

ITEM 3.1 - RESHAPING OUR REGION'S PLANNING - MBRC PLANNING SCHEME PROPOSED MAJOR AMENDMENT NO.3 'BETTER HOUSING AMENDMENT' - STATE INTEREST REVIEW RESPONSE AND PUBLIC CONSULTATION (Cont.)

**#1 Minister for State Development, Infrastructure Local Government and Planning's formal notice to Council dated 17 July 2023**



Hon Steven Miles MP

Deputy Premier

Minister for State Development, Infrastructure,

Local Government and Planning

Minister Assisting the Premier on Olympic and Paralympic Games Infrastructure

Our ref: MC22/4751

Your ref: 65218745, 65748575,  
65583569, 65427045 AJ:cs

17 July 2023

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Councillor Peter Flannery  
Mayor  
Moreton Bay Regional Council  
[mayor@moretonbay.qld.gov.au](mailto:mayor@moretonbay.qld.gov.au)

Dear Councillor Flannery

Thank you for the letter of 7 November 2022 from the Moreton Bay Regional Council (the council) advising of the council's decision to make a major amendment, the Better Housing Amendment (the proposed amendment), to the *Moreton Bay Regional Council Planning Scheme* (the planning scheme). I am writing to notify you of the outcome of the state interest review in accordance with chapter 2, part 4, section 17.5 of the Minister's Guidelines and Rules (MGR).

As part of the state interest review and, in accordance with chapter 2, part 4, section 17.2 of the MGR, officers of the Department of State Development, Infrastructure, Local Government and Planning (the department) together with officers from other state agencies have assessed the proposed amendment against the *Planning Act 2016*, the Planning Regulation (the Regulation) and the state interests contained in the State Planning Policy 2017, the South East Queensland Regional Plan 2017 (*ShapingSEQ*) and other legislation.

I am pleased to advise that, in accordance with section 17.5 of the MGR, I am satisfied the proposed amendment appropriately integrates the relevant state interests subject to the enclosed conditions. The conditions address provisions relating to secondary dwellings and on-site parking and have been discussed with council officers.

I understand the proposed changes to the Dwelling house code to further regulate secondary dwellings are in response to issues raised by the community and identified by the council, relating to design outcomes, siting, amenity and functionality of secondary dwellings.

As you are aware, secondary dwellings provide an important housing type, providing more diverse and affordable housing options in Queensland communities. This is reflected in the recent changes to the Regulation, to allow secondary dwellings to be rented out to anyone (regardless of whether they are related to the occupants of the primary dwelling). This is just one new initiative of the government's strategy to increase housing availability in Queensland, by providing more rental options for people and increasing housing diversity and affordability.

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As currently drafted, the proposed amendments for secondary dwellings have the potential to overregulate secondary dwellings through onerous design and siting requirements, which may disincentivise the development of new secondary dwellings. As such, the enclosed conditions require the council to remove or amend certain provisions to ensure there are no unnecessary impediments that restrict housing supply and diversity. I understand that officers of the department have discussed these conditions with council officers and that they represent a negotiated position in balancing the interests of the State and of the council.

I would like to congratulate council officers on their responsiveness throughout this review, and for their willingness to work with the department to resolve these important issues.

Please note the monitoring of these secondary dwelling provisions will be required through a performance condition at the adoption stage, with a requirement to report back to the State. This monitoring program should prove to be a valuable exercise in the lead up to council's new planning scheme to understand how effective the provisions have been and if any further revisions are required. I understand this has been discussed with council officers.

The condition relating to on-site parking requires the inclusion of quantifiable standards to ensure the proposed amendment aligns with the *Building Act 1975* and Building Regulation 2021. This condition is to be complied with prior to the council adopting the proposed amendment.

I also confirm that the council must, at a minimum, undertake public consultation in accordance with the communications strategy, which was attached to the council's letter of 7 November 2022.

If you require any further information regarding this matter, please contact [REDACTED], Chief of Staff in my office, by email at [REDACTED]

Yours sincerely



**STEVEN MILES MP**  
**DEPUTY PREMIER**  
**Minister for State Development, Infrastructure,**  
**Local Government and Planning**  
**Minister Assisting the Premier on**  
**Olympic and Paralympic Games Infrastructure**

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## ITEM 3.1 - RESHAPING OUR REGION'S PLANNING - MBRC PLANNING SCHEME PROPOSED MAJOR AMENDMENT NO.3 'BETTER HOUSING AMENDMENT' - STATE INTEREST REVIEW RESPONSE AND PUBLIC CONSULTATION (Cont.)

## Ministerial conditions

Pursuant to section 20 of the *Planning Act 2016*

Pursuant to section 20 for amending a planning scheme under the *Planning Act 2016* (the Planning Act), I hereby advise the Moreton Bay Regional Council (the council) that it may proceed to publicly consult on the proposed Better Housing Amendment to the *Moreton Bay Regional Council Planning Scheme* (the proposed amendment), as submitted under cover letter of 7 November 2022, subject to the following conditions:

CONDITION	TIMING
<b>Issue: Policy relating to Secondary Dwellings</b>  <b>State Interests:</b> <ul style="list-style-type: none"> <li>• Advancing the purpose of the <i>Planning Act 2016</i></li> <li>• State Planning Policy (SPP) – Guiding principles: Efficient and State interest: Housing supply and diversity</li> <li>• South East Queensland Regional Plan 2017 (<i>ShapingSEQ</i>) – Goal 1: Grow (Element 1: Efficient land use and Element 4: Housing diversity)</li> </ul>	
1. <b>REMOVE</b> the following proposed amendments about secondary dwellings in 9.3.1 Dwelling house code: <ul style="list-style-type: none"> <li>(a) Table 9.3.1.1 Requirements for accepted development, RAD25 Secondary dwellings share the same colour, building style and roof form as the primary dwelling.</li> <li>(b) Table 9.3.1.2 Criteria for assessable development, E21E.2 Secondary dwellings share the same colour, building style and roof form as the primary dwelling.</li> </ul>	Prior to the local government commencing public consultation on the proposed amendment.
2. <b>AMEND</b> the following proposed amendments about secondary dwellings in 9.3.1 Dwelling house code: <ul style="list-style-type: none"> <li>(a) 9.3.1.2 Purpose, 2., c., iv. not <del>fenced off from or otherwise precluded from access to</del> <b>shared</b> all private open space areas and <b>allocated</b> car parking on the site.</li> <li>(b) Table 9.3.1.1 Requirements for accepted development, RAD22, Secondary dwellings are:               <ul style="list-style-type: none"> <li>a. not located in front of the primary dwelling;</li> <li>b. annexed to (adjoining, above or below) the primary dwelling; or</li> <li>c. where freestanding, located within <del>5m</del> <b>10m</b> of the primary dwelling. (Also change Note that references this distance.)</li> </ul> </li> <li>(c) Table 9.3.1.1 Requirements for accepted development, RAD24 Secondary dwellings, <b><u>where freestanding and in the Suburban neighbourhood precinct or Coastal communities precinct of the General residential zone.</u></b> orientate primary entry, or any patio, balcony or deck inwardly within the lot so that it faces the primary dwelling and not adjoining properties.</li> </ul>	Prior to the local government commencing public consultation on the proposed amendment.

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CONDITION	TIMING
<p>(d) Table 9.3.1.1 Requirements for accepted development, RAD26 <del>Secondary dwellings' access to on</del> <b>On-site</b> open space and allocated off-street car parking is:</p> <ul style="list-style-type: none"> <li>a. <del>unrestricted by fencing or other barriers;</del></li> <li>b. <del>readily</del> accessible to all occupants of the primary dwelling and secondary dwelling.</li> </ul> <p>(e) Table 9.3.1.1 Requirements for accepted development, RAD26, include the following: <b>Editor's note - Development outcomes (such as fencing or other barriers) that restrict access to shared on-site open space and allocated off-street car parking are not supported.</b></p> <p>(f) Table 9.3.1.2 Criteria for assessable development, E21D.1 Secondary dwellings are:</p> <ul style="list-style-type: none"> <li>a. not located in front of the primary dwelling;</li> <li>b. annexed to (adjoining, above or below) the primary dwelling; or</li> <li>c. where freestanding, located within <del>5m</del> <b>10m</b> of the primary dwelling. (Also change Note that references this distance.)</li> </ul> <p>(g) Table 9.3.1.2 Criteria for assessable development, E21E.1 <del>Secondary dwellings orientate primary entry, and any patio, balcony or deck inwardly within the lot, so that it faces the primary dwelling and not adjoining properties.</del> <b>No example provided.</b></p> <p>(h) Table 9.3.1.2 Criteria for assessable development, PO21E Secondary dwellings, <b><u>where freestanding and in the Suburban neighbourhood precinct or Coastal communities precinct of the General residential zone,</u></b> are designed, sited and oriented to avoid adverse impacts on the privacy and amenity of adjoining properties.</p> <p>(i) Table 9.3.1.2 Criteria for assessable development, PO21E, include the following: <b>Editor's note - In designing, siting and orienting a Secondary dwelling, development addresses the potential for the outlook and use of the primary entry and any patio, balcony or deck, to have an adverse impact on the privacy and amenity of adjoining properties.</b></p> <p>(j) Table 9.3.1.2 Criteria for assessable development, E21F <del>Secondary dwellings' access to on</del> <b>On-site</b> open space and allocated off-street car parking is:</p> <ul style="list-style-type: none"> <li>a. <del>unrestricted by fencing or other barriers;</del></li> <li>b. <del>readily</del> accessible to all occupants of the primary dwelling and secondary dwelling.</li> </ul> <p>(k) Table 9.3.1.2 Criteria for assessable development, PO21F <del>Secondary dwellings are not fenced off from or otherwise precluded from access to all private open space areas and car parking on the site.</del> <b>Secondary dwelling</b></p>	

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CONDITION	TIMING
<p><b><u>occupants' access to shared open space areas and allocated on-site parking is not restricted.</u></b></p> <p>(l) Table 9.3.1.2 Criteria for assessable development, PO21F, include the following: <b><u>Editor's note - Development outcomes (such as fencing or other barriers) that restrict access to shared on-site open space and allocated off-street car parking are not supported.</u></b></p> <p>(m) Table 9.3.1.2 Criteria for assessable development, E21F, include the following: <b><u>Editor's note - Development outcomes (such as fencing or other barriers) that restrict access to shared on-site open space and allocated off-street car parking are not supported.</u></b></p>	
<p><b>Issue: Policy relating to Car Parking</b></p> <p><b>State Interests:</b></p> <ul style="list-style-type: none"> <li><b><i>Building Act 1975 and Building Regulation 2021 (section 6)</i></b></li> </ul>	
<p>3. <b>PROVIDE</b> a corresponding quantifiable standard for the provisions that address qualitative provisions for on-site parking, including (but not limited to):</p> <ul style="list-style-type: none"> <li>proposed PO9A (and corresponding example) within Table 6.2.3.2.2.2 Assessable development - Emerging community zone - Transition precinct, (developed lot)</li> <li>proposed PO7A (and corresponding example) within Table 6.2.6.3.2 Assessable development - General residential zone - Next generation neighbourhood precinct</li> <li>proposed PO9A and PO58A (and corresponding examples) within Table 6.2.6.4.2 Assessable development - General residential zone - Urban neighbourhood precinct</li> <li>proposed PO8A (and corresponding example) within Table 7.2.3.1.1.2 Assessable development - Caboolture West Local Plan Code - Next generation sub-precinct.</li> </ul>	<p>Prior to the local government giving a notice of request to adopt the proposed amendment (step 21.1 of the Minister's Guidelines and Rules).</p>
<p><b>Consequential Amendments</b></p>	
<p>4. The council is to <b>AMEND</b> any other part of the proposed amendment and make any consequential amendments relevant to complying with the above conditions, including any notes and editor's notes.</p>	<p>Prior to the local government commencing public consultation on the proposed amendment.</p>

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CONDITION	TIMING
<p>Reasons:</p> <p><b>Planning Act 2016</b></p> <ul style="list-style-type: none"> <li>Section 3 Purpose of Act, (1) The purpose of this Act is to establish an <b>efficient</b>, effective, transparent, integrated, coordinated and accountable system of land use planning, development assessment and related matters that facilitates the achