



Queensland

Rural and Regional Adjustment and Other Legislation (Brisbane River Tourism Berthing Assistance Scheme and Other Matters) Amendment Regulation 2022

Subordinate Legislation 2022 No. 137

made under the

Biosecurity Act 2014

Rural and Regional Adjustment Act 1994

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Rural and Regional Adjustment and Other Legislation (Brisbane River Tourism Berthing Assistance Scheme and Other Matters) Amendment Regulation 2022*.

Part 2 Amendment of Biosecurity Regulation 2016

2 Regulation amended

This part amends the *Biosecurity Regulation 2016*.

3 Amendment of s 125 (Inspectors—Act, s 251)

Section 125, from ‘Major’ to ‘(Rural)’—
omit, insert—

Rural and Stock Crime Squad

Part 3 Amendment of Rural and Regional Adjustment Regulation 2011

4 Regulation amended

This part amends the *Rural and Regional Adjustment Regulation 2011*.

5 Amendment of s 3 (Approval of schemes—Act, s 11)

Section 3(1), ‘44’—
omit, insert—

6 Insertion of new sch 45

After schedule 44—

insert—

Schedule 45 Brisbane River tourism berthing assistance scheme

section 3(1)

Part 1 Preliminary

1 Objectives of scheme

The objectives of the scheme are—

- (a) to assist owners of eligible businesses who incur eligible berthing expenses in renting alternative berths at relevant commercial marinas for use by eligible vessels; and
- (b) to increase the number of berths in the eligible area that are suitable for use by eligible vessels.

2 Purposes of assistance

The purposes of assistance under the scheme are—

- (a) to provide financial assistance to the owners of eligible businesses to offset the cost of renting alternative berths at relevant commercial marinas for use by eligible vessels during the relevant period; and

- (b) to provide financial assistance to the owners of eligible businesses to help them pay for eligible projects that upgrade or install berthing infrastructure at relevant commercial marinas to provide berths suitable for use by eligible vessels.

3 Definitions for schedule

In this schedule—

alternative berth see section 11(2)(c).

applicant means an entity applying for assistance under the scheme.

berthing expenses grant see section 9(2).

certificate of operation means a certificate of operation issued under the domestic commercial vessel national law, section 48.

domestic commercial vessel national law has the meaning given by the *Transport Operations (Marine Safety—Domestic Commercial Vessel National Law Application) Act 2016*, section 20.

eligible area means the parts of the Brisbane River and adjoining waterways that are within a 10km radius of the post office in the Brisbane CBD known as the Brisbane General Post Office.

eligible berthing expense see section 4.

eligible business see section 5.

eligible infrastructure expense see section 6.

eligible project see section 7.

eligible vessel see section 8.

government entity means—

- (a) a government entity within the meaning of the *Public Service Act 2008*, section 24; or
- (b) a local government; or

- (c) a government owned corporation; or
- (d) an Australian government agency or sovereign entity within the meaning of the *Income Tax Assessment Act 1997* (Cwlth); or
- (e) an entity that is wholly owned by an entity mentioned in paragraph (a), (b), (c) or (d).

minor infrastructure grant see section 10(2).

owner, of an eligible business, means the sole trader, partnership, private company, public company or trust that carries on the business.

private sector entity means an entity that is not owned, either wholly or partly, by a government entity.

relevant commercial marina means a marina or wharf—

- (a) owned or operated by a private sector entity; and
- (b) located in the eligible area; and
- (c) at which berths are ordinarily available to rent for the use of vessels used for commercial purposes.

relevant period means the period—

- (a) starting on 1 July 2022; and
- (b) ending on 30 June 2024.

scheme means the scheme set out in this schedule.

4 Meaning of *eligible berthing expense*

- (1) An ***eligible berthing expense*** is a cost incurred during the relevant period for renting an alternative berth at a relevant commercial marina for use by an eligible vessel.
- (2) However, the following costs are not ***eligible***

berthing expenses—

- (a) a cost paid before 1 July 2022;
- (b) incidental costs of berthing an eligible vessel;

Examples—

the costs of electricity, water and cleaning

- (c) costs associated with owning a berth.

5 Meaning of *eligible business*

- (1) A business is an *eligible business* if—
 - (a) the business's primary activity is providing tourism services in the eligible area using 1 or more eligible vessels; and
 - (b) the owner of the business—
 - (i) holds an Australian Business Number for the business; and
 - (ii) has continuously held the same Australian Business Number for the business since 1 July 2022; and
 - (c) the business is, and has since 1 July 2022 been, registered for GST; and
 - (d) none of the following entities is an insolvent under administration or is under administration or in receivership or liquidation—
 - (i) the business;
 - (ii) if the owner of the business is a sole trader—the owner;
 - (iii) if an owner of the business is a partnership or trust—the partners in the partnership or trustees of the trust;
 - (iv) if an owner of the business is a private company or a public company—the

company or the directors of the company; and

- (e) the business employs, and has since 1 July 2022 employed, at least 1 full-time employee or equivalent full-time employee.
- (2) For subsection (1)(e), the number of equivalent full-time employees of a business is worked out using the formula—

$$E = F + \frac{P}{35}$$

where—

E means the number of equivalent full-time employees of the business.

