

Housing Availability and Affordability (Planning and Other Legislation Amendment) Bill 2023

Amendments during consideration in detail to be moved by
The Honourable the Minister for Housing, Local Government and Planning
and Minister for Public Works

1 **Clause 2 (Commencement)**

Page 10, line 13—

omit, insert—

(d) schedule 1, part 2.

2 **Clause 43 (Insertion of new ch 7, pt 2, div 2)**

Page 47, after line 17—

insert—

(iii) for land that is to vest in a public sector entity other than a department or part of a department—the entity has been consulted about the taking and vesting of the land; and

3 **Clause 60 (Insertion of new ch 8, pt 9, div 2)**

Page 71, lines 4 and 5, from ‘New’ to ‘area’—

omit, insert—

Development in development control plan areas

4 **Clause 60 (Insertion of new ch 8, pt 9, div 2)**

Page 71, lines 6 to 9—

omit.

5 **Clause 60 (Insertion of new ch 8, pt 9, div 2)**

Page 71, lines 11 and 12, ‘the application’—

omit, insert—

an application, made after the commencement, for a development approval for development on premises to which a development control plan applies

6 Clause 60 (Insertion of new ch 8, pt 9, div 2)

Page 71, lines 21 to 27—

omit.

7 Clause 60 (Insertion of new ch 8, pt 9, div 2)

Page 72, lines 8 and 9, ‘for a development application’—

omit, insert—

to the carrying out, after the commencement, of development on premises to which the plan applies

8 Part 5, division 3, subdivision 4, heading (Amendments relating to State facilitated applications and compensation)

Page 72, lines 26 to 28, ‘State facilitated applications and compensation’—

omit, insert—

applications for State facilitated development

9 Clause 61 (Amendment of s 17 (Minister’s guidelines and rules))

Page 72, line 29 to page 73, line 5—

omit.

10 Clause 62 (Amendment of s 25 (Reviewing planning schemes))

Page 73, line 6 to page 74, line 1—

omit.

11 Clause 63 (Amendment of s 30 (When this division applies))

Page 74, lines 2 to 20—

omit.

12 Clause 66 (Amendment of s 81 (Assessing change applications for minor changes))

Page 76, line 6, ‘a State facilitated application’—

omit, insert—

an application for State facilitated development

13 Clause 67 (Amendment of s 82 (Assessing and deciding change applications for other changes))

Page 76, lines 26 and 27, ‘a State facilitated application’—

omit, insert—

an application for State facilitated development

14 After clause 69

Page 77, after line 28—

insert—

69A Amendment of s 86 (Extension applications)

Section 86(1), note—

omit, insert—

Notes—

- 1 For the making of an extension application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, section 51AL.
- 2 For the making of an extension application for a development approval given or changed

by the chief executive under part 6A, see section 87A.

15 Clause 70 (Amendment of s 87 (Assessing and deciding extension applications))

Page 78, lines 10 to 13—

omit, insert—

Minister.

16 After clause 70

Page 78, after line 13—

insert—

70A Insertion of new s 87A

After section 87—

insert—

87A Extension applications for development approvals given or changed under pt 6A

- (1) This section applies in relation to a development approval given or changed by the chief executive under part 6A.
- (2) Sections 86 and 87, other than section 87(4) and (5), apply in relation to the development approval as if a reference in the sections to the assessment manager were a reference to the chief executive.
- (3) Despite section 87(5), the chief executive must give a decision notice for a decision about the extension application to—
 - (a) the applicant; and
 - (b) the assessment manager; and
 - (c) if the assessment manager is not the local government—the local government; and

- (d) each referral agency other than the chief executive.

17 Clause 74 (Insertion of new ch 3, pt 6A)

Page 79, lines 10 and 11, ‘State facilitated applications’—
omit, insert—

applications for State facilitated development

18 Clause 74 (Insertion of new ch 3, pt 6A)

Page 80, after line 2—
insert—

Example—

A development application that is for a material change of use of premises, as well as operational works, is a relevant application if the decision-maker for the application is a person other than the Minister or the chief executive.

19 Clause 74 (Insertion of new ch 3, pt 6A)

Page 80, lines 4 and 5, from ‘that is’ to ‘change application’—
omit.

20 Clause 74 (Insertion of new ch 3, pt 6A)

Page 80, after line 7—
insert—

- (4) However, this part does not apply in relation to a relevant application that—
- (a) has been decided by the P&E Court; or
 - (b) is not substantially different from an application that has been decided by the P&E Court.

