

Planning (Emergency Housing) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 147

made under the

Planning Act 2016

General Outline

Short title

Planning (Emergency Housing) Amendment Regulation 2022

Authorising law

Section 284 of the *Planning Act 2016*

Policy objectives and the reasons for them

In June 2021, the Queensland Government released the *Housing and Homelessness Action Plan 2021-2025* (HHAP) to build on the outcomes of the *Queensland Housing Strategy* by increasing social and affordable homes across the state.

The Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) is responsible for the delivery of Action 3.0 - *Deliver social and affordable housing using state planning and economic development tools* with the support of the Department of Communities, Housing and Digital Economy.

Action 3.4 of the HHAP commits DSDILGP to *Review the planning framework's approach to regulating residential development*.

The objective of the *Planning (Emergency Housing) Amendment Regulation 2022* (the Amendment Regulation) is to:

- provide for state and local governments to deliver emergency housing on a temporary basis in response to an event, without seeking planning approval through the development assessment process

- provide for the infrastructure designation pathway to be used for development of social or affordable housing by a community housing provider or under a state funded program.

Achievement of policy objectives

The Amendment Regulation will allow for state and local governments to provide emergency housing for communities affected by events such as flooding, or other events as defined under the *Disaster Management Act 2003* for a temporary period without requiring local government planning approval. The provisions will streamline the delivery of on-ground outcomes to support communities.

The inclusion of provisions relating to the development of social or affordable housing under Schedule 5 (Infrastructure) of the Planning Regulation will provide an alternative assessment pathway for use by community housing providers or other entities where funded under a state program to deliver social or affordable housing. This will treat social and affordable housing in a manner that is consistent with other infrastructure under Schedule 5 and such development may then use the infrastructure designation assessment process. This will allow for this type of housing to be afforded greater certainty and, in some cases, may provide for more timely outcomes than a development approval process.

The assessment of social and affordable housing prescribed under Schedule 5 using the infrastructure designation process will be undertaken in accordance with the process prescribed in the Minister's Guidelines and Rules and the *Planning Act 2016* (Planning Act).

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Planning Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The Amendment Regulation is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

The cost of implementing the amended regulatory framework will be met within existing budget allocations, and the resources used to manage the existing regulatory framework will continue to be used to administer the amended framework.

Emergency housing

Some local governments have begun looking at ways they can deliver housing for emergency needs, such as constructing dwellings on local government-owned land. However, as housing

is generally not an anticipated use on the available public land, it would likely be subject to the requirement to obtain development approval that may involve public consultation. This incurs costs and can take considerable time, making it harder for government to provide urgent support in challenging circumstances.

The planning framework supports temporary accommodation for people escaping domestic violence and community residences for people who require assistance or support with everyday living by not requiring such developments to obtain a planning approval.

The provisions provide for a pathway to make it easier for state or a local government to quickly respond to existing and unexpected housing shortages caused by unforeseen events.

Social and affordable housing

Public housing (delivered by the state) has a special assessment pathway under Schedule 6 of the Planning Regulation 2017 where the chief executive of the housing department considers the development against the local planning scheme and may public undertake consultation.

Social and affordable housing provided by community housing providers or by the private sector and funded by the state government does not benefit from this assessment pathway. Instead, as with all private market residential development, it is assessed by the relevant local government against the planning scheme, including whether it needs development approval or not and the criteria that must be met.

This can result in the need to pay development fees and longer delivery timeframes, making it more costly to deliver the same or similar product that is delivered as public housing by the state.

The provisions provide an alternative approval pathway for community housing providers that may be quicker and less expensive, particularly in situations where the proposal would be impact assessable under a planning scheme. It also provides certainty as there are no third party appeal rights afforded for submitters in the consultation process.

Communities will continue to be afforded the opportunity to have their say, as consultation with key stakeholders, including the relevant local authority and the local community is still required as part of the Ministerial infrastructure designation process. Where an infrastructure designation is undertaken through the local government, consultation must be undertaken in accordance with the consultation strategy endorsed by the local government.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles.

Consultation

The Office of Best Practice Regulation (OBPR) advised that the proposed amendments to emergency housing and infrastructure designations, for the purposes of community housing providers, will apply existing planning assessment processes already employed for broadly comparable developments. As the volume of developments which will progress via an

infrastructure designation will be limited to housing provided by a registered community housing provider or under a State government program, it is unlikely to have a material impact on competition.

No consultation on the proposed amendments has been undertaken outside of government agencies as the proposals are enabling rather than restricting how emergency housing and social and affordable housing is provided.

OBPR considers the proposals are designed to reduce the burden of regulation and will not result in significant adverse impacts beyond the loss of third-party appeal rights for some developments by community housing providers.

No further regulatory impact analysis is required.