information.