F means the number of full-time employees of the business.

P means the total number of hours worked each week by employees other than full-time employees.

- (3) However, a business is not an eligible business if the business is carried on by a government entity.
- (4) In this section—

employee, of a business—

- (a) means an individual who is employed, or usually employed, in the business; and
- (b) includes an owner of the business; and
- (c) does not include a person who performs work under a contract for services with the business, including, for example, a subcontractor.

full-time employee, of a business, means an employee who ordinarily works at least 35 hours each week in the business.

insolvent under administration see the

Corporations Act, section 9.

6 Meaning of *eligible infrastructure expense*

- (1) An *eligible infrastructure expense* is a cost incurred, or to be incurred, during the relevant period in relation to carrying out work for an eligible project, including, for example, the cost of—
- (a) obtaining a permit or other approval (however described) required for carrying out the work; and
 - (b) purchasing infrastructure; and
 - (c) repairing, improving or replacing existing infrastructure; and
 - (d) installing and commissioning infrastructure.

Examples—

- costs incurred in expanding an existing jetty or pontoon
 - costs incurred in installing infrastructure for utilities, including electricity and water, to support the use of a berth
- (2) However, an *eligible infrastructure expense* does not include—
- (a) a cost paid before 1 July 2022; or
 - (b) a cost incurred after the infrastructure is installed and ready for use, including, for example, any cost for ongoing maintenance, administration, operation or subsequent improvement of the infrastructure.

7 Meaning of *eligible project*

An *eligible project* is a project the authority is satisfied will upgrade or install infrastructure at a relevant commercial marina to provide berths suitable for use by eligible vessels.

8 Meaning of *eligible vessel*

An *eligible vessel* is a vessel that—

- (a) is capable of carrying people or goods through water; and

Examples—

bare boats, jet skis, motor vessels, sail boats

- (b) is ordinarily used to provide tourism services in the eligible area; and
- (c) ordinarily requires a berth located in the eligible area to provide the tourism services; and
- (d) if the operation of the vessel is required under the domestic commercial vessel national law to be authorised by a certificate of operation—is identified in a certificate of operation in force for the vessel.

Note—

See the domestic commercial vessel national law, sections 53 and 54.

Part 2 General provisions for scheme

9 Nature and amount of assistance—berthing expenses grant

- (1) This section applies in relation to an applicant who is eligible to receive assistance under section 11 in relation to an eligible business.
- (2) The nature of assistance available under the scheme is a grant of financial assistance to offset the eligible berthing expenses incurred in relation to an eligible vessel (a *berthing expenses grant*).
- (3) For each eligible vessel of a length of not more than 25m, the maximum amount of assistance

under the scheme for a financial year is the lesser of the following amounts—

- (a) \$37,500;
 - (b) 50% of the eligible berthing expenses (excluding GST) incurred in relation to the eligible vessel.
- (4) For each eligible vessel of a length of more than 25m, the maximum amount of assistance under the scheme for a financial year is the lesser of the following amounts—
- (a) \$70,000;
 - (b) 50% of the eligible berthing expenses (excluding GST) incurred in relation to the eligible vessel.

10 Nature and amount of assistance—minor infrastructure grant

- (1) This section applies in relation to an applicant who is eligible to receive assistance under section 12 in relation to an eligible business.
- (2) The nature of assistance available under the scheme is a grant of financial assistance for eligible infrastructure expenses for an eligible project (a *minor infrastructure grant*).
- (3) The maximum amount of assistance for a minor infrastructure grant is the total of—
 - (a) the lesser of the following amounts—
 - (i) \$50,000;
 - (ii) 50% of the total amount of the eligible infrastructure expenses (excluding GST) for the eligible project; and
 - (b) the amount of any GST payable by the authority in respect of the assistance mentioned in paragraph (a).

11 Eligibility criteria—berthing expenses grant

- (1) An applicant for a berthing expenses grant is eligible to receive financial assistance under the scheme if—
 - (a) the applicant is the owner of an eligible business; and
 - (b) the authority is satisfied of the matters mentioned in subsection (2).
- (2) For subsection (1)(b), the matters are—
 - (a) immediately before 1 July 2022, the eligible business was renting a berth located within the eligible area for use by an eligible vessel (the *usual berth*); and
 - (b) on or after 1 July 2022, the eligible vessel became unable to use, and can no longer use, the usual berth because—
 - (i) the owner or operator of the usual berth has given the eligible business notice that the usual berth is no longer available to rent for use by the vessel; or
 - (ii) the eligible business is experiencing, or has experienced, financial hardship because of action taken by the owner or operator of the usual berth in relation to the cost of renting the berth for use by the vessel; and
 - (c) for the eligible business to provide tourism services in the eligible area, it has been necessary for the eligible business to rent another berth (an *alternative berth*) at a relevant commercial marina for use by the eligible vessel; and
 - (d) the applicant has received and paid a tax invoice for eligible berthing expenses for

use of the alternative berth by the eligible vessel.

