Planning (Economic Support Instruments) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 121

made under the

Planning Act 2016

General Outline

Short title

Planning (Economic Support Instruments) Amendment Regulation 2022

Authorising law

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

Policy objectives and the reasons for them

The objective of the *Planning (Economic Support Instruments) Amendment Regulation 2022* (the Amendment Regulation) is to extend the expiry date of economic support instruments (ESI) until 31 December 2023.

The existing economic support provisions in the *Planning Regulation 2017* (Planning Regulation) aim to reduce barriers to new businesses opening, or existing businesses relocating and/or adapting to operational challenges.

A local government may, by resolution, adopt an ESI that:

- removes the need for planning approval for a change in tenancy within an existing building, if the business is expected in that zone and only minor building work will occur
- sets a maximum level of assessment for certain businesses seeking to establish where the use is expected in that zone
- allows businesses to make minor expansions without planning approval
- allows home based business in the township zone and residential zones that can support local economies as accepted development.

The Amendment Regulation seeks to extend the expiry date of ESI from 17 September 2022 to 31 December 2023. It was originally intended that the ESI provisions were of a temporary nature in response to the COVID-19 pandemic.

The proposed new expiry date is sufficient for local governments to consider and potentially progress amendments to its planning scheme to incorporate ESIs, and to ascertain any ongoing need for the Planning Regulation provisions.

Achievement of policy objectives

The Amendment Regulation extends the expiry date of the ESIs within the Planning Regulation from 17 September 2022 to 31 December 2023.

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 ESIs and adoption notices. The periods within the adoption notices are extended until 31 December 2023, unless earlier revoked.

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 streamlines development assessment to easily enable low risk, economic value-adding uses to operate in particular zones.

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 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 ESIs within 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.

The proposed new expiry date is sufficient for local governments to consider and potentially progress amendments to its planning scheme to incorporate ESIs, and to ascertain any ongoing need for the Planning Regulation provisions.

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 the economic support provisions.

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 the provisions.

In accordance with *The Queensland Government Guide to Better Regulation*, the Department of State Development, Infrastructure, Local Government and Planning determined that the *Planning (Economic Support Instruments) Amendment Regulation 2022* was excluded under category (g) – Regulatory proposals that are of a machinery nature. Accordingly, the Office of Best Practice Regulation was not consulted as the amendments fall within agency-assessed exclusion category (g).