Coastal Protection State Planning Regulatory Provision

Protecting the coastal environment April 2013

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



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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Protecting the coastal environment

Preparing the State Planning Regulatory Provision

This 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 and part 6 of the *Sustainable Planning Act 2009* on 26 April 2013.

Commencement

This state planning regulatory provision came into effect on 26 April 2013.

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Preamble

Development in the coastal zone is important for the growth of the Queensland economy but 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.

Part 1 Preliminary

1.1 **Short title**

This State planning regulatory provision may be cited as the Coastal Protection State Planning Regulatory Provision.

1.2 **Application of the Coastal Protection State Planning Regulatory Provision**

This Coastal Protection State Planning Regulatory Provision (SPRP) applies to all local government areas in Queensland that include areas within the coastal zone.

1.3 Relationship to other planning instruments

This SPRP suspends the operation of the following:

- State Planning Policy 3/11: Coastal Protection.
- part 1.2 of the Far North Queensland Regional Plan 2009 2031;
- 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 2009 2013.

1.4 **Definitions**

- (1) The dictionary in schedule 1 defines terms used in this SPRP.
- (2) Terms not defined in schedule 1 have the meaning given in the Sustainable Planning Act 2009 or the Queensland Planning Provisions 2.0.

Part 2 Making planning instruments

2.1 Application of this part

This part applies to:

- making and amending local planning instruments; and
- · making regional plans; and
- the designation by a Minister of land for community infrastructure.

2.2 Provisions about coastal protection

When making or amending a local planning instrument, making a regional plan or designating land for community infrastructure, sections 2.2.1 to 2.2.4 must be considered.

2.2.1 Land use planning

- To the greatest 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 are to remain compact and physically separated through the identification and maintenance of non-urban areas. The provision of new infrastructure is to 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 is to be undertaken so as to avoid or minimise adverse impacts on coastal resources and their values.

2.2.2 Coastal hazards

- When determining new urban areas 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 must take account of the coastal hazard area and consider the impact of physical coastal processes, including any impacts from potential sea level rise.
- (2) Planning for the coast must address the potential impacts of coastal hazards through the following hierarchy of approaches:
 - avoid—focus on locating new development in areas not vulnerable to the impacts of coastal hazards
 - planned retreat—focus on systematic abandonment of land, ecosystems and structures in vulnerable areas
 - accommodate—focus on continued occupation of near-coastal areas but with adjustments such as altered building design

protect—focus on the defence of vulnerable areas, population centres, economic activities and coastal resources.

2.2.3 Provision for coastal-dependent land uses

- 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 coastaldependent land uses ahead of other urban land uses.
- (2) Planning for the location and design of new coastal-dependent land uses outside of existing coastal townships must be undertaken so as to avoid or minimise adverse impacts on coastal resources and their values.

2.2.4 Areas of high ecological significance

Urban development is located outside areas of high ecological significance in any coastal management district, unless the Minister is satisfied there is an overriding social and economic need.

Part 3 Development assessment

3.1 Application of this part

This part applies to:

- (a) a development application:
 - (i) for development in a coastal management district if:
 - (A) the application requires impact assessment; or
 - (B) the jurisdiction of a referral agency for the application is the Coastal Protection and Management Act 1995; or
 - (ii) if the chief executive administering the Coastal Protection and Management Act 1995 is the assessment manager for the application; or
- (b) a master plan application that relates to a coastal management district.

3.2 Assessment criteria

Development applications to which this part applies must be assessed against the criteria in sections 3.2.1 to 3.2.7.