21 Clause 74 (Insertion of new ch 3, pt 6A)

Page 81, line 4, ‘a State facilitated application’—

omit, insert—

an application for State facilitated development

22 Clause 74 (Insertion of new ch 3, pt 6A)

Page 82, line 11, ‘State facilitated applications’—

omit, insert—

applications for State facilitated development

23 Clause 74 (Insertion of new ch 3, pt 6A)

Page 82, lines 14 and 15, ‘a State facilitated application’—

omit, insert—

an application for State facilitated development

24 Clause 74 (Insertion of new ch 3, pt 6A)

Page 84, line 27 to page 85, line 2—

omit, insert—

- (2) If the declaration notice is given before the decision-maker decides the application, the declaration notice may direct the decision-maker to assess all or a stated part of the application.

25 Clause 74 (Insertion of new ch 3, pt 6A)

Page 85, line 28, ‘a State facilitated application’—

omit, insert—

an application for State facilitated development

26 Clause 74 (Insertion of new ch 3, pt 6A)

Page 86, lines 19 and 20, ‘State facilitated applications’—

omit, insert—

applications for State facilitated development

27 Clause 74 (Insertion of new ch 3, pt 6A)

Page 86, lines 24 and 25, ‘a State facilitated application’—

omit, insert—

an application for State facilitated development

28 Clause 74 (Insertion of new ch 3, pt 6A)

Page 86, after line 32—

insert—

106IA Notice about publicly notifying application

- (1) This section applies if the application is made to the chief executive under section 106I(b).
- (2) Section 53 does not apply in relation to the application.
- (3) The chief executive may give the applicant a notice stating requirements for notifying and consulting with the public about the application (a *notification notice*).
- (4) The applicant must comply with the notification notice.
- (5) However, the chief executive may assess and decide the application even if the notification notice has not been complied with.
- (6) To remove any doubt, it is declared that a notification notice may be given under this section whether or not—
 - (a) any part of the application requires impact assessment; or
 - (b) the application includes a variation request; or

- (c) the application is a change application for a minor change to the development approval.

29 Clause 74 (Insertion of new ch 3, pt 6A)

Page 87, line 21—

omit, insert—

- (v) section 64; and
- (vi) section 275ZI;

30 Clause 74 (Insertion of new ch 3, pt 6A)

Page 89, after line 13—

insert—

- (5) If the decision is to approve the application or a part of the application, the decision notice may state a currency period for all or part of the development approval.

31 Clause 74 (Insertion of new ch 3, pt 6A)

Page 90, line 17 to page 91, line 8—

omit.

32 Clause 74 (Insertion of new ch 3, pt 6A)

Page 92, lines 1 and 2, ‘a State facilitated application’—

omit, insert—

an application for State facilitated development

33 After clause 75

Page 93, after line 1—

insert—

75A Amendment of sch 1 (Appeals)

Schedule 1, table 1, item 3, after ‘Minister’—

insert—

or made to the chief executive under section 87A

34 Clause 76 (Amendment of sch 2 (Dictionary))

Page 94, lines 22 to 25—

omit.

35 Clause 94 (Insertion of new s 26A)

Page 109, line 19, after ‘prohibited’—

insert—

development

36 Clause 94 (Insertion of new s 26A)

Page 109, lines 21 and 22—

omit, insert—

(iii) section 43(5); or

37 Clause 96 (Amendment of s 43 (Categorising instruments))

Page 111, lines 7 to 23—

omit, insert—

(1) Section 43(5)—

insert—

(d) may not include an assessment benchmark about the effect or impact of development on the stated cultural

heritage significance of a Queensland heritage place.

(2) Section 43—

insert—

(5A) To remove any doubt, it is declared that subsection (5)(d) applies even if the Queensland heritage place is also a local heritage place.

38 After clause 96

Page 111, after line 23—

insert—

96A Amendment of s 45 (Categories of assessment)

Section 45(5), note—

omit, insert—

Notes—

- 1 See section 275ZI in relation to restrictions on impact assessment for particular applications.
- 2 See section 275ZJ for the matters the chief executive must have regard to when deciding an application involving a State heritage place.

