

Planning Amendment Regulation (No. 2) 2024

Explanatory notes for SL 2024 No. 251

made under the

Planning Act 2016

General Outline

Short title

Planning Amendment Regulation (No. 2) 2024

Authorising law

Section 284 of the *Planning Act 2016*

Policy objectives and the reasons for them

The policy objective of the *Planning Amendment Regulation (No. 2) 2024* (Amendment Regulation) is to contribute to the measures that address the government's commitment to unlock church and charity-owned land for the community housing sector by the end of 2024.

Achievement of policy objectives

Amendments to Schedule 2 – purpose statement for the Community facilities zone

Schedule 2 includes the purpose statements for the zone codes in use across Queensland under the *Planning Act 2016* (Planning Act).

Currently, the purpose of the Community facilities zone is for community-related uses, activities and facilities, with 'affordable housing component' as defined under the Planning Act not supported within the purpose.

This amendment seeks to amend the purpose statement to allow for development providing a 100 per cent affordable housing component to meet the intent of the zone. This development is to be on land associated with a place of worship, residential care facility or community care centre, or owned, controlled or managed by an entity for the above community activities. This is to reflect that this development is not appropriate in all instances in the zone, for example at a school, hospital or utility installation.

For clarity, is it not intended that a caretaker's accommodation associated with a place of worship or a residential care facility is required to be for an affordable housing component.

Amendments to schedule 5, part 2 – infrastructure eligible for the Ministerial infrastructure designation (MID) pathway

Feedback to the department has identified that currently item 16 'social or affordable housing that is provided by a registered provider' has some ambiguities in terms of application/eligible applicants.

The regulation amendment expands the provision to apply to a 'registered entity under the *Australian Charities and Not-for-profits Commission Act 2012 (Cwlth)*.'

This amendment seeks to clarify that the above institutions (i.e. charities and/or not-for-profits) are also eligible to pursue the MID pathway for social or affordable housing.

Amendments to schedule 6, part 2 material change of use – facilitating dwelling houses via the repurposing of existing dwellings

Schedule 6, part 2 specifies development for material change of use which a local planning instrument cannot make assessable development.

The Amendment Regulation allows for development for a dwelling house in the Community facilities zone or the like, to be accepted development where repurposing an existing dwelling on site (i.e. presbytery or caretaker's accommodation) and involves no building works or only minor building works. Dwellings on sites subject to a hazard or heritage overlay where ordinarily a dwelling house would be assessable, are excluded from these provisions to avoid exposing residents to hazards and/or overriding significant planning matters that require assessment.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Planning Act to establish an efficient, effective, transparent and accountable system of land use planning and development assessment. The Amendment Regulation streamlines development assessment and facilitates the delivery of affordable housing components to address housing need.

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

The regulation amendments are part of a broader suite of new initiatives to facilitate affordable housing, some non-statutory.

The amendment to Schedule 2 (purpose statement for the Community facilities zone) is required to allow for 'affordable housing component' development in the zone. Schedule 2 has the mandatory zone purpose statement provisions that apply to planning schemes across

Queensland. A local government may change a zone purpose statement if the Minister considers it necessary, however this results in varying purposes across local governments. Therefore, there is no alternative way to amend the purpose statement statewide.

Expanding and clarifying which institutions are also eligible to pursue the MID pathway for social or affordable housing, is required to be delivered via an amendment to the ‘infrastructure type’ listed in schedule 5.

Additionally, facilitating a change of use to dwelling house in from an existing caretakers dwelling in the Community facilities zone in Schedule 6, is allowing for minor/low risk change of use to occur without the need to amend all the planning schemes across Queensland.

Benefits and costs of implementation

Amendments in the Amendment Regulation are not expected to incur additional costs or require additional resources.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The Department of State Development, Infrastructure and Planning undertook targeted consultation with the of Archdiocese of Brisbane, Local Government Association of Queensland (LGAQ), Planning Institute of Australia, Q Shelter, the ‘Yes in Faith’s Backyard’ (YIFBY) movement, Urban Development Institute of Australia, Council of Mayors (South East Queensland)(COMSEQ), St Vincent De Paul Society Queensland, Anglicare Southern Queensland, Mission Australia, Churches of Christ and Uniting Care Queensland.

This engagement sought to understand the issues associated with, and how the election commitment (to unlock church and charity-owned land) could be achieved.