3.2.1 Coastal hazards

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

3.2.2 Development in an erosion prone area

- To the greatest extent practicable, erosion prone areas are to remain undeveloped apart from acceptable temporary or relocatable structures for safety and recreational purposes only.
- (2) Where buildings and structures exist within an erosion prone area, any future development of the land must not be at a greater intensity than the existing development unless it can be clearly demonstrated that the development would not compromise coastal management outcomes and principles.
- (3)If there is a constant threat of erosion impacting developed areas, a strategy of retreat from the erosion prone area 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 existing land

- uses and infrastructure from coastal processes. In such circumstances, any further buildings or infrastructure, including extensions to existing buildings or changes to the location of services such as water, power and sewerage, must not extend any further seaward than the existing building alignment for the neighbouring properties.
- (4) For developed areas, structural engineering and stabilisation works must be initiated only as a last resort where erosion presents an immediate threat to public safety, or property or infrastructure that is not expendable. The siting, design, construction and materials used for works must not cause any significant adverse impacts on the coastal resources of the location or significantly impact on the natural cycles of erosion and accretion of beaches.
- Construction of structures for the purpose of beach protection (including (5) artificial reefs, banks, wrecks, breakwaters and groynes) in coastal waters may only be approved if:
 - (a) there is a demonstrated need in the public interest; and
 - (b) comprehensive investigation has been carried out and it can be demonstrated that:
 - there would not be any significant adverse impacts on the longshore transport of sediments; and
 - there would be no increase in coastal hazards for the neighbouring (ii) foreshore.
- (6) Despite subsections (1) to (5), works undertaken by a river improvement trust in accordance with the provisions of the River Improvement Trust Act 1940 may be approved in an erosion prone area.

3.2.3 Nature conservation

- (1) Biodiversity is 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.
- (2) The following matters are addressed to achieve the conservation and management of Queensland's coastal biodiversity:
 - the maintenance and re-establishment of the connectivity of ecosystems, (a) particularly to ensure viable populations of protected native species can 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 through one or more of the following:
 - protecting beaches that include significant wildlife habitats (i) (including roosting, nesting and breeding habitat for turtles, birds or crocodiles) through suitable management measures including buffers for those habitats:

- (ii) protecting the values and integrity of intertidal communities such as tidal flats, salt flats and rocky reefs, including natural fluctuations of location;
- (iii) retaining, where possible, the current extent and quality of migratory and resident shorebird roosting and feeding habitat. If habitat is to be lost it must be replaced, where practicable, before the loss occurs, by an equivalent artificial habitat in a location that minimises any alteration of distribution and abundance of shorebirds:
- (iv) maintaining the values and integrity of fish habitats and fish migratory pathways through suitable management measures including buffers for those habitats;
- protecting the values and integrity of soft bottom (benthic) (v) communities:
- retaining and protecting the existing extent, quality and functionality (vi) 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, and appropriate management, of riparian vegetation along waterways of sufficient width to provide for a self-sustainable linked network. The width of the corridor must be determined having regard to the size, values and functions of the vegetation and the nature of potential threats to its functions and integrity from the proposed development. It must also be of sufficient width to maintain bank stability and existing water quality, maintain aquatic and wildlife habitats and movement corridors for native animals, and ensure the long-term viability of existing isolated stands of vegetation.

3.2.4 Areas of high ecological significance

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 one or more of the following:

- urban or rural residential purposes within an urban area; (a)
- (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;
- low impact tidal water intake or discharge infrastructure for (e) aquaculture development on land;
- minor public marine development and associated pedestrian and (f) vehicle access facilities:

- (g) extraction purposes within a key resource area;
- (h) State transport infrastructure; or
- (i) works undertaken by a river improvement trust in accordance with the provisions of the River Improvement Trust Act 1940.

3.2.5 Public access

- (1) There is no net loss of public access to the foreshore. Public access is to be maintained, protected and enhanced unless it compromises the provision or operation of infrastructure of state economic significance or the protection of coastal resources.
- (2) For new urban development on the coast, the following additional matters are to be considered with respect to public access to and use of the foreshore:
 - the need for new or upgraded public access facilities (such as boat (a) 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.

