

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

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31 October 2023

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

Sent via email: sdric@parliament.qld.gov.au

Dear Committee Secretary,

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

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

Like many other parts of Queensland, Bundaberg Regional Council is experiencing significant issues with housing availability and affordability. As such, Council is keen to work with the State and other stakeholders to identify and implement measures that will help address or alleviate the current housing crisis.

While not questioning the urgency of this matter, it is disappointing that the State has elected not to work more collaboratively with local government on the proposed changes and provided only two weeks for local government and other stakeholders to make a submission.

Furthermore, there is limited detail in relation to the associated changes that will be made to subordinate legislation (including the Planning Regulation 2017) and supporting statutory guidelines and rules (e.g., the Minister's Guidelines and Rules). Given the limited time between now and the end of the year, and with local Council's entering caretaker period early in the new year, the State should ensure that any subsequent consultation on such changes is timed to be both genuine and meaningful.

Local governments have long been calling on the State to streamline the plan making process to allow Councils to respond to urgent and emerging issues important to their local communities in a timelier manner. The proposed changes ignore these calls, and instead provide the State additional powers that essentially circumvent local planning instruments that have been prepared with and for local communities. This implies that the State believes it is better placed than local Council's to understand and respond to issues faced by their local communities, in a locally responsive way.

In relation to the specific changes proposed under the Bill, please see enclosed table providing additional feedback (and which also forms part of Council's submission).

In general, concerns are raised over the impact of the proposed changes, and how the additional tools provided to the State under these changes will be used over time. In particular, while the changes are proposed to address housing availability and affordability, many of the proposed changes are not limited to these matters, and could be used for entirely unrelated issues. Further, the new tools could be used to address emergent issues in ways that do not suitably or sensitively respond to local interests.

In terms of some of the more substantive changes (i.e., State facilitated applications, temporary accepted development, and proscribing local assessment of development involving heritage places that have both State and local significance), insufficient justification has been provided to support these changes, or demonstrate why existing tools available to the State are deficient or cannot be used.

Given that some of the tools proposed to be given to the State under the Bill are not proposed to be utilised at this time (e.g., the DSDILGP factsheets indicate there are no declarations proposed re temporary accepted development at this time), it is considered the proposed changes should undergo more extensive consultation with local government before being legislated.

If you would like further clarification about matters raised in this submission, please contact me on phone 1300 883 699.

Yours sincerely

A black rectangular redaction box covering the signature of Stephen Johnston.

Stephen Johnston
Chief Executive Officer

Encl. Additional feedback supporting Council's submission

Attachment – Additional Feedback to Specific Changes

Bundaberg Regional Council Submission re Housing Availability and Affordability (Planning and Other Legislation Amendment) Bill 2023

Key Changes (per <u>Explanatory Notes</u>)	Support / Oppose / Other	Feedback
Growth area tools		
Creating a reserve power for the State in the Planning Act to take or purchase land or create easements for planning purposes, to facilitate the delivery of development infrastructure to unlock development.	Support	Generally supportive of this change, providing it will unlock genuine affordable housing development and related infrastructure in a timely manner, and the State resolves any matters with affected/relevant landowners.
Creating a reserve power for the Planning Minister in the Planning Act to determine a development application is a state facilitated application when it is delivering development that is a priority for the State, is for an urban purpose and meets certain criteria in the Planning Regulation, for example providing affordable housing.	Oppose	<p>It is considered that local government is best positioned to assess and determine development applications for material change of use and reconfiguring a lot, in the best interests of local communities.</p> <p>To support the delivery of affordable housing and (greenfield land supply), local governments would significantly benefit from additional State funding for necessary development infrastructure upgrades.</p> <p>Local government has also been calling for the State to streamline plan making processes under the Planning Act and Ministers Guidelines and Rules for many years. Such changes would allow local governments to respond to emerging issues, such as the current housing crisis, in a much more timely manner.</p>
Facilitating a new type of zone called an Urban Investigation Zone, to assist local government to better plan for growth areas by the zone prohibiting most types of development.	Undecided	<p>An Urban Investigation Zone may be a beneficial mechanism to identify and control the sequencing of development and prevent pressure being placed on local governments from developers/land holders when the necessary detailed land use and infrastructure planning has not yet been undertaken for the land.</p> <p>Further consideration should however be given to the proposed changes to the purpose statement for the Emerging Community zone. Specifically, it is considered unnecessary to limit the use of this zone to land within the Priority Infrastructure Area. In some cases, local governments may also seek the flexibility to retain this zone even where the necessary detailed land use and infrastructure planning has not been undertaken.</p>
Support the use of the Urban Investigation Zone by providing for the use of this zone to not be an adverse change requiring	Support	The use of an Urban Investigation Zone would be challenging for local governments if the matter of compensation comes into play, so a

