

Sustainable Ports Development Bill 2015

Amendments during consideration in detail to be moved by

The Honourable the Minister for State Development and Minister for Natural Resources and Mines

1 Clause 6 (Master planned areas)

Page 8, lines 16 and 17, ‘under the Transport Infrastructure Act’—
omit.

2 Clause 9 (Process for making or amending master plans)

Page 10, lines 15 to 17—
omit.

3 Clause 12 (Making proposed master plan or amendment)

Page 13, line 6, ‘notice’—
omit, insert—

public notice and the master plan or
amendment

4 Clause 12 (Making proposed master plan or amendment)

Page 13, lines 11 to 13—
omit, insert—

- (4) Within 14 sitting days after the master plan or amendment is made, the Minister must table in the Legislative Assembly a copy of the master plan or amendment.
- (5) If the Minister decides not to make the proposed master plan or amendment, the Minister must—
 - (a) publish the decision in a public notice; and
 - (b) give each entity mentioned in section 11(3) a copy of the public notice.

5 After clause 12

Page 13, after line 13—

insert—

12A Administrative amendments

- (1) The Minister may make an administrative amendment of a master plan without complying with sections 10 to 12.
- (2) Instead, the Minister may make an administrative amendment of a master plan by publishing a public notice that states—
 - (a) the day the amendment was made; and
 - (b) where a copy of the amended master plan may be inspected and purchased.
- (3) The Minister must give each entity mentioned in section 11(3) a copy of the public notice and the amended master plan.

6 Clause 15 (Notice of review)

Page 14, lines 20 to 28—

omit, insert—

Minister must publish a public notice stating that—

- (a) the Minister proposes to review the master plan; and
 - (b) an entity may make a written submission to the Minister about the proposal within a stated period of at least 20 business days.
- (2) The Minister must give a copy of the public notice to the following entities—
 - (a) the port authority for the priority port;
 - (b) each affected local government;

- (c) if the master planned area is within, or includes, a priority development area—MEDQ;
- (d) if the master planned area is within, or includes, a State development area—the Coordinator-General.

7 Clause 17 (Action Minister must take after review)

Page 15, line 15, after ‘plan’—

insert—

for a priority port, including considering all submissions made in accordance with the public notice

8 Clause 17 (Action Minister must take after review)

Page 15, lines 22 and 23—

omit, insert—

must—

- (a) table in the Legislative Assembly a report stating the reasons for the decision; and
- (b) give notice of the decision to each entity mentioned in section 15(2).

9 Before clause 22

Page 18, after line 6—

insert—

21A Preparing and notifying draft instrument

- (1) If the Minister proposes to make or amend a port overlay for a priority port’s master planned area, the Minister must prepare a draft of the proposed port overlay or amendment (the *draft instrument*).

- (2) After preparing the draft instrument, the Minister must publish a public notice stating—
 - (a) where copies of the instrument may be inspected and purchased; and
 - (b) a phone number or email address to contact for information about the instrument; and
 - (c) that an entity may make a written submission to the Minister about any aspect of the instrument; and
 - (d) the requirements for properly making a submission; and
 - (e) the period (the *consultation period*) within which a submission may be made, which must be at least 10 business days after the public notice is published in the gazette.
- (3) The Minister must give a copy of the public notice and the draft instrument to the following entities—
 - (a) the port authority for the priority port to which the draft instrument relates;
 - (b) each affected local government;
 - (c) if the master planned area is within, or includes, a State development area—the Coordinator-General;
 - (d) if the master planned area is within, or includes, a priority development area—MEDQ.
- (4) For all of the consultation period, the Minister must keep a copy of the draft instrument available for inspection and purchase by members of the public at the department's head office.

10 Clause 22 (Making or amending port overlays)

Page 18, lines 8 to 24—

omit, insert—

- (1) After the Minister considers all submissions made in accordance with the public notice, the Minister must decide—
 - (a) to make the proposed port overlay or amendment; or
 - (b) to make the proposed port overlay or amendment with the changes the Minister considers appropriate; or
 - (c) not to make the proposed port overlay or amendment.
- (2) If the Minister decides to make the proposed port overlay or amendment (with or without changes), the Minister must—
 - (a) publish the decision in a public notice stating—
 - (i) the day the port overlay, or amendment, (the *instrument*) was made; and
 - (ii) where a copy of the instrument is available for inspection and purchase; and
 - (iii) for an amendment of a port overlay—a brief description of the amendment; and
 - (b) give each entity mentioned in section 21A(3) a copy of the public notice and the instrument.