3.2.6 Coastal-dependent land use

- Maritime infrastructure is appropriate in areas where there is no net loss of public access to the coast and adverse impacts on coastal resources and their values can be avoided or minimised.
- (2) New private pontoons, jetties and ramps attaching to, or extending across, nontidal state coastal land that abuts tidal waters are to be avoided. Undertaking tidal work that is new private pontoons, jetties and ramps:
 - (a) must be on private land abutting state tidal land and used for property access purposes; and
 - (b) must occupy the minimum area reasonably required for its designed purpose; and
 - (c) must ensure that the new structure is not roofed or otherwise covered; and
 - (d) must not involve the construction of coastal protection works, riverbank hardening or dredging for marine access; and
 - must not adversely impact on public safety or public access to and use of (e) the foreshore.
- (3)Land-based aquaculture on the coast must be located and undertaken in a manner that results in no significant adverse impacts on the coastal resources and their values. In particular, aquaculture must be undertaken so as to:
 - have no significant adverse impacts on water quality; and

- (b) maintain any wastewater discharge to meet relevant legislative standards and requirements; and
- (c) have no significant adverse impacts on groundwater levels and quality;
- (d) maintain coastal habitats, such as wetlands and shorebird roost sites, and protect them from potential significant adverse impacts from the disturbance of acid sulfate soils; and
- (e) have no significant adverse impacts on fisheries (commercial, recreational, and Traditional Owner), fishing grounds, or spawning and nursery areas; and
- (f) maintain natural coastal processes; and
- be compatible with the coastal landscape values and recreational (g) amenity of the area.
- (4) The discharge of wastewater onto the foreshore must not occur unless there is no feasible alternative and it does not result in significant adverse impacts on coastal resources and their values.
- (5) Dredging from land below the highest astronomical tide 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.
- (6) Dredging activities within coastal waters must be undertaken so as to:
 - maintain the ability of the site or adjoining land to function as a barrier (a) protecting lands from coastal waters; and
 - (b) maintain beach or foreshore stability; and
 - (c) maintain natural coastal processes that supply sand to beaches; and
 - (d) maintain the stability of the dredging area; and
 - (e) maintain:
 - (i) water quality; and
 - (ii) groundwater levels of underlying aquifers and coastal wetlands; and
 - the local drainage regime on the site and adjoining areas; and
 - (f) have no significant adverse impacts on fisheries (commercial, recreational, and Traditional Owner), fishing grounds, or spawning and nursery areas; and
 - maintain coastal habitats and protect them from potential adverse (g) impacts from the disturbance of acid sulfate soils; and
 - (h) not cause unacceptable risk to existing land uses from coastal hazards; and
 - (i) not adversely impact on any cultural resources of Traditional Owners.

- (7) Any location for depositing dredged material comprising muds, clays and silts, must 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.
- A dredge management plan must be prepared and implemented for (8) maintenance dredging. Dredged material comprising clean sand must generally be kept within the active beach system. Dredging operations must, where appropriate, use fauna-excluding devices.
- (9)For any dredging operations, consideration must be given to:
 - (a) whether the sediment contains toxicants; and
 - (b) the level and nature of the toxicant; and
 - whether disturbance of the contaminated sediment is likely to result in (c) unacceptable impacts on coastal resources and their values.
- (10) Reclamation of tidal waters must avoid or minimise adverse impacts on coastal resources and their values. Justification for the reclamation must be demonstrated.
- (11) Land below the highest astronomical tide is maintained in its natural state and not reclaimed unless the reclamation:
 - is necessary for erosion control or beach nourishment purposes; or (a)
 - (b) is necessary for protecting the natural environment and its processes; or
 - is for coastal-dependent land uses or other areas of state significance (c) and:
 - (i) there is a demonstrated net benefit for the state or a region; and
 - there are no alternative sites available that would not require (ii) reclamation; or
 - (d) is necessary for the operation of a port or harbour and there are no alternative sites available that would not require reclamation; or
 - (e) is necessary for the development of a public or private facility and:
 - (i) there is public support for the development; and
 - (ii) there is a demonstrated public benefit from the proposal; and
 - there are no alternative sites available that would not require (iii) reclamation; or
 - (f) is necessary to reinstate land that has been eroded and the work is undertaken in a coordinated manner with other neighbouring properties that are also subject to erosion; or
 - is for reclamation within a canal or marina. (g)

