

Planning (Rooming Accommodation) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 182

made under the

Planning Act 2016

General Outline

Short title

Planning (Rooming Accommodation) Amendment Regulation 2022

Authorising law

Section 284 of the *Planning Act 2016* (Planning Act)

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 to *Deliver social and affordable housing using state planning and economic development tools*, with the support of the Department of Communities, Housing and Digital Economy (DCHDE).

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

The objective of the *Planning (Rooming Accommodation) Amendment Regulation 2022* (the Amendment Regulation) is to support housing diversity in lower density residential areas and clarify expectations around residential uses in residential zones. This is to be achieved by:

- providing for rooming accommodation to not be assessable against a local government's planning scheme where it meets certain requirements in the low density residential, low-medium density residential and general residential zones
- removing the ability for certain overlays to regulate development of dwelling houses and rooming accommodation
- clarifying the types of housing that can be expected in residential zones.

Achievement of policy objectives

Rooming accommodation

Rooming accommodation is a residential use where a person rents a room but generally shares some facilities, furniture or equipment outside of the resident's room with other residents. Examples of rooming accommodation are a boarding house, hostel and off-site student accommodation. Rooming accommodation is generally a smaller housing type and is often more affordable than other self-contained housing types.

To provide for greater housing choice for lower income households in the low-density residential zone, low-medium density residential zone and general residential zone across Queensland, the Amendment Regulation will provide that a local government planning scheme cannot make small-scale rooming accommodation assessable development in lower density residential areas. This will apply to rooming accommodation that has up to five occupants and five bedrooms.

This means that eligible rooming accommodation will not require a material change of use approval unless it is triggered for assessment under another part of the Planning Regulation, such as in the case of development on a State heritage place or where impacting on koala habitat. All other development approvals, including building approval, will continue to apply.

To ensure that the provisions are having the intended effect, a sunset clause is included that will cease the effect of these provisions three years from commencement. This will allow for an expedited response to the housing crisis, while supporting longer-term policy investigation. Any uses commenced in the three-year period will continue to have existing use rights to operate lawfully in the event that the provisions are repealed or amended.

A local government can continue to require material change of use approval for rooming accommodation where the development does not meet the requirements set out in Schedule 6 of the Planning Regulation.

Removing certain overlays that regulate dwelling houses and rooming accommodation

Under the Planning Regulation, a dwelling house may not be assessed against a local planning scheme in certain circumstances. One circumstance is where an overlay does not apply.

Overlays are used extensively in local government planning schemes and provide for a finer level of assessment to be carried out by a local government against their planning scheme. Some overlays have assessment benchmarks and some overlays change the level of assessment. The Planning Regulation does not currently differentiate between overlays that are used for information purposes and those that add weight for development assessment purposes.

To ensure dwelling houses and rooming accommodation are not unreasonably made assessable, the Amendment Regulation will only recognise overlays that regulate:

- matters of safety to persons and property (such as from natural hazards, mining activities and Australian Noise Exposure Forecast)
- protection of areas of natural, environmental or ecological significance (such as biodiversity, significant animals and plants, wetlands and waterways)
- local heritage and traditional building character.

Where one of the abovementioned overlays applies, the local government will continue to be able to assess the material change of use for the dwelling house or rooming accommodation against the planning scheme.

Clarify the expected housing forms in residential zones

A local planning instrument must use only the zones prescribed in the Planning Regulation which are accompanied by zone purpose statements.

To support a variety of dwelling types in the lower density zones, the Amendment Regulation will update the zone purpose statements for the low density residential and low-medium density residential zones to encourage a wider variety of dwelling types and to set a state-wide expectation around housing diversity.

The Amendment Regulation will also allow local governments to regulate dwelling houses in the medium density and high density residential zones in order to provide for more efficient use of land zoned for this purpose and increase housing supply. Local governments will set the categories of development and assessment for dwelling houses in these zones.

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 benefits of the Amendment Regulation relate to provision of greater housing choice for lower income households; improved consistency in the way residential uses are regulated across Queensland; and greater clarity in relation to expected housing forms in lower density residential areas.

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.

It is anticipated that local governments will use existing resources to review the Amendment Regulation and identify how it differs to the provisions in the planning scheme that applies in their local government area. If a local government planning scheme requires a material change of use application for rooming accommodation in the affected zones, the Amendment Regulation will override the planning scheme to the extent of any inconsistency. This will mean the local government may receive fewer material change of use applications for rooming accommodation from commencement of the regulation.

Local governments will be encouraged to consult with the state government to amend their planning schemes to address any inconsistencies with the Amendment Regulation. However, such changes are not mandatory but are encouraged for ease of use and understanding of the planning scheme for stakeholders and the community. It is expected that any amendments resulting from this Amendment Regulation would form part of local government's planned future amendment packages.

Existing budgets and resources within the state government will be used to support local governments in interpreting the changes.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles.

Consultation

The Office of Best Practice Regulation (the OBPR) noted the department's advice that the amendment to ensure dwelling houses are not the preferred uses in the medium density and high density residential zones will only impact a small number of local government areas and potentially impacted stakeholders will be consulted as part of the local plan amendment process.

For the remaining amendments OBPR also noted the proposals are intended to reduce the burden of regulation on development proponents and subsequently ease downward pressures on dwelling supply.

Based on the information provided by DSDILGP, OBPR considers the proposals are designed to reduce the burden of regulation and it is reasonably clear they will not result in significant adverse impacts.

OBPR advised that no further regulatory impact analysis is required.