



Queensland

State Development and Public Works Organisation (State Development Areas) Amendment Regulation (No. 2) 2011

Explanatory Notes for SL 2011 No. 233

made under the

State Development and Public Works Organisation Act 1971

General outline

Short title

State Development and Public Works Organisation (State Development Areas) Amendment Regulation (No. 2) 2011.

Authorising law

Sections 77, 78 and 173 (1) of the *State Development and Public Works Organisation Act 1971* (SDPWO Act)

Policy objectives and the reasons for them

The Surat Basin Rail (SBR) project proposes to construct the 210 kilometre 'Southern Missing Link' between Wandoan and Banana to enable large-scale mining and export of thermal coal from the Surat Basin via QR National's Moura rail system and the Port of Gladstone.

In 2006, the Queensland Government granted an exclusive mandate to a private sector consortium, the Surat Basin Rail Joint Venture (the SBRJV), to develop the SBR to financial close. Under the Exclusive Mandate, the

State is required to secure and acquire the corridor within which the SBR will be constructed and operated, before the SBRJV achieves financial close for the project.

Achievement of policy objectives

The preferred basis for securing the rail corridor is by declaration of a State development area. Following approval of the Surat Basin Infrastructure Corridor (SBIC) State Development Area (SDA), the SBR rail corridor (within and much narrower than the SBIC SDA) may be acquired under section 82 of the SDPWO Act.

The corridor is principally intended for the development and operation of rail infrastructure, however the Government views the SBIC SDA as a strategic infrastructure corridor and other linear infrastructure may be developed within the SBIC SDA in the future.

The SBR is a critical link in the State's strategic coal supply chain that will enable the transport of coal from the Surat Basin to the Wiggins Island Coal Export Terminal at the Port of Gladstone. The SBR will be catalytic in nature and lead to the large-scale development of the significant coal reserves of the Surat Basin. These increases in coal production have the potential to increase the annual Gross State Product and provide significant long-term employment opportunities in the mining and associated industries. Development of the Surat Basin will also meet the State's commitment to foster sustainable economic, employment and community growth in regional Queensland.

The Surat Basin Future Directions Statement, released by the Government in March 2010, will provide a framework for a coordinated, region-wide approach to addressing the issues caused by increased production and resultant increases in population growth.

The corridor required for QR National's new passing loop, to enable the SBR to access the Moura Rail system near Banana, has been included in the SDA and aligned with the SBR corridor acquisition program.

Consistency with policy objectives of authorising law

The regulation is consistent with the objectives of the SDPWO Act which are to provide for State planning and development through a coordinated

system of public works organisation, for environmental coordination, and for related purposes.

The amendment regulation is also consistent with Part 6 of the SDPWO Act, which specifically provides that a regulation may declare any part of the State or of any area over which the State claims jurisdiction to be a State development area, if the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the State requires it.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

Historically, rail corridors in Queensland have been acquired pursuant to the *Transport Infrastructure Act 1994* (TIA). However, the TIA does not provide an appropriate head of power for acquisition of a contiguous freehold corridor for a private sector third party.

Benefits and costs of implementation

The State will receive an estimated \$300 million in coal royalties per year if increases in coal production lead to the development of the SBR project's full transport capacity of 42 million tonnes per annum.

If developed, the SBR project will trigger an increase in the population of the region, both temporarily for the construction workforce and in the longer term as a result of the catalytic nature of the project.

These benefits would not be realised if the SBR project does not proceed.

Costs associated with declaration of the proposed SDA and subsequent land acquisition costs are to be recovered from the SBRJV when the SBR project achieves financial close. The cost of acquiring the land for the passing loop on the Moura Rail system will also be recovered from QR National, subject to arrangements which are presently being negotiated with the Department of Transport and Main Roads.

Consistency with fundamental legislative principles

The SDPWOA provides that an SDA may be declared by regulation.

The proposed regulation is consistent with fundamental legislative principles.

No potential breaches of fundamental legislative principles are apparent in the proposed subordinate legislation which satisfies the requirements of section 4(3) of the *Legislative Standards Act 1992* by e.g. providing for compensation according to law where property is compulsorily acquired and section 4(5) of the same Act where the subordinate legislation is made within the power of the authorising law (the SDPWO Act).

Consultation

While there is no statutory requirement for consultation prior to declaration of an SDA or introduction of a development scheme, the Coordinator-General's usual practice is to seek the views of affected landowners and the wider community.

Community consultation, undertaken from 27 May 2010 for a period of four weeks, included the provision of fact sheets, maps, the draft development scheme for the proposed SBIC SDA, public displays and a 1800 phone number which could be used by interested persons to clarify issues of concern about the proposal. Relevant information was also published on the website of the former Department of Infrastructure and Planning (DIP). The proposal was advertised to the wider community in selected regional, State and national newspapers. Letters were forwarded to relevant interest holders about the proposal, including the Banana Shire Council and Western Downs Regional Council, 16 companies holding mining and petroleum permits and leases, native title representative bodies and four infrastructure service providers.

Targeted engagement was undertaken individually with affected landholders and interest holders to discuss the State's plans for delivering the rail corridor and timeframes for developing the SBR.

A community consultation expert was contracted by DIP to design an engagement strategy, provide support during consultation and prepare a report focussing principally on the concerns raised by directly affected landholders. The report was finalised in early October 2010. The report will guide future interaction between the State and landholders about the SBR, including negotiations on the land acquisition phase of the project.

Three native title claimant groups affected by the SBR project, the Iman #2 People, the Wulli Wulli People and the Gangulu People, were notified of the declaration proposal. Negotiations have been successful and agreements reached with all three of the groups.

Results of Consultation

20 public submissions were received regarding both the proposed SBIC SDA and the draft Development Scheme.

The Coordinator-General considered all feedback provided. As a result of consultation, minor modifications were made to the proposed SBIC SDA boundaries to minimise disturbance to landholders and the environment, while maintaining appropriate access, efficiency and constructability arrangements for the project. One small property was removed from the proposed SBIC SDA as the land was no longer required for the purposes of the SBR project.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Employment, Economic Development and Innovation.

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