

Planning (Inclusionary Zoning Strategy) Amendment Bill 2023

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Every Queensland
community deserves
to be a liveable one

16 June 2023

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

Email: SDRIC@parliament.qld.gov.au

Dear Committee Secretary,

RE: Planning (Inclusionary Zoning Strategy) Amendment Bill 2023

The LGAQ welcomes the opportunity to make a submission to the State Development and Regional Industries Committee on the *Planning (Inclusionary Zoning Strategy) Amendment Bill 2023* (the Bill), introduced by Dr Amy MacMahon, Member for South Brisbane, in April 2023.

As the peak body for Queensland's 77 local governments, the LGAQ is committed to member-driven advocacy and sought feedback from councils to directly inform this submission.

In addition, the LGAQ has considered and incorporated the agreed policy positions of local government as contained in the LGAQ Policy Statement as well as the 2023 Local Government Housing Strategy, released by the LGAQ in March 2023, consolidating the calls of local government for a range of reforms aimed at ensuring every Queenslanders has access to safe, affordable, and reliable housing.

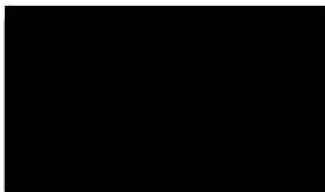
Whilst the LGAQ agrees there is a need for policy clarity in relation to inclusionary zoning and inclusionary planning requirements (as highlighted in the 2023 Local Government Housing Strategy), the LGAQ does not support the Bill in its current form.

Specifically, concerns have been raised by Queensland councils that the Bill does not appear to provide a workable solution and risks impacting development viability and further exacerbating pressures on housing supply, affordability and cost of living outcomes.

In total, the LGAQ has made five key recommendations for consideration of the Committee.

Please do not hesitate to contact Crystal Baker, Lead – Planning & Development and Climate Risk & Resilience on [REDACTED] or email [REDACTED] should you wish to discuss any aspect of this submission.

Yours sincerely



Alison Smith
Chief Executive Officer



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Submission to the State Development and
Regional Industries Committee

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About the Local Government Association of Queensland

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association established solely to serve councils and their needs. The LGAQ has been advising, supporting, and representing local councils since 1896, enabling them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and providing them with the means to achieve community, professional and political excellence.

Partners in Government Partners-in-Government

In February 2023, the LGAQ on behalf of all 77 Queensland local governments resigned a three-year partners-in-government-agreement with the State of Queensland.

The Agreement details the key principles underlying the relationship between the state and local governments and establishes the foundation for effective negotiation and engagement between both levels of government.

The agreement acknowledges that local government is the closest level of government to the community, affecting the lives of everyday Queenslanders and acknowledging Local Government as a genuine partner in the Australian government system.

The intent of the agreement was to continue the tradition of working in genuine partnership to improve the quality of life for all Queenslanders to enjoy. By identifying the roles and responsibilities of each party, it provides a solid foundation for effective negotiation and engagement between both levels of government.

The LGAQ is committed to working with the Queensland Government and will continue to be a passionate advocate for councils, to serve our joint jurisdiction for the people of Queensland.

Planning (Inclusionary Zoning Strategy) Amendment Bill 2023

1.0 Executive Summary

The Local Government Association of Queensland (LGAQ) welcomes the opportunity to make a submission to the State Development and Regional Industries Committee on the *Planning (Inclusionary Zoning Strategy) Amendment Bill 2023* (the Bill), introduced by Dr Amy MacMahon, Member for South Brisbane, in April 2023.

The LGAQ understands the Bill is aimed at providing a solution to the housing crisis by enacting an inclusionary zoning strategy under which developers would be required to dedicate 25% of new residential dwellings, including apartment buildings and housing estates, as public housing.

Queensland councils are acutely aware of the diverse, complex and multi-faceted housing challenges statewide. The demand and need for increased social and affordable housing, as well as affordable living outcomes through well-serviced and well-located development, is high across Queensland and remains an ongoing priority issue for Queensland councils and local communities.