11 Clause 22 (Making or amending port overlays)

Page 18, line 27, '(1)'—

omit, insert—

(2)

12 After clause 22

Page 19, after line 8—

insert—

22A Administrative amendments

- (1) The Minister may make an administrative amendment of a port overlay without complying with sections 21A and 22.
- (2) Instead, the Minister may make an administrative amendment of a port overlay by publishing a public notice that states—
 - (a) the day the amendment was made; and
 - (b) where a copy of the amended port overlay may be inspected and purchased.
- (3) The Minister must give each entity mentioned in section 21A(3) a copy of the public notice and the amended port overlay.

13 Clause 29 (Requirement to review approved development schemes under State Development Act)

Page 22, lines 17 to 20, from ‘scheme’ to ‘decision.’—

omit, insert—

scheme—

- (a) the Coordinator-General must give the State Development Minister a report about the reasons for the decision; and
- (b) the State Development Minister must, within 14 sitting days after the decision is made, table the report in the Legislative Assembly.

14 Clause 30 (Requirements for making or amending approved development schemes under State Development Act)

Page 22, line 27—

omit, insert—

- (2) Subsections (3) and (4) apply if—

15 Clause 30 (Requirements for making or amending approved development schemes under State Development Act)

Page 23, lines 4 to 7—

omit, insert—

- (3) The Coordinator-General must give the State Development Minister a report stating the reasons for making the instrument despite the inconsistency.
- (4) The State Development Minister must, within 14 sitting days after the instrument is made, table the report in the Legislative Assembly.

16 Clause 32 (Particular applications for port facilities must be refused)

Page 24, lines 13 to 15—

omit, insert—

- (b) the disposing, or depositing, of material generated from dredging activities.
- (3) Also, subsection (1) does not apply to development for, or relating to, a port facility for the Port of Gladstone if the development is carried out on an island—
- (a) that, on 12 October 2015, was included in the special industry zone under the planning scheme made under the Planning Act for the Gladstone local government area; or

- (b) that is completely or partly within the port's strategic port land, or a State development area, and the strategic port land or State development area is within, or adjacent to, the existing port limits of the Port of Gladstone.

- (4) This section applies despite the following—

17 Clause 32 (Particular applications for port facilities must be refused)

Page 24, line 20, '(4)'—

omit, insert—

- (5)

18 Part 3, division 3 (Capital dredging and disposal of dredge material)

Page 25, lines 4 and 5, 'and disposal of dredge material'—

omit.

19 Clause 33 (No approvals for particular capital dredging)

Page 25, lines 7 to 13—

omit, insert—

- (1) An approving authority must not give an approval for development that is, or includes, capital dredging if the dredging will be carried out—
 - (a) within a restricted area; and
 - (b) for the purpose of establishing, constructing or improving a port facility.
- (2) However, subsection (1) does not apply to an approval for development that is, or includes, capital dredging carried out for the purpose of establishing, constructing or improving a port facility—

- (a) in a priority port's master planned area; or
- (b) for the Port of Cairns, if—
 - (i) the dredging will be carried out in the port's inner harbour; and
 - (ii) the approval does not permit the extraction or excavation of more than 50,000m³ of material; and
 - (iii) the approval will not result in more than 150,000m³ of material being extracted from, or excavated in, the port's inner harbour in a 4-year period.
- (3) In calculating whether an approval will result in more than 150,000m³ of material being extracted or excavated in a 4-year period, only the following amounts are relevant—
 - (a) the amount of material to be extracted or excavated under the approval;
 - (b) the amount of material extracted or excavated, or to be extracted or excavated, under another approval for development that is, or includes, capital dredging unless the capital dredging was the subject of an EIS process started before the commencement.

20 Clause 34 (Restriction on granting approvals for disposal of prescribed dredge material)

Page 25, lines 14 to 30—

omit, insert—

34 Condition for approvals for particular capital dredging

- (1) This section applies to an approval given by an approving authority for development that is, or relates to, capital dredging if the capital dredging is carried out—

- (a) for the purpose of establishing, constructing or improving a port facility in a priority port's master planned area; or
 - (b) in the inner harbour of the Port of Cairns for the purpose of establishing, constructing or improving a port facility for the port.
- (2) The approval is taken to include a condition that material generated from the capital dredging must not be deposited, or disposed of, in a restricted area unless the material is beneficially reused.

Examples of ways in which the material may be beneficially reused—

- for land reclamation
 - for beach nourishment
 - for environmental restoration purposes, such as creating or restoring wetlands or nesting islands
- (3) To remove any doubt, it is declared that this section applies to an approval whether it was given before or after the commencement.