3.2.7 Canals and dry land marinas

- In view of the potential adverse impacts of canals and dry land marinas, further (1) development of canals and dry land marinas may only be carried out if the development does not adversely affect coastal resources and their values, in particular if the development does not cause or contribute to:
 - degradation of water quality; or (a)
 - (b) an increased risk of flooding; or
 - degradation or loss of coastal wetlands; or (c)
 - (d) degradation or loss of declared fish habitat areas; or
 - (e) degradation or loss of shorebird roost areas.
- (2) Any new canal or dry land marina development must demonstrate that land above highest astronomical tide is available for maintenance dredge spoil disposal.

Schedule 1 Dictionary

acid sulfate soils means actual acid sulfate soils and potential acid sulfate soils.

actual acid sulfate soils means soils or sediments containing highly acidic soil horizons or layers.

aquaculture see the Fisheries Act 1994, schedule.

aquaculture development area means an aquaculture development area shown as the Aquaculture development areas Map layer of the Queensland Coastal Plan Map, published by the Department of Environment and Heritage Protection, available at:

http://www.ehp.qld.gov.au/coastal/management/coastal_plan_maps.php

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, available at: http://www.ehp.qld.gov.au/land/natural-resource/ecological-significance-mapping.php

canal see the Coastal Protection and Management Act 1995, schedule.

coastal-dependent land use -

- 1. Coastal-dependent land use means a land use that is required to be located on land adjoining the waterfront or that has access to water in order to function.
- 2. This term also includes 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.
- 3. This term also includes:
 - (a) residential and tourist uses that are part of an integrated development proposal incorporating a marina, if these uses are located landward of the marina and are protected from coastal processes and hazards by the marina; and
 - (b) aquaculture for salt-water species.
- 4. This term does not include residential land uses, waste management facilities (landfills, sewage treatment plants) and transport infrastructure (other than for access to the coast).

coastal hazard see the Coastal Protection and Management Act 1995, schedule.coastal hazard area means an area shown as a coastal hazard area on:

- (a) the Coastal Hazard Areas Map Storm Tide Inundation Areas or the Coastal Hazard Areas Map - Erosion Prone Area Indicative Footprint published by the Department of Environment and Heritage Protection; or
- (b) a map of coastal hazards prepared by the local government and published on its website.

Editors note: the Coastal Hazard Areas Map - Storm Tide Inundation Areas and the Coastal Hazard Areas Map - Erosion Prone Area Indicative Footprint are available at:

http://www.ehp.qld.gov.au/coastal/development/assessment/erosion_prone_areas.ht ml#coastal_hazard_area_mapping

coastal management see the Coastal Protection and Management Act 1995, schedule.

coastal management district see the Coastal Protection and Management Act 1995, schedule.

coastal resources see the Coastal Protection and Management Act 1995, schedule coastal waters see the Coastal Protection and Management Act 1995, schedule. coastal wetlands see the Coastal Protection and Management Act 1995, schedule. coastal zone see the Coastal Protection and Management Act 1995, schedule. declared fish habitat area see the Fisheries Act 1994.

development commitment for land means development:

- (a) that arises from and is necessary to give effect to a development approval for the land; or
- (b) if the land is located within a state development area under the *State*Development and Public Works Organisation Act 1971 that is consistent with the development scheme for the state development area; or
- (c) that the Coordinator-General has recommended be approved (with or without conditions) in a report evaluating the Environmental Impact Statement under the *State Development and Public Works Organisation Act 1971*, part 4; or
- (d) that is carried out on the land for government supported transport infrastructure if the funding and construction arrangements for the infrastructure were approved by the state before the commencement of this SPRP; or
- (e) that is carried out on the land for transport infrastructure under the *Transport Infrastructure Act 1994*, if the funding and construction arrangements were approved by the Commonwealth before the commencement of this SPRP; or
- (f) that is consistent with a designation of land for community infrastructure under the Sustainable Planning Act 2009.

development infrastructure means:

- (a) land or works, or both land and works, for:
 - 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; or
 - (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 statecontrolled roads; or

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; and
- (b) land and works that ensure the land is suitable for development for local community facilities, including, for example:
 - (i) community halls or centres; or
 - (ii) public recreation centres; or
 - (iii) public libraries.