12 Eligibility criteria—minor infrastructure grant

- (1) An applicant for a minor infrastructure grant is eligible to receive financial assistance under the scheme if—
 - (a) the applicant is the owner of an eligible business; and
 - (b) the applicant is applying for financial assistance for an eligible project to provide a berth for use by an eligible vessel; and
 - (c) the applicant demonstrates to the satisfaction of the authority that—
 - (i) the matters mentioned in section 11(2)(a) and (b) apply in relation to the eligible vessel; and
 - (ii) the applicant has the ability to pay the remaining cost of the eligible project; and
 - (iii) if the total cost of the eligible infrastructure expenses for the eligible project is more than \$10,000 (excluding GST)—
 - (A) the applicant has obtained at least 2 quotes for the eligible project; or
 - (B) despite making reasonable attempts, the applicant has not been able to obtain at least 2 quotes for the eligible project, but the project represents value for money.
- (2) In this section—

remaining cost, of an eligible project, means the difference between—

- (a) the total amount of the eligible infrastructure expenses (including GST) for the eligible project; and
- (b) the maximum amount of assistance under section 10(3) for a minor infrastructure grant for the eligible project.

13 Operation of scheme

- (1) The scheme opens on the day stated on the authority's website as the day on or after which an application for assistance under the scheme may be made.
- (2) For assistance under the scheme for a berthing expenses grant, the scheme closes on the earlier of the following days—
 - (a) the day on which the authority's assistance funds for the scheme become insufficient to pay further assistance under the scheme;
 - (b) 30 June 2024.
- (3) For assistance under the scheme for a minor infrastructure grant, the scheme closes on the earlier of the following days—
 - (a) the day on which the authority's assistance funds for the scheme become insufficient to pay further assistance under the scheme;
 - (b) the closing day.
- (4) For subsection (3)(b), the *closing day* is—
 - (a) if no day is stated under paragraph (b)—30 June 2023; or
 - (b) the day, not later than 30 June 2024, stated on the authority's website as the last day on which an application for assistance for a minor infrastructure grant may be made.

14 Applications generally

- (1) An applicant may apply for either or both of the following types of financial assistance—
 - (a) a berthing expenses grant;
 - (b) a minor infrastructure grant.
- (2) An applicant may make more than 1 application for a berthing expenses grant in relation to 1 or more eligible vessels.
- (3) However, an applicant may make only 1 application for a minor infrastructure grant.

15 Requirements for applications—berthing expenses grant

- (1) An application for a berthing expenses grant must—
 - (a) be made on the application form approved by the authority; and
 - (b) be accompanied by the following documents—
 - (i) tax invoices, or copies of tax invoices, for eligible berthing expenses for the eligible vessel in relation to which the applicant is claiming assistance under the scheme;
 - (ii) documentary evidence, to the satisfaction of the authority, that the eligible vessel to which the eligible berthing expenses relate is ordinarily used for tourism services;

Example of documentary evidence for subparagraph (ii)—

a permit or other authority issued under an Act that applies in relation to the eligible vessel

- (iii) if the operation of the eligible vessel is required under the domestic commercial vessel national law to be authorised by a certificate of operation—a copy of a certificate of operation in force for the vessel;
 - (iv) any other documents stated in the application form; and
- (c) be given to the authority while the scheme is open under section 13.
- (2) The applicant must give the authority any further documents or information the authority reasonably requires to decide the application.

16 Requirements for applications—minor infrastructure grant

- (1) An application for a minor infrastructure grant must—
 - (a) be made on the application form approved by the authority; and
 - (b) be accompanied by the documents stated in the application form; and
 - (c) be given to the authority while the scheme is open under section 13.
- (2) The applicant must give the authority any further documents or information the authority reasonably requires to decide the application.

17 Deciding applications

- (1) The authority must consider, and decide to approve or refuse to approve, each application under the scheme that complies with—
 - (a) for an application for a berthing expenses grant—section 15; or

- (b) for an application for a minor infrastructure grant—section 16.
- (2) The authority must consider applications in the order they are received by the authority.
- (3) In considering an application, the authority must consider whether the assistance claimed by the applicant represents reasonable value for money.
- (4) The authority must refuse to approve an application for assistance if the authority's assistance funds for the scheme are not sufficient to pay for the assistance.
- (5) If the authority refuses to approve an application, the authority must give the applicant written notice of the decision.

Part 3 Additional provisions for minor infrastructure grants

18 Conditions of assistance

The payment to an applicant for a minor infrastructure grant of an amount of financial assistance under the scheme is subject to the following conditions—

- (a) before the payment is made, the applicant must enter into a written agreement with the authority that sets out the terms on which the assistance is provided;
- (b) the applicant must comply with the terms of the agreement.

19 Payment of assistance

For a minor infrastructure grant, the authority must pay the amount of the assistance approved in

[s 6]

2 instalments, of amounts and at intervals set out in the agreement entered into under section 18.

ENDNOTES

- 1 Made by the Governor in Council on 6 October 2022.
- 2 Notified on the Queensland legislation website on 7 October 2022.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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