39 After clause 96

Page 111, after line 23—

insert—

96B Amendment of s 55 (Referral agency's assessment)

Section 55(2), note, '277'—

omit, insert—

275ZJ

40 After clause 96

Page 111, after line 23—

insert—

96C Insertion of new s 65A

After section 65—

insert—

65A Regulation about particular conditions

- (1) A regulation may provide that a development condition imposed on the following development approvals may relate to the provision of an affordable housing component on the premises the subject of the approval—
 - (a) a development approval given or changed by the chief executive under part 6A;
 - (b) a development approval given for an application that—
 - (i) specifically proposes the provision of an affordable housing component; and
 - (ii) complies with the criteria prescribed by regulation.
- (2) Section 65(1) does not apply in relation to a development condition imposed under subsection (1).
- (3) In this section—

affordable housing component means a component of development that—

 - (a) involves housing that is affordable for particular types of households; and
 - (b) complies with the criteria prescribed by regulation.

41 After clause 96

Page 111, after line 23—

insert—

96D Amendment of s 66 (Prohibited development conditions)

Section 66(3), note—

omit, insert—

Note—

For other restrictions on development conditions, see section 275ZI and the *Environmental Offsets Act 2014*, section 14.

42 After clause 96

Page 111, after line 23—

insert—

96E Amendment of s 105 (Deciding called in application)

Section 105(4)(a), ‘section 64’—

omit, insert—

sections 64 and 275ZI

43 After clause 96

Page 111, after line 23—

insert—

96F Insertion of new ch 7, pt 4D

Chapter 7—

insert—

Part 4D Heritage places

275ZI Restriction on impact assessment and conditions for particular applications

- (1) This section applies in relation to a development application for assessable development if the assessment manager for the application is a person other than the chief executive.
- (2) If the development application requires impact assessment, the impact assessment must not be carried out against, or having regard to, the effect or impact of the development on the stated cultural heritage significance of a Queensland heritage place.
- (3) Subsection (2) applies despite section 45(5)(b).
- (4) The assessment manager must not, under section 60, impose on a development approval given for the development application a development condition that—
 - (a) relates to the effect or impact of the development on the stated cultural heritage significance of a Queensland heritage place; or
 - (b) is inconsistent with a development condition that—
 - (i) is required to be imposed under a referral agency's response; and
 - (ii) relates to the effect or impact of the development on the stated cultural heritage significance of a Queensland heritage place.
- (5) To remove any doubt, it is declared that this section applies even if the Queensland heritage place is also a local heritage place.

44 After clause 96

Page 111, after line 23—

insert—

96G Amendment, relocation and renumbering of s 277 (Assessment and decision rules for particular State heritage places)

(1) Section 277, heading, after ‘particular’—

insert—

development involving

(2) Section 277(5), definition *Queensland heritage register*—

omit.

(3) Section 277—

relocate to chapter 7, part 4D, as inserted by this Act, and *renumber* as section 275ZJ.

45 After clause 96

Page 111, after line 23—

insert—

96H Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

Queensland heritage register see the Heritage Act, schedule.

stated cultural heritage significance, of a Queensland heritage place, means the cultural heritage significance of the place as stated in the Queensland heritage register under the Heritage Act, section 31(3)(e) or (f).

46 Clause 101 (Amendment of s 12 (Declaratory jurisdiction for Minister’s call in of development application))

Page 114, lines 11 and 12, ‘a State facilitated application’—
omit, insert—
an application for State facilitated development

47 Part 7, heading (Amendment of Planning Regulation 2017)

Page 115, lines 1 and 2—
omit.

48 Clause 103 (Regulation amended)

Page 115, lines 3 and 4—
omit.

49 Clause 104 (Insertion of new pt 5A)

Page 115, lines 5 to 14—
omit.

50 Clause 105 (Insertion of new pt 13)

Page 115, line 15 to page 117, line 18—
omit.

51 Clause 106 (Amendment of sch 2 (Zones for local planning instruments))

Page 117, line 19 to page 118, line 5—
omit.

52 Clause 107 (Amendment of sch 10 (Development assessment))

Page 118, line 6 to page 120, line 10—

omit.

53 Schedule 1 (Other amendments)

Page 121, after line 2—

insert—

Part 1 Amendments commencing on assent

54 Schedule 1 (Other amendments)

Page 121, after line 22—

insert—

Part 2 Amendments commencing by proclamation

Queensland Heritage Act 1992

1 Section 8(1)(e), note, ‘section 277’—

omit, insert—

section 275ZJ

55 Long title

Long title, ‘, the *Planning Regulation 2017*’—

omit.