Planning (Battery Storage Facilities) and Other Legislation Amendment Regulation 2025

Explanatory notes for SL 2025 No. 163

made under the

Economic Development Act 2012
Planning Act 2016

General Outline

Short title

Planning (Battery Storage Facilities) and Other Legislation Amendment Regulation 2025

Authorising law

- Sections 43, 44, 45, 48, 106T and 284 of the *Planning Act 2016* (Planning Act)
- Section 33 and 176 of the *Economic Development Act 2012* (ED Act)

Policy objectives and the reasons for them

The *Planning (Battery Storage Facilities) and Other Legislation Amendment Regulation 2025* (Amendment Regulation) seeks to apply the community benefit system to battery storage facility (BSF) development to provide the ability to identify, avoid, manage, mitigate and counterbalance the indirect and cumulative social impacts from these developments. The community benefit system requires a proponent to undertake social impact assessment (SIA) and enter into a community benefit agreement (CBA) prior to lodging a development application under the Planning Act.

The Amendment Regulation also seeks to provide consistent assessment requirements and outcomes for BSF development to ensure the social and development impacts are being adequately identified, considered and managed, as well as to give stakeholders the ability to have their say in development assessment processes.

This will align assessment processes for BSF development with wind farms and large scale solar farms, other and non-renewable energy and resource projects in Queensland, to achieve consistent social impact assessment criteria, and by extension, community benefit delivery.

Commencing on 18 July 2025, the *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025* (PSICBOLA Act) introduced a community benefit system into the Planning Act. Concurrent changes were also made to the Planning Regulation 2017 (Planning Regulation) to apply the community benefit system to wind farms and large-scale solar farms, to make solar farms impact assessable and to make large-scale solar farms assessable by the chief executive (i.e. the State Assessment and Referral Agency or SARA). These changes were in response to the Queensland Government commitment to *"amend laws to ensure renewable energy projects are impact assessable with approval processes consistent with other land uses like mining and agriculture"*.

Stakeholder consultation undertaken prior to the commencement of the PSICBOLA Act highlighted some stakeholder support for extending these regulatory requirements to BSF development. Stakeholders expressed concerns about impacts of BSF on the community, inconsistent consultation, development assessment processes, and development conditions imposed on approvals for BSF development. This resulted in the Department of State Development, Infrastructure and Planning (the Department) reviewing existing regulatory processes and subsequently proposing amendments to the Planning Regulation with respect to BSF development.

The Amendment Regulation proposes the following:

- prescribe the community benefit system (i.e. require SIA and CBA) for a material change of use of premises for a BSF development that has a maximum instantaneous electricity output of 50MW or more,
- make the chief executive (i.e. SARA) the assessment manager for all BSF development other than small-scale BSF development identified as accepted development,
- make BSF development impact assessable development, other than small-scale BSF development identified as accepted development,
- introduce a new fee for BSF development where assessed by the SARA,
- give effect to updated State Development Assessment Provisions (SDAP) which will contain a new State Code 27: Battery storage facility development (state code 27), which will contain assessment benchmarks for assessing BSF development,
- provide that pre-existing development applications for BSF development that have a maximum instantaneous electricity output of 50MW or more will be taken to not be properly made on commencement of the Amendment Regulation,
- give effect to consequential amendments to the Economic Development Regulation 2023 (ED Regulation) to reflect the intent that BSF development in a Priority Development Area (PDA) be subject to the community benefit system under the Planning Act, be impact assessable by SARA, and that the development instrument for the relevant PDA apply in development assessment in addition to the assessment benchmarks in the SDAP.

Achievement of policy objectives

Prescribing when the community benefit system applies

The Planning Act (section 106T) provides that the Planning Regulation may make a regulation prescribing development that is a material change of use of premises to be development for which SIA is required. Section 51F of the Planning Regulation specifies development types requiring social impact assessment. The Amendment Regulation specifies that BSF development that has a maximum instantaneous electricity output of 50MW or more will be subject to the community benefit system (i.e. SIA and CBA requirements).

Prescribing the assessment manager, category of development and assessment benchmarks

Sections 43-45 and 48 of the Planning Act establish the power of the Planning Regulation to:

1. categorise development as either prohibited, assessable or accepted development,
2. specify categories of assessment, being code or impact assessable development,
3. specify assessment benchmarks against which assessable development will be assessed, and
4. prescribe a person to be an assessment manager for a development application.

Assessment manager (section 48)
The Amendment Regulation amends Section 21 of the Planning Regulation to make the chief executive of the Planning Act (i.e. SARA) the assessment manager for an assessable BSF development as defined in Schedule 24 of the Planning Regulation. It also provides that the Planning Minister may decide the assessment manger in instances where a BSF development application contains other assessable development.

Category of Development (section 44) and category of assessment (section 45)
The Amendment Regulation inserts a new section 16 into Schedule 7 to specify small scale BSF that is accepted development, being:

- the facility is for a pad mounted battery storage device only and the total area of the premises covered by the facility is no more than 15m^2; or
- the facility is for a pole mounted battery storage device only and the total volume of the device is no more than 2m^3.

The accepted development for small scale BSF will be consistent with the existing criteria in Schedule 6 identifying development a local categorising instrument is prohibited from stating is assessable development.

The Amendment Regulation also inserts new Part 2 into Schedule 10 of the Planning Regulation and establishes that:

- BSF development is impact assessable development except for small scale BSF that is accepted development under schedule 7.
- Assessable BSF development is assessable against the updated SDAP, including new State Code 27: Battery storage facility development.
- All BSF development in a PDA must also be assessed against the relevant development instrument for the PDA under the ED Act in addition to the SDAP.

