

# Planning (Community Residence) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 222

made under the *Planning Act 2016*

## General Outline

### Short title

The short title of the Regulation is the *Planning (Community Residence) Amendment Regulation 2017*

### Authorising law

Section 43(5)(b) and 284 of the *Planning Act 2016*

### Policy objectives and the reasons for them

The *Planning Regulation 2017* supports the timely delivery of community facilities, including community residences, by prescribing these as development that a local categorising instrument may not state is assessable development (in accordance with section 43(5)(b) of the *Planning Act 2016*). For this purpose, section 6 of schedule 6 of the *Planning Regulation 2017* states that a local categorising instrument such as a planning scheme is prohibited from stating a material change of use for a community residence is assessable development, provided certain criteria are met. This provision exempts community residences from requiring development approval from the local government in certain circumstances.

The Queensland Government has committed to providing safe and secure accommodation and support services for young people under 18 who require supervision under the *Youth Justice Act 1992*. The majority of facilities accommodate no more than 6 children with support workers in attendance at all times. As such, these facilities may fall within the definition of ‘community residence’, which are exempt from assessment under local government planning instruments if the criteria in schedule 6 are met.

The objective of the *Planning (Community Residence) Amendment Regulation 2017* (Amendment Regulation) is to facilitate the provision of these facilities that are community residences in a number of locations across the State, including premises in Centre zones, Community facilities zone, Environmental management and conservation zone, Residential zones, Rural zone, and Rural residential zone. The amendment is necessary to expand the zones

the exemption applies to, as previously the exemption applied only to development in Residential zones and the Rural residential zone.

One additional facility will accommodate no more than 20 children. Because of the number of children to be accommodated, this facility does not fall within the definition of a ‘community residence’. The objective of the Amendment Regulation is also to facilitate the provision of this facility which is separately regulated as a ‘supervised accommodation service’. An amendment to schedule 6 is necessary to ensure that an exemption applies to development for a supervised accommodation service if the stated criteria are met.

The Amendment Regulation is also necessary to amend the definition for ‘community residence’ to ensure the exemption for these facilities is limited to accommodation for no more than 6 children provided as part of a program or service under the *Youth Justice Act 1992*, and to insert a new definition for ‘supervised accommodation service’ which defines a facility for the accommodation of no more than 20 children, provided as part of a program or service under the *Youth Justice Act 1992*.

To ensure consistency with the application of the community residence policy, consequential amendments are proposed to the Planning Regulation, these include amendment to the definition of ‘community activity’ to include ‘supervised accommodation service’, amendment to the definition of ‘residential development’ to exclude ‘supervised accommodation service’ and amendment to the definition of ‘sensitive land use’ to include ‘supervised accommodation service’.

## **Achievement of policy objectives**

The Amendment Regulation achieves the policy objective which is to facilitate the development of a range of facilities across the state for the provision of safe and secure accommodation and support services for children who require supervision under the *Youth Justice Act 1992*. Two types of facilities are provided for: a) accommodation for no more than 6 children; and b) accommodation for no more than 20 children. The amendment does this by stating that a local categorising instrument such as a planning scheme is prohibited from stating a material change of use for a community residence is assessable development, provided the proposal meets the stated criteria for the two types of facilities. The amendment does not change the arrangements for any State assessment of the proposals required under the *Planning Regulation 2017*.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objectives of the *Planning Act 2016*, which is to establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability, including maintaining the cultural, economic, physical and social wellbeing of people and communities.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

There is no alternative way to achieve the policy objectives other than the Amendment Regulation.

## **Benefits and costs of implementation**

There are no costs to the implementation of this Amendment Regulation.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is not inconsistent with fundamental legislative principles.

## **Consultation**

The Queensland Productivity Commission was consulted in relation to the need for a Regulatory Impact Statement (RIS), and advised that further assessment is not required for the proposed Regulation.