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

dugong protection area see the Nature Conservation (Dugong) Conversation Plan 1999, section 2.

erosion prone area see the Coastal Protection and Management Act 1995, schedule.

existing urban area means:

- (a) an area that has been developed for urban purposes; and
- (b) an area for which a development approval for urban purposes has been given, if the development approval is still in effect; and
- (c) an area identified to be for urban purposes in a planning instrument.

foreshore see the Coastal Protection and Management Act 1995, schedule.

highest astronomical tide means the highest level that can be predicted to occur under average meteorological conditions and any combination of astronomical conditions.

Editor's note: This level will not be reached every year, and is less than the extreme levels that can be caused by storm tides.

high risk area means an area at high risk of being affected by coastal hazards that is:

- (a) shown as a high hazard area (greater than 1.0m water depth) on the Coastal Hazard Areas Map Storm Tide Inundation Areas published by the Department of Environment and Heritage Protection; or
- (b) shown as an area of erosion due to storm impact and long term trends of sediment loss and channel migration or an area of erosion and permanent tidal inundation due to sea level rise on the Coastal Hazard Areas Map -Erosion Prone Area Indicative Footprint, published by the Department of Environment and Heritage Protection.

Editors note: the Coastal Hazard Areas Map - Storm Tide Inundation Areas and the Coastal Hazard Areas Map - Erosion Prone Area Indicative Footprint are available at:

http://www.ehp.qld.gov.au/coastal/development/assessment/erosion prone areas.ht
ml#coastal_hazard_area_mapping

key resource area means an area shown as a key resource area in the mapping published by the Department of Natural Resources and Mines, available at:

http://mines.industry.qld.gov.au/mining/key-resource-area-maps.htm

low impact tidal water intake or discharge infrastructure -

- (a) means, pipes and drains constructed for the purpose of accessing, distributing or releasing seawater or waste water from or to tidal waters for aquaculture development on land;
- (b) 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 maritime development area maps, published by the Department of Environment and Heritage Protection, available at:

http://www.ehp.qld.gov.au/coastal/management/maritime_development_areas.html

minor public marine development -

- 1. *Minor public marine development* means maritime facilities, such as boat ramps, pontoons, slipways, wharves and jetties that serve a public purpose.
- 2. This term does not include a new navigation channel.

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.

potential acid sulfate soils means iron sulfides or other sulfidic material that has not been exposed to air and oxidised.

State coastal land see the Coastal Protection and Management Act 1995, schedule.

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

State tidal land see the Coastal Protection and Management Act 1995, schedule.

State transport infrastructure means any of the following:

- a state-controlled road under the Transport Infrastructure Act 1994
- busway transport infrastructure under the Transport Infrastructure Act 1994
- light rail transport infrastructure under the Transport Infrastructure Act 1994
- rail transport infrastructure under the Transport Infrastructure Act 1994
- other rail infrastructure under the Transport Infrastructure Act 1994
- active transport infrastructure under the *Transport Planning and Coordination Act 1994.*

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

tidal water see the Coastal Protection and Management Act 1995, schedule.

tourism purposes -

- 1. Tourism purposes means:
 - (a) short-term accommodation; and
 - (b) tourist facilities, including buildings for entertainment, recreation, information and cultural activities.

2. This term includes services ancillary to a tourism purpose, including food and beverage, retail, commercial and other integrated services that serve both tourists and residents.

transport infrastructure see the Transport Infrastructure Act 1994

urban area means:

- (a) an area shown as being within the urban footprint under a regional plan; or
- (b) shown 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 -

- 1. *Urban development* means development for urban or rural residential purposes.
- 2. This term does not include rural land uses such as agriculture and horticulture.