Introduce new fees for BSF assessed by the State Assessment and Referral Agency

Section 51 of the Planning Act provides for a development application to be accompanied by the required fee. The Amendment Regulation amends the Planning Regulation to introduce new fees for BSF assessed by SARA, where the chief executive is the assessment manager or a referral agency through the new Part 2 in Schedule 10 of the Planning Regulation. A fee for BSF development of 13,715 fee units is provided.

Update to the date of the SDAP

The SDAP contains assessment benchmarks for the assessment of development applications by the chief executive (i.e. SARA).

The Amendment Regulation will give effect to updates made to the SDAP that will introduce a new State Code 27: Battery storage facility development, used where SARA is the assessment manager or referral agency.

The updated version of SDAP as made by the Planning Minister is reflected in the definition of SDAP in Schedule 24 of the Planning Regulation, where the date of the SDAP is updated and reflective of the version to published on the website.

Changes to the Economic Development Regulation 2023

Section 33 of the ED Act provides that the ED Regulation can identify development that is PDA accepted development.

The Amendment Regulation amends section 2C of the ED Regulation to specify that BSF development is accepted development in PDAs for the purpose of the ED Act. Assessment of BSF development will still be required under Schedule 10 of the Planning Act.

The changes remove the potential for duplicative development assessment to be required for BSF development under the ED Act and Planning Act, simplifying and increasing certainty in the planning framework. It also provides the ability to apply the community benefit system to BSF development located in PDAs.

Requirements for pre-existing applications

Section 106U of the Planning Act provides that the Planning Regulation may make a regulation about pre-existing applications for development for which SIA is required under section 106T of the Planning Act.

The Amendment Regulation inserts new part 5B, division 2A into the Planning Regulation including new section 51IA that includes requirements for pre-existing development or change applications for BSF development that has been lodged, but not yet decided on commencement of the Amendment Regulation.

The provisions specify pre-existing applications for a material change of use of premises for a BSF development that has a maximum instantaneous electricity output of 50MW or more that have not been decided will be taken to be not properly made and therefore not accepted.

As a result, these applications will be subject to the community benefit system (i.e. SIA and CBA requirements) and will be required to be remade to the chief executive (SARA) once the community benefit system requirements are complied with.

Applications below the threshold for the community benefit system will continue unaltered (i.e. will continue to be assessed by local government as assessment manager subject to the category of assessment and assessment benchmarks identified in local government planning schemes).

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 supports Planning Act objectives to deliver consistency in development assessment across Queensland and provide for greater transparency and accountability for BSF development.

The Amendment Regulation is consistent with the objectives of the ED Act including to facilitate economic development and development for community purposes in the State.

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

The changes to the Planning Regulation are the most appropriate way of achieving the policy objectives for BSF development. This is because:

- the Planning Act provides that the Planning Regulation specifies matters such as the development types that the community benefit system applies to, category of development, category of assessment, the assessment manager, the matters development is assessed against and SARA fees
- the Planning Regulation must prescribe and give effect to statutory instruments, including the SDAP
- the ED Regulation is the only way to specify categories of development under the ED Act apart form individual PDA development instruments.

Benefits and costs of implementation

The Amendment Regulation applies the community benefit system to BSF development, ensuring social impact assessment is undertaken and a community benefit agreement entered into prior to a development application being made. This ensures social impacts are managed and benefits are delivered to affected communities.

The Amendment Regulation will provide more consistent development assessment requirements and allow for public notification and third party appeal rights providing the community and opportunity to have their say in development assessment decision making.

A new fee for BSF development assessed by the chief executive (i.e. SARA) will be provided as permitted under the Planning Act to enable partial cost recovery associated with the increased resource burden on the state associated with being the assessment manager for BSF development.

Given the concerns expressed by host communities about the lack of consultation and consideration of social impacts, taking no action to mitigate identified risks or consider social impacts in assessment of BSF is likely to lead to significant opportunity costs, unmitigated adverse impacts, and a failure to develop an environment where BSF can establish effectively and efficiently, to meet the demands of Queensland's energy roadmap. Queensland's energy roadmap identified that by 2030, Queensland's energy system is expected to host at least 2.4GW of battery storage more than in 2025 and by 2035, an additional 1.6-3.4GW of medium-duration storage compared to 2025.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles, including that sufficient regard to rights and liberties of individuals; and the institution of Parliament.

For proponents of pre-existing development applications made but not decided on commencement, the Amendment Regulation provides certainty regarding the threshold at which the development application is not taken to be properly made and the community benefit system will apply.

This is consistent with the policy intent that social impact assessment is undertaken and community benefit agreements reached prior to development assessment to ensure benefits to local communities.

However, the Planning Act recognises there may be circumstances in which a social impact assessment or community benefit agreement may not be warranted. Existing provisions in Part 5B Division 4 of the Planning Regulation provide a head of power for the chief executive to not require a SIA and/or a CBA and these provisions will not be altered by this Amendment Regulation.

The Amendment Regulation has sufficient regard to the rights and liberties of individuals.

The Amendment Regulation also has sufficient regard to the institution of Parliament – subordinate legislation as all matters prescribed are within the head of power provided under ED Act and Planning Act.

Consultation

The Department has undertaken targeted consultation with relevant local governments, state agencies, peak bodies and industry stakeholders in the development of the Amendment Regulation.

In response to feedback, amendments were made to the Amendment Regulation, as appropriate to achieving the policy intent for BSF development.

A Summary Impact Analysis Statement has been prepared under the Queensland Government Better Regulation Policy and approved by the Deputy Premier, Minister for State Development, Infrastructure, and Planning and Minister for Industrial Relations. A copy will be provided on the Department's website.