Local governments across the State are actively working to facilitate, attract and manage growth, appropriate development and change, going above and beyond to support their local communities feeling the impact of the housing crisis. This includes identifying and implementing several initiatives to support housing supply and affordable living outcomes.

Given the breadth of challenges and the consequences of inadequate and unaffordable housing, it is imperative that a strategic, coordinated and holistic approach is driven by Federal and State governments, in collaboration with local governments, industry and the community.

The LGAQ agrees there is a need for policy clarity from the State Government regarding inclusionary zoning and inclusionary planning, and for the State Government to provide support for those councils voluntarily looking to implement this through local government planning schemes. In fact, this is included as a specific ask of local government in the *2023 Local Government Housing Strategy*¹ released by the LGAQ in March 2023.

However, the LGAQ does not support the Bill in its current form. Several concerns have been raised in council feedback to the LGAQ regarding the scope, workability and implications of the proposed legislative amendments, which are outlined in section 3.0 of this submission.

Any statewide inclusionary zoning policy must be carefully considered to ensure on-going development viability is maintained, in order to avoid exacerbating housing supply, affordability and cost of living pressures on local communities.

The LGAQ is aware the State Government is currently investigating options for an inclusionary planning approach that would drive the development of social and affordable housing, as a key action under the *Queensland Housing and Homelessness Action Plan 2021-2025* and the

1.1 Recommendations

In response to the Bill, the LGAQ has made 5 key recommendations summarised below:

- **Recommendation 1:** The LGAQ recommends that the *Planning (Inclusionary Zoning Strategy) Amendment Bill 2023* should not be passed in its current form.
- **Recommendation 2:** The LGAQ recommends the State Government provides policy clarity regarding inclusionary zoning and supports councils that are already voluntarily looking to introduce inclusionary planning provisions through local planning instruments.
- **Recommendation 3:** The LGAQ recommends the State Government undertakes genuine and meaningful engagement with Queensland councils to inform the development of any inclusionary planning or inclusionary zoning strategy for Queensland and consults extensively with all stakeholders, prior to introduction of any statewide policy.
- **Recommendation 4:** The LGAQ recommends a Consultation Regulatory Impact Statement should be prepared for any statewide inclusionary planning or inclusionary zoning strategy to clearly analyse and evaluate the costs and benefits of proposed reforms on the development industry, local government and community.
- **Recommendation 5:** The LGAQ recommends State Government continues to implement actions and activities committed to in the Queensland Housing Summit Outcomes Report and publicly reports on the progress of these actions and activities.

2.0 Introduction

The LGAQ welcomes the opportunity to make a submission on the *Planning (Inclusionary Zoning Strategy) Amendment Bill 2023*.

The primary objective of the Bill is stated in the Explanatory Notes as being to “*build public housing via requiring developers to do so, and its secondary objective is to integrate public housing with other residential areas in order to maximise social inclusion.*”

To achieve this outcome, the Bill requires development of an inclusionary zoning strategy that would be enacted statewide to achieve the following:

- For all residential development projects completed on or after 1 July 2024, at least 25% of the dwellings (rounded up to the nearest whole number) constructed for the project are to be gifted to the state of Queensland for the purpose of providing public housing.
- Each reserved dwelling will be finished to the same standard, and have the same features, as the other dwellings constructed for the residential development project. This includes size and floor area.
- A ‘residential development project’ means development, carried out by an entity other than the state, related to the construction of 10 or more dwellings.
- Further, for all residential subdivision projects completed after 1 July 2024, at least 25% of the lots (rounded up to the nearest whole number) created for the project are to be gifted to the state of Queensland for the purpose of providing public housing.
- A ‘residential subdivision project’ is defined as any private development which subdivides 1 lot into 10 or more lots on which dwellings can lawfully be constructed.

As the peak body for Queensland’s 77 local governments, the LGAQ is committed to member-driven advocacy and sought feedback from councils to directly inform this submission.

In addition, the LGAQ has considered and incorporated the agreed policy positions of local government as contained in the LGAQ Policy Statement as well as the *2023 Local Government Housing Strategy*, that consolidates the calls of local government for a range of reforms aimed at ensuring every Queenslanders has access to safe, affordable, and reliable housing.

Whilst the LGAQ agrees there is a need for policy clarity in relation to inclusionary zoning and inclusionary planning requirements (as highlighted in the *2023 Local Government Housing Strategy*), the proposed Bill does not appear to provide a workable solution and risks impacting development viability and exacerbating pressures on housing supply, affordability and cost of living outcomes.

The LGAQ welcomes the additional \$1.1 billion funding committed in the 2023-24 State Budget for the construction and upgrade of social housing, including in remote and discrete First Nations communities, and for preparation of a second Aboriginal and Torres Strait Islander Housing Action Plan (2024-2027), with a focus on progressing Closing the Gap initiatives, enhancing culturally safe services and delivering innovative housing supply solutions.

The LGAQ also appreciates the State Government’s funding support to date for Queensland councils to prepare a Local Housing Action Plan under the *Queensland Housing and Homelessness Action Plan 2021-2025* and recognises the work many councils have already

Councils can, and do, encourage and facilitate an increase in supply and diversity of housing and development but have no direct control on broader macro-economic trends or market forces including the price of housing/land or the timing of development commencing that is in private ownership.

According to the Queensland Government Statistician's Office² for example, there remain almost 100,000 residential lots that have been approved by councils but are not yet completed across all monitored regions in Queensland. Almost 60,000 of these residential lots with active approvals are within South East Queensland (SEQ), with approximately 500 additional uncompleted lots recorded in SEQ in the quarter between September 2022 and December 2022.

Local governments remain committed to working in partnership with State and Federal Government to identify workable solutions to the housing crisis.

In relation to inclusionary zoning specifically, the LGAQ is aware that some Queensland councils have sought to introduce inclusionary planning provisions through a local planning scheme, but this has not been supported by the State Government with various reasons cited, including the absence of a lawful mechanism for councils to require the contribution of social housing to the State.

The absence of clear policies and guidance for councils and industry in relation to inclusionary zoning and inclusionary planning is a key gap in Queensland's planning policy framework. The LGAQ understands work is underway to investigate introducing inclusionary planning requirements into the planning framework, including a commitment in the Queensland Housing Summit Outcomes Report to 'consult extensively' on this.

2.1 LGAQ Policy Statement

The LGAQ Policy Statement³ is a definitive statement of the collective voice of local government in Queensland. The relevant policy positions of local government in the context of the *Planning (Inclusionary Zoning Strategy) Amendment Bill 2023* and the provision of social and affordable housing more broadly, are as follows:

Funding Assistance

- 3.1.1 Federal Funding
 - 3.1.1.8 *The Federal government will continue to directly invest in housing construction in the remote and discrete First Nations communities to meet Closing The Gap targets.*

Planning and Development

- 6.1.1 Strategic planning
 - 6.1.1.1 *Local government should be recognised as the sphere of government immediately responsible for land use planning and development assessment.*
 - 6.1.1.2 *Local government supports an effective planning system guided by appropriate legislation and balanced social, environmental, cultural and economic interests.*
 - 6.1.1.4 *Local government supports the use of prescriptive standards and assessment benchmarks in a local planning instrument, where appropriate, to provide certainty of development outcomes. The State Government can support this during state interest review processes.*
 - 6.1.1.5 *Local government opposes the devolution of land use planning matters to councils, where these matters are of interest to the State and should be considered and decided by the State Government.*
 - 6.1.1.6 *Local government opposes State Government land use planning policy or intervention that inhibits local decision making.*
 - 6.1.1.10 *Local government supports the introduction of a statutory regional planning framework that;*
 - *Represents a true regional partnership between the State and local governments;*
 - *Addresses matters of State and regional interest; and*
 - *Informs local planning instruments.*
 - 6.1.1.11 *Local government supports the ability to clearly identify uses appropriate to a particular area, including the ability to prohibit certain types of development.*

Community Development

- 7.1.7 Housing
 - 7.1.7.1 *Local government is committed to working in partnership with the State and Federal governments, and industry, to effectively address the challenges of housing affordability and supply. Councils are seeking the opportunity to identify and develop*

- *7.1.7.2 Local governments will determine their own role in provision of affordable community housing and comply with Federal and State requirements.*
- *7.1.7.3 Local government will actively participate in forums and networks, where appropriate, that seek to establish good practice approaches to sustainable, accessible and affordable housing.*
- *7.1.7.4 Local government will work with the State Government to ensure adequate financial assistance and training is made available to those councils that wish to identify the need for, and the provision of, affordable housing in local communities.*
- *7.1.7.5 Local government seeks ongoing funding commitments by State and Federal governments to increase social housing supply in areas of need, and to adequately meet demand for social housing across Queensland's regions.*
- *7.1.7.6 Local government seeks fair and reasonable treatment of local government community housing providers under the new National Regulatory System that introduces national standards in housing.*
- *7.1.7.7 Local government seeks provision of appropriate housing for First Nations communities under a continuing National Partnership Agreement on Remote Indigenous Housing (NPARIH) that is environmentally appropriate, encourages home ownership and is cost efficient.*

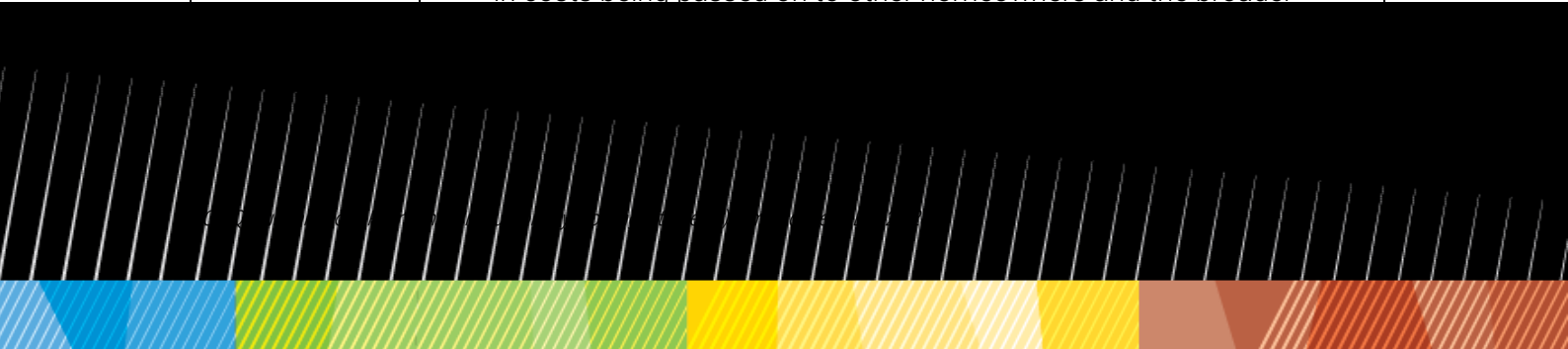
3.0 Specific Local Government Feedback on the Bill

A number of key concerns have been raised in feedback to the LGAQ from Queensland councils, regarding the scope, workability and implications of the Bill in its current form. These are broadly summarised in the table below.

The LGAQ recommends further consideration is needed in relation to the following matters if any statewide inclusionary planning or inclusionary zoning strategy is progressed and that genuine and meaningful consultation and engagement with the LGAQ and Queensland councils be undertaken, prior to the development of any statewide policy.

Key Issues	Local Government Feedback
Focus on public housing	<ul style="list-style-type: none"> • The Bill refers only to public housing, and it is unclear how this relates to the provision of social and affordable housing. • Limiting this approach to public housing owned by the State Government has been raised as a particular concern given this would limit housing to persons on the social housing register only. Whilst the social housing waitlist is extensive, with over 45,000 persons on the social housing register (as at 30 June 2022), many communities across Queensland are also experiencing a shortage of affordable housing, that is key worker housing for example. • Social housing that is provided by State Government and/or community housing providers, as well as incentives and measures for affordable housing, should also be considered.
Impact on development feasibility	<ul style="list-style-type: none"> • Concerns have been raised that mandating a 25% contribution towards public housing statewide, is considered unreasonably high and may significantly impact development feasibility and result in: <ul style="list-style-type: none"> ○ a reduced number of development applications, for example in regional and rural areas due to the already high costs of construction in these locations, potentially worsening housing supply outcomes. ○ applicants seeking to avoid the proposed thresholds where possible by lodging development applications for projects below the 10 dwellings or lots, or otherwise staging development to avoid the 10 lot/dwelling threshold. This could reduce density outcomes in well serviced areas and give rise to a range of other issues such as delivery of trunk infrastructure. ○ significant price rises for the balance of the dwellings/lots in order to cover the costs of contributing 25% to public housing, potentially worsening current housing affordability issues. • Public housing contribution should not be cumulative. If development of land has resulted in lots zoned medium / high density residential and a proportion of these transferred for public housing, it would seem onerous to also request unit contributions from each development on the remaining lots. This would seemingly disincentivize subdivision of land for distinct, discreet developments

	<ul style="list-style-type: none"> • In addition, there are no incentives accompanying the proposed mandatory public housing contribution. • The careful consideration of development viability is important to ensure that any possible inclusionary zoning response does not unintentionally constrain the delivery of new housing generally. • Close consultation with the development industry and other housing providers is therefore critical and recommended as part of any investigation process, in addition to close consultation with local governments. • The timing of any inclusionary planning or inclusionary zoning requirements also needs to be carefully considered in terms of the cumulative impact of current inflation pressures, interest rates, low rental availability, building industry workforce challenges and supply chain issues, and the impact on construction costs resulting from introduction of new building standards under the National Construction Code 2022 (including energy efficiency and liveable housing outcomes from 1 October 2023).
Impact on local communities and homeowners	<ul style="list-style-type: none"> • The current proposal does not provide clarity on location requirements for housing. There is a need for social and affordable housing to be located in areas that are well-serviced and for any inclusionary zoning strategy to take this into consideration. Failure to do so, may result in public housing projects being located in areas remote from essential services, transport and employment opportunities which may exacerbate cost-of-living pressures. • In feedback provided to the LGAQ, Moreton Bay Regional Council noted they have “recently completed a Housing Needs (Choice, Diversity and Affordable Living) Investigation, to ensure the region has the right housing supply to support forecast growth, and to ensure housing is designed and located to support affordable living. The Investigation found that the majority of new housing in Moreton Bay is being built in greenfield areas, rather than in established areas and near existing public transport, local services and local job opportunities. The preferred approach to growth in the Moreton Bay region, as articulated in Council’s Growth Management Strategy, focusses on incentivising and supporting infill development to better address long-term housing needs and reduce reliance on greenfield communities and the resulting impacts of this form of development on our rural and natural landscapes.” • There is a need for tailored solutions to the location of social and affordable housing and tailored approaches to the introduction of inclusionary zoning policies depending on circumstances of the local housing market. This flexibility is not provided by the Bill. • Given the substantial impacts likely on development feasibility, there are also concerns that a reduced private development yield associated with the contribution towards public housing, may result in costs being passed on to other homeowners and the broader



Workability and Implementation	<ul style="list-style-type: none"> • There is a lack of clarity regarding the responsibility for enforcement and compliance of the proposed reforms. • Other critical matters to be considered include a clear and simple implementation framework, including clarity on who is responsible for ensuring the affordability benefit is delivered, and/ or maintained as a public benefit for any identified period. • In relation to terms and definitions contained in the Bill, the following comments have also been raised: <ul style="list-style-type: none"> ○ The term 'completed' used in the triggers/thresholds in the Bill, is not widely used in the <i>Planning Act 2016</i> – further clarity is required in relation to the interpretation and application of this ○ There are concerns that the term 'residential subdivision projects' would include rural residential lots as also requiring public housing to be provided, despite being isolated from essential services and public transport etc. • In addition, concerns have been raised regarding trunk infrastructure requirements to service the public housing development proposed under the Bill and how this would be adequately and appropriately funded.
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4.0 Contact Details

Please do not hesitate to contact Crystal Baker, Lead – Planning & Development and Climate Risk & Resilience on [REDACTED] or email [REDACTED] should you wish to discuss any aspect of this submission.

