

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

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30 October 2023

Committee Secretary
State Development and Regional Industries Committee
Parliament House
Brisbane Qld 4000

By email: sdric@parliament.qld.gov.au

Dear Committee Secretary,

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

Thank you for the opportunity to provide feedback on the Housing Availability and Affordability (Planning and Other Legislation Amendment) Bill 2023 (*HAA Bill*).

The Property Council of Australia is the leading advocate for one of Australia's biggest industries – property. We are a national not-for-profit organisation established to promote the work of the property industry in delivering prosperity, jobs and strong communities to all Australians. Here in Queensland, the Property Council represents over 400 member companies across residential, commercial, retail, retirement living, industrial, tourism and education sectors. Together with our members we partner with government to investigate and deliver solutions that support Queensland's property sector, including the much-needed delivery of more housing for Queensland's growing population.

Responding to Queensland's ongoing housing crisis will require bold and decisive action and the Property Council welcomes the intent of this Bill to amend the Planning Act to support the delivery of more homes for Queenslanders.

While the intent of this Bill is welcome, the following feedback shows that further information is required to fully understand its ability to deliver much-needed homes across the state.

State facilitated applications

The introduction of a new state facilitated assessment pathway is a positive move that in principle will support the delivery of more housing. The ability to apply for a state facilitated declaration at any time (before an application is made, after an application is made but before it is decided, after an application is decided and after an appeal is made) will also provide flexibility for the applicant to request and Minister to exercise this option.

While the state facilitated process is supported in principle, further information is required to determine how this process will operate and its success in facilitating approval of more housing, including:

- The criteria for determining whether a project is a priority of the state and how the process for making this determination will occur.

- Clearer expectations and definitions regarding the inclusion of affordable housing (as referenced in the Explanatory Notes).
- Expectations and examples of infrastructure that may result in a project qualifying for state facilitated assessment (eg wastewater treatment plants, major transport infrastructure).
- A clearer understanding of how the state facilitated application process and the development assessment process will work together and whether there will be timeframes associated with the state facilitated application process.

It is anticipated this additional clarity will be included in the regulations that will commence upon assent of this Bill. The Property Council encourages the Department to consult on the content of these regulations to ensure they support the intent of the Bill.

Acquisition of land or creation of easements

Land fragmentation is a significant impediment to delivering more homes, particularly in greenfield areas. The Property Council welcomes this provision that will allow the state government to acquire land under the *Acquisition of Land Act 1967* to facilitate infrastructure delivery. Our members have advised of ongoing challenges in consolidating land holdings across development fronts. This provision is a positive move that will facilitate development while providing landowners with an opportunity for compensation.

While this provision is supported in principle, additional information is required to understand how the process will occur. This includes what criteria will be followed in acquiring the land (referenced in s.263A(2)(d)) including who will make the decision. The Property Council believes the decision-making powers should be delegated to the executive level to provide more resources (in addition to the Minister) to make these important decisions.

In addition to acquiring land or creating easements to support infrastructure, the Property Council would also like to understand if any funding will be available to support the delivery of this infrastructure. As mentioned above, land fragmentation is a major impediment to delivering more homes and in some cases the scale of fragmentation means that singular developments cannot fund the upfront delivery of infrastructure. In these instances, it would be beneficial to provide targeted funding to support infrastructure delivery.

Again, it is acknowledged these criteria will be prescribed by regulation. Given the importance of these regulations in supporting the intent of the Bill, the Property Council encourages the state government to consult with industry to ensure the regulation provides the authority and expeditious process needed to acquire land for infrastructure to support more housing across the state.

Urban investigation zone

While the Property Council understands the intent of the Urban Investigation Zone (UIZ) in helping councils prioritise planning and infrastructure delivery in key growth areas, we are concerned the inclusion of the UIZ provisions undermines the Bill's goal of delivering more housing.

It is noted the UIZ applies to land outside the priority infrastructure area (PIA) and its purpose is to identify and protect land outside the PIA that may be suitable for urban purposes, subject to further planning and investigation (clause 106). This provision effectively prohibits development

within the UIZ. The Property Council is concerned by the potential for this option to be used to delay or prevent the delivery of housing in emerging zones.