21 After clause 35

Page 26, after line 8—

insert—

35A Review of s 33 in relation to capital dredging for Port of Cairns

- (1) The Minister must review the operation of section 33(2)(b) and (3) within 4 years after its commencement.
- (2) The object of the review is to decide whether section 33(2)(b) and (3) is effectively achieving a balance between economic development and the protection of the Great Barrier Reef World Heritage Area.

- (3) Before carrying out the review, the Minister must publish a public notice stating—
 - (a) that the Minister proposes to review the operation of section 33(2)(b) and (3); and
 - (b) a phone number or email address to contact for information about the review; and
 - (c) that an entity may make a written submission to the Minister about the review; and
 - (d) the requirements for properly making a submission; and
 - (e) the period within which a submission may be made, which must be at least 20 business days after the public notice is published in the gazette.
- (4) In carrying out the review, the Minister must consider all submissions made in accordance with the public notice.
- (5) The Minister must, as soon as practicable after finishing the review, table a report about the outcome of the review in the Legislative Assembly.

22 Part 4, division 2 (Compensation for port overlays)

Page 27, line 23 to page 32, line 26—

omit.

23 Clause 56 (Registers)

Page 34, line 10, ‘division 3.’—

omit, insert—

division 3;

- (d) proposed port overlays, or proposed amendments of port overlays, notified under section 21A;
- (e) the matters raised in any submissions made to the Minister about—
 - (i) a proposed master plan, or proposed amendment of a master plan, notified under section 11; or
 - (ii) a proposed port overlay, or proposed amendment of a port overlay, notified under section 21A; or
 - (iii) a review notified under section 35A.

24 Clause 60 (Particular development exempted)

Page 35, line 22, ‘Section 33’—

omit, insert—

Section 33(1)

25 Clause 60 (Particular development exempted)

Page 35, lines 25 to 26 and page 36, lines 1 to 13—

omit.

26 Schedule 1 (Dictionary)

Page 39, after line 2—

insert—

administrative amendment, of a master plan or port overlay, means an amendment correcting or changing—

- (a) an explanatory matter about the instrument;
or
- (b) the format or presentation of the instrument;
or

- (c) a spelling, grammatical or mapping error in the instrument; or
- (d) a factual matter incorrectly stated in the instrument; or
- (e) a redundant or outdated term in the instrument; or
- (f) inconsistent numbering of provisions in the instrument; or
- (g) a cross-reference in the instrument.

27 Schedule 1 (Dictionary)

Page 39, line 8—

omit.

28 Schedule 1 (Dictionary)

Page 40, lines 13 and 14—

omit, insert—

- (b) does not include dredging carried out for the purpose of—
 - (i) maintaining a channel, basin, port, berth or other similar thing for its intended use; or
 - (ii) protecting human life or property.

29 Schedule 1 (Dictionary)

Page 40, line 24—

omit.

30 Schedule 1 (Dictionary)

Page 40, line 27—

omit.

31 Schedule 1 (Dictionary)

Page 41, after line 2—

insert—

EIS process means any of the following processes—

- (a) an EIS process for development within the meaning of the Planning Act;
- (b) an EIS process for a project within the meaning of the Environmental Protection Act;
- (c) the process under the State Development Act, part 4, division 3, subdivision 1 for an environmental impact statement for a coordinated project under that Act;
- (d) the process under the Commonwealth Environment Act, chapter 4, part 8, division 6 for an environmental impact statement for an action under that Act;
- (e) the process under another Commonwealth Act for preparing an environmental impact statement for a project.

32 Schedule 1 (Dictionary)

Page 41, after line 14—

insert—

inner harbour, for the Port of Cairns, means the area that is—

- (a) south of latitude 16°55'0.7" south and within the port's port limits under the Transport Infrastructure Act; but
- (b) outside the State marine park.

33 Schedule 1 (Dictionary)

Page 41, lines 19 and 20—

omit.

34 Schedule 1 (Dictionary)

Page 41, lines 23 and 24—

omit.

35 Schedule 1 (Dictionary)

Page 42, lines 23 to 26—

omit, insert—

(ii) for a notice about another instrument or the repeal of a master plan or port overlay—circulating in the master planned area to which the instrument, or repealed master plan or port overlay, relates;

(iii) for a notice about a proposed review under section 35A—circulating in the Cairns local government area; and

36 Schedule 1 (Dictionary)

Page 43, after line 2—

insert—

State Development Minister means the Minister responsible for administering the State Development Act.

37 Schedule 1 (Dictionary)

Page 43, after line 4—

insert—

strategic port land see the Transport Infrastructure Act, section 286(5).

38 Schedule 2 (Other amendments)

Page 44, after line 22—

insert—

Sustainable Planning Act 2009

1 Section 255E(13), after ‘part 2’—

insert—

or the *Sustainable Ports Development Act 2015*

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