

Planning Amendment Regulation (No. 1) 2021

Explanatory notes for SL 2021 No. 138

made under the

Planning Act 2016

General Outline

Short title

Planning Amendment Regulation (No. 1) 2021

Authorising law

Section 284 of the *Planning Act 2016* (Planning Act)

Policy objectives and the reasons for them

The objectives of the *Planning Amendment Regulation (No. 1) 2021* (the Amendment Regulation) are to:

- extend the expiry date of economic support instrument (ESI) provisions under the Amendment Regulation by 12 months until 17 September 2022 to continue to assist Queensland's economic recovery from COVID-19; and
- make minor amendments to increase the efficiency of the *Planning Regulation 2017* (Planning Regulation). These minor amendments will clarify provisions relating to the content of planning and development certificates and referral agency requirements for end of trip facilities.

The policy objectives of the economic support provisions in the Amendment Regulation aim to reduce barriers to new businesses opening, or existing businesses relocating and/or adapting to operational challenges by extending the current temporary provisions' expiry date by one year until 17 September 2022. An extension of time by 12 months will continue to provide for any additional local government to 'opt-in' and adopt an ESI.

The policy objectives of the minor amendments to the Planning Regulation in the Amendment Regulation are to increase the clarity and efficiency of the Planning Regulation.

Achievement of policy objectives

Economic support initiatives

The Amendment Regulation updates the expiry date of the ESI provisions within the Planning Regulation to 17 September 2022. It is an extension of time to an existing policy to assist Queensland's economic recovery from COVID-19 by temporarily reducing assessment requirements in the local government's area to reduce red tape and simplify planning approvals.

A local government may, by resolution opt in to one or more of the economic support provisions under the Planning Regulation at any time during this period. A local government may, by resolution, also opt out of one or all provisions it had previously 'opted in' to, at any time.

Transitional provisions associated with the extension of the ESI arrangements extend the effect of the periods mentioned within existing local government economic support instruments and adoption notices. The periods within the adoption notices are extended until 17 September 2022, unless earlier revoked.

The economic support provisions:

- make certain material change of uses accepted development within an existing building, if the business is anticipated in that zone and only minor building work will occur, removing the need for a planning approval for a change in tenancy, provided that the requirements of identified applicable assessment benchmarks are met;
- reduce the level of assessment from impact assessment to code assessment for certain businesses seeking to establish where the use is expected in the relevant zone, provided that the requirements of identified applicable assessment benchmarks are met;
- make certain building work accepted development to allow businesses to make minor expansions, up to 10 percent or 100m², whichever is lesser, provided that setback requirements are maintained, the building work is not undertaken on or adjacent/adjoining a state or local heritage building, and there is no operational work for vegetation clearing or reduction in parking or landscaping; and
- allow home-based business in township zone and residential zones as accepted development to support local economies, provided that no industry activity takes place and the acoustic quality objectives under the *Environmental Protection (Noise) Policy 2019* are met.

Minor amendments

The Amendment Regulation makes minor amendments to the Planning Regulation to clarify provisions relating to the content of planning and development certificates and referral agency requirements for end of trip facilities.

The minor amendments:

- clarify that the content of standard and full planning and development certificates is to include a description of each/any new planning scheme that a local government has proposed to make but is not yet made; and
- clarifies the referral agency trigger for a development application for building work for an end of trip facility under Schedule 9, Part 3, Division 2, Table 10. A development application is intended to require referral where the development does not comply with an “acceptable outcome” (not the performance criteria as currently indicated).

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Planning Act to establish an efficient, effective, transparent, and accountable system of land use planning and development assessment. The Amendment Regulation is an extension of time to an existing policy to assist Queensland’s economic recovery from COVID-19 by temporarily reducing assessment requirements in the local government’s area to reduce red tape and simplify planning approvals.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

Amending the expiry date of the ESI within the Planning Regulation and making of the minor amendments is the only way to give effect to the changes.

Benefits and costs of implementation

The extension of the expiry date of the existing temporary economic support provisions of the Amendment Regulation will continue to benefit certain low risk businesses, local governments and the state by:

- facilitating the removal of unnecessary barriers to certain land uses establishing in areas (zones) where they are expected by the community and compatible with the area (zone). This removes the need for local governments across Queensland to amend their planning schemes or prepare Temporary Local Planning Instruments (TLPIs) to achieve the same effect;
- removing the need for state government to process multiple, individual planning scheme amendments or TLPIs to ensure the same intent and application throughout Queensland;
- when the subject land use is expected by the community and compatible with the area (zone), removing the need for certain low risk businesses to obtain planning approval before establishing in an existing building; and
- where certain low risk businesses which are consistent with the area (zone) and are able to be assessed against assessment benchmarks, removing the requirement for public consultation.

An extension of time by 12 months will continue to provide for any local government to ‘opt-in’ and adopt an ESI during that period. This can be undertaken without amending the planning scheme and can therefore be implemented quickly.

By removing the need for planning approval only in certain low risk circumstances, the associated development application fees and administrative burden on community members establishing a new business or moving premises is also removed.

The process for local government to adopt and apply economic support provisions is simple. There are no fees for local government associated with adopting and applying economic support provisions.

The Amendment Regulation updates for the minor amendments ensure the planning system continues to operate efficiently and effectively and maintain the integrity of the planning and development assessment framework established under the Planning Act.

Consistency with fundamental legislative principles

The Amendment Regulation has been drafted with regard to the fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992*.

No potential inconsistencies with FLPs have been identified.

Consultation

Targeted consultation occurred with local governments that had opted-in to the ESI provisions seeking their views on the expiry timeframe in the Planning Regulation. The Local Government Association Queensland (LGAQ) was also consulted about the expiry of these provisions.

Due to the very low-risk nature of the minor amendments, consultation with other stakeholders was not carried out.

DSDILGP followed the Office of Productivity and Red Tape Reduction guidelines, *Queensland Government Guide to Better Regulation* and determined that further regulatory impact analysis in relation to the Amendment Regulation is not required as:

- the proposal to extend the expiry date of the economic support instrument provisions is excluded under category (g) – Regulatory proposals that are of a machinery nature. The criteria relevant to this category included “updated thresholds and dates”; and
- the proposal to make minor technical amendments to clarify provisions relating to the content of planning and development certificates and referral agency requirements for end of trip facilities is excluded under category (f) – “Regulatory proposals that correct technical errors or amend legislation to take account of current Queensland drafting practice”. The criteria relevant to this category includes “amending the technical error will not result in a change from the original intent, interpretation or effect of the legislation.”