Key Changes (per <u>Explanatory Notes</u>)	Support / Oppose / Other	Feedback
compensation where a process in the Minister's Guidelines and Rules has been followed.		<p>process under the Minister's Guidelines and Rules that removes potential compensation claims is supported and considered necessary for a UIZ to be a viable tool.</p> <p>The State should, however, consider a more streamlined amendment process to facilitate amendments to its planning scheme to utilise this new zoning, again noting the protracted/ lengthy process for undertaking a major amendment to a local planning instrument. As a minimum, could the Planning Act provide for local governments to implement the zone through a Temporary Local Planning Instrument?</p>
Operational amendments		
Establishing a head of power for the Planning Regulation to declare that a material change of use of a premises is temporary accepted development for a stated period and does not require development approval.	Undecided	<p>Supported on the basis that temporary accepted development is genuine temporary development. Council has concerns that the proposed change could result in compliance issues in the future when the use is no longer temporary accepted development.</p> <p>Consideration should be given to providing additional guidance to local governments on the circumstances/criteria where Council's may accept a temporary use as not requiring a material change of use application. This would retain Council as still being responsible for agreeing (on a case by case basis) whether a particular use/activity was legitimately a temporary use, in the best interests of its local community.</p>
Allowing the Planning Minister to direct a local government to amend a local planning scheme to reflect a state interest that has been subject to adequate public consultation, or a matter in the Planning Regulation in which it must be consistent (and therefore public consultation isn't necessary), without first giving notice to the local government.	Support	Supported on the basis that the Planning Minister keeps local government generally informed on such potential planning scheme amendments as they arise/ approach.
Modernising requirements for publishing public notices by removing the requirement that they be in a hard copy newspaper; clarifying that submissions can be made electronically without requiring the submission to be signed by each person making the submission; and ensuring documents are publicly accessible during a public health emergency or disaster situation (declared emergency). Modernising public notice requirements under	Support	Modernising the way public notices, submissions and documentation can be made and publicly viewable is supported.

Key Changes (per <u>Explanatory Notes</u>)	Support / Oppose / Other	Feedback
SCRA and IRDA ensure this improvement applies across planning legislation.		
Improving the functionality of applicable event declarations and temporary use licences.	Support	Supported. In addition, it is requested the State provide supporting information/ factsheets for industry/public understanding.
Simplify public notice requirements when the Planning Minister has made or amended the Minister's Guidelines and Rules, the designation process rules (which are included under the Minister's Guidelines and Rules), and the Development Assessment Rules so that these instruments take effect from the date prescribed in the Planning Regulation.	Support	Supported on the basis that the Planning Minister keeps local government and the development industry (as a minimum) informed on such amendments as they arise/ approach.
Allow a minimum period of 20 business days (extendable by mutual agreement) for an assessment manager or responsible entity to assess representations to change a development approval in circumstances where an applicant does not give notice to suspend the appeal period.	Support	Supported, as this will support assessment managers (and responsible entities) to properly consider change representations by way of a minimum 20 business day period and provide greater clarity/certainty regarding timeframes.
Allow the appeal period for an infrastructure charges notice (ICN) to be suspended from the day representations were made without giving a notice to the local government if the representations are withdrawn. The balance of the appeal period restarts the day after the local government receives the notice of withdrawal.	Support	The proposed change will provide greater clarity/certainty regarding timeframes.
Amend the definition of owner to clarify owner's consent requirements for development on State reserves where there is no trustee lease.	Support	Supported, on the basis that this provides greater clarification around owner/consent requirements.
Remove retaining walls as an example of building work.	Undecided	Retaining walls greater than 1 metre in height typically require a building permit (for Building Work), therefore a retaining walls is an example of building work. To clarify, part (a) of the definition for <i>Building work</i> under the Building Act 1975 states: <i>Building work is - (a) <u>building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building or other structure;</u></i>
Prescribe that a local categorising instrument may not include assessment benchmarks about the impact of development on the cultural heritage significance of a local heritage place that is also a Queensland heritage place (dual listed heritage place).	Oppose	If a place is identified as a local heritage place under the planning scheme it will likely have local heritage significance that ought to be assessed under the local planning instrument and as a local interest,

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		separate to but concurrently with the Queensland heritage place State interest.
Insert a validation provision for referral agencies, similar to the existing provision for assessment managers, refining arrangements around considering statutory instruments coming into effect after a development application is made but before it is determined.	Support	Supported, on the basis that this provides greater clarification.
Clarify in the P&E Court Act that the applicant bears the onus of proof in a submitter appeal for change applications and that the appellant bears the onus of proof for an appeal related to urban encroachment registration.	No objection	No comments provided.
Development Control Plans		
Validate development approvals given in DCP areas since the repeal of the IPA.	No objection	No comments provided.
Apply the development assessment process under the Planning Act to development in a DCP area.	No objection	No comments provided.
Retaining the role of a DCP in categorising development and assessment, and setting assessment benchmarks.	No objection	No comments provided.
Urban Encroachment		
Create a new change registration application process where an existing affected area is modified or expanded, in which consultation occurs only with persons in the expanded area.	No objection	No comments provided.
A simplified renewal process which does not require public consultation when there is an impending lapse in registration and there is no change to the affected area.	No objection	No comments provided.
Remove the requirement to re-register where a premises obtains a new or amended approved environmental authority and/or development approval (which has undergone the necessary approvals process under planning and environment legislation), where the affected area is not expanded, and where the owner gives notice to the affected area and the Planning Minister.	No objection	No comments provided.