The private sector has been responsible for bringing forward many major growth areas in recent times, including:

- Yarrabilba
- Aura
- Upper Kedron
- Springfield
- Ripley
- Flagstone
- Pine Valley
- Skyridge
- Morayfield South

Prohibiting development through the application of a UIZ will restrict the ability for the industry to progress new growth areas and appears in conflict with the principles of Queensland's performance-based planning approach and the user-pays principles that underpin the Planning Act. In our view, if a proponent is willing to pursue a development proposal at its own cost, this should be facilitated, rather than prohibited.

It is further noted that Section 30(4)(h) removes the right for landholders to make a claim for compensation if land is included in the UIZ in accordance with the provisions of the Minister's guidelines and rules (MGRs).

According to the Explanatory Notes, the establishment of an UIZ does not 'arbitrarily deprive landowners from the right to compensation' because the zone can only be established after the process in the MGRs has been followed. This process includes the landowner being notified of the zone change and being given the ability to make a submission about the zone change; the local government considering all feasible alternatives before deciding to introduce the UIZ; and reviewing its use of the UIZ every five years. While this explanation is noted, without the provisions of the MGRs it is difficult to know how this process will work in practice and how it will balance the lack of ability to make a claim for compensation.

Additionally, while the UIZ is required to be reviewed every five years, there is no guarantee this review will change the zoning or remove the UIZ. With the limited information available, our reading of this provision means the land could be included in a UIZ for an unspecified period, with no ability to access it for housing or for landholders to make a claim for compensation.

An example provided for the use of a UIZ is where a local government is not able to undertake planning or deliver infrastructure for all growth areas. In this instance a UIZ could be used in those growth areas that are not a priority, allowing work to progress on priority growth fronts. While it is acknowledged that local governments have limited resources and funding, the Property Council does not support the ability for local governments to use the UIZ to prohibit development, particularly for an unspecified period. Should the government firmly hold its position of allowing

local governments to utilise UIZs, the Property Council believes a maximum period of two years should be placed on all UIZs to provide local governments, landholders, and the industry with certainty.

The Explanatory Notes seek to justify the use of a UIZ by explaining that the prohibition does not apply to state facilitated applications, 'providing applicants with an alternative pathway to undertake development for urban purposes'. Again, based on the limited information available, the Property Council does not agree with this statement given the ability to access the state facilitated assessment pathway is entirely at the discretion of the Minister. Again, the regulations governing the process of declaring state facilitated assessments and UIZs will be important to better understand any risks associated with the application of UIZs and the Property Council looks forward to providing feedback on this process.

Development control plans

The Property Council supports the intent of the Bill to validate past Development Control Plan (DCP) approvals and modernise the development assessment system applying to DCPs.

It is important to note that historical DCPs were, at the time of their creation, the subject of local and state government input and subject to infrastructure requirements and agreements. As such, the Property Council believes the existing rights created by the DCP should remain and no additional requirements should be applied to applications made under DCPs. The Property Council notes the statement in the Explanatory Notes (p.7) that 'other state interests are considered at the development assessment stage', and we are concerned this statement implies that current or new state interests will be applied to applications under these existing DCPs.

It is noted the relationship between a DCP and the Planning Regulation 2017 (Planning Regulation), and a DCP and a local planning instrument, will be the subject matter of a regulation, the details of which are not yet known. The Property Council believes additional consultation should be undertaken on these regulations to ensure they preserve rights under the existing DCP and support the intent of the *HAA Bill*.

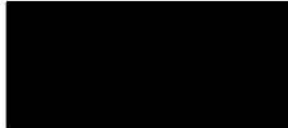
Regulations

As stated above, the Property Council supports the intent of the *HAA Bill* in facilitating the delivery of more homes. It is noted that its effectiveness in achieving this objective will depend on subsequent amendments to the Planning Regulation, the MGRs and the Development Assessment Rules, which are not currently available for review.

In introducing the *HAA Bill* to Parliament, the Deputy Premier acknowledged the need for these supporting changes and stated that the necessary provisions which rely on these changes would commence upon proclamation to allow these instruments to be drafted and consulted upon. The Property Council acknowledges the Deputy Premier's comments and in recognising the importance of these further provisions we encourage the state government to consult with industry to ensure they support the intent of delivering more housing. Further, we encourage the state government to move swiftly to draft and consult on the necessary changes to support the *HAA Bill* to ensure more Queenslanders have access to safe and affordable housing.

Thank you once again for the opportunity to provide feedback. If you require any additional information or would like to discuss this matter further, please don't hesitate to contact me on [REDACTED] or [REDACTED].

Yours sincerely,



Jen Williams

Queensland Executive Director