

Planning (Inclusionary Zoning Strategy) Amendment Bill 2023

Statement of Compatibility

Prepared in accordance with Part 3 of the Human Rights Act 2019

In accordance with section 38 of the Human Rights Act 2019, I, Amy MacMahon, Member for South Brisbane, make this statement of compatibility with respect to the *Planning (Inclusionary Zoning Strategy) Amendment Bill 2022*.

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019* (HR Act). I base my opinion on the reasons outlined in this statement. It serves to protect fundamental human rights.

Overview of the Bill

Queenslanders are in a housing crisis, and it is time for the government to take action.

Decades of treating housing like a commodity rather than an essential public need, compounded with the pressures of the COVID-19 pandemic, have massively impacted Queensland's housing sector.

After 8 years in power, the Queensland government has nearly 50,000 people on the social housing register, with no plan to build enough social housing to meet this need.

According to an analysis by the Queensland Parliamentary Library using data from the Australian Productivity Commission,¹ since 2015, the Palaszczuk government has been responsible for building the following in response to this need:

- 1395 new public housing dwellings (from 51,248 in 2015 to 52,643 in 2022).
- 9 less social housing dwellings (from 11,586 in 2015 to 11,495 in 2022).

This is a spectacular failure of the government's various housing strategies.

Nationally, vacancy rates are at a record low.² In Queensland, these are as low as 0.2% on the Southern Downs, 0.3% in Cook, Goondiwindi and the Tablelands region, and 0.7% on the Gold and Sunshine Coasts.³

1

<https://www.pc.gov.au/ongoing/report-on-government-services/2022/housing-and-homelessness/housing>

2

<https://www.corelogic.com.au/news-research/news/2022/national-vacancy-rates-hit-record-low-as-affordability-starts-to-impact-rent-hikes>.

³ <https://www.reiq.com/articles/2022-queensland-vacancy-rates-end-on-a-low-note/>

Since the pandemic began, rents have surged across Queensland, and by 34% in Brisbane.⁴ Brisbane has also had the biggest surge in homelessness out of any capital city in Australia.⁵

The Queensland government has benefited from this housing crisis. It has presented surging rents, and housing prices, as a sign of how attractive Queensland is to interstate investors and sea-changers. Its stamp duty coffers are overflowing as property transfers involve unprecedented house prices, based on scarcity and huge yields for investors.

After decades of inaction - not since World War 2 has the government taken responsibility for intervening in the housing market, via the rent controls implemented by Labor Prime Minister Curtin's wartime cabinet - it is time for the Queensland government to take responsibility for rampant homelessness and rental stress among Queenslanders.

Inclusionary zoning is part of a suite of measures the government needs to urgently implement, including:

- Genuine tenancy reform, including limiting the quantum of rental increases - not just how often they occur.
- A two-year rent freeze while the best formula for limiting rental increases is determined.
- An empty homes levy to incentivise owners to put vacant residential homes on the rental market.

Accordingly, this bill complements the three other private member's bills lodged this parliament by Dr Amy MacMahon as a solution to the housing crisis.

In addition to the real estate lobby, those who it represents and the predatory commercial entities that are dependent on it (such as third-party payment platforms), a key beneficiary of the housing crisis is the property development industry. Buoyed by planning laws that work in their favour at the cost of the community, and successive Labor and LNP governments which seem determined to prioritise Queensland's best land for developers, this industry is benefiting from the housing crisis without contributing anything to the solution.

This bill means that the very industry profiting from the housing crisis will contribute to the solution.

The bill's primary objective is 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.

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<https://theconversation.com/the-post-covid-crisis-hit-queensland-hardest-with-100-000-households-needing-low-cost-housing-heres-how-it-can-recover-199514>

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<https://theconversation.com/homeless-numbers-have-jumped-since-covid-housing-efforts-ended-and-the-problem-is-spreading-beyond-the-big-cities-194624>

This bill will ensure the Queensland government enacts an inclusionary zoning strategy under which developers will be required to dedicate 25% of new residential dwellings, including apartment buildings and housing estates, as public housing.

This bill requires the government to introduce an inclusionary zoning strategy parliament within 2 months after the date of assent of this bill.

This strategy will enact the following inclusionary zoning policy at the state level:

- 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.

Human Rights Issues

Human rights relevant to the Bill

This bill will significantly increase Queenslanders' access to housing and as such it engages human rights in a significant way.

Without stable and appropriate housing, Queenslanders' ability to enjoy the human rights protected by the *Human Rights Act 2019* (Qld) are seriously limited. This is particularly the case with property rights, the right to privacy and reputation, the right to protection of families and children, cultural rights including those held by First Nations people, the right to liberty and security of person, the right to education and the right to health services.

Without access to appropriate housing, any member of our society is at a disadvantage when it comes to their other human rights. This is particularly the case for vulnerable groups such as children, people with disability, older people, First Nations people and people from culturally and linguistically diverse backgrounds.

During 2021's parliamentary inquiry and debate about whether no-grounds evictions should end, Queensland's Human Rights Commissioner intervened to urge parliamentarians to 'carefully consider a range of human rights.'⁶

He said 'While much of the conversation has so far focussed on the property rights of property owners, there are also rights held by tenants which need to be properly considered - including their rights to protection of families and children, and freedom from interference with their home, which is protected under the right to privacy and reputation.'

This bill does engage the **property rights** of developers, but as the Human Rights Commissioner pointed out in 2021, 'For this right to be unreasonably limited, a person needs to be "arbitrarily deprived" of their property.' While imposing inclusionary zoning may amount to an indirect diminution of a developer's property rights as a condition of conducting its extremely lucrative and privileged business, it is not an arbitrary deprivation, particularly in the context of mass housing stress and homelessness.

As the Commissioner said in 2021 'An estimated one in 100 Queenslanders is experiencing homelessness. In the private rental market, one in five moves are made by tenants involuntarily. Many of the 1.8 million Queensland tenants are facing constant moves, with the media tenancy lasting only 13.1 months for units and 17.9 months for houses. 43% of renting households include children for whom housing stability, connection to community and access to schools is vitally important - and families and children are also entitled to protection under Queensland's human rights legislation.'

In 2023, the situation has become even worse.

To say that a developer's right to profiteer from a housing crisis is more important than the human rights of tenants is a perversion of human rights law.

Conclusion

In my opinion, the *Planning (Inclusionary Zoning Strategy) Amendment Bill 2023* is compatible with human rights under the *Human Rights Act 2019* (Qld). There are no limitations on human rights, and indeed, if the human rights of everyday Queenslanders are to be supported, this Bill is necessary.

6

https://www.qhrc.qld.gov.au/_data/assets/pdf_file/0006/33747/2021.07.08-Media-statement-re-proposed-Qld-tenancy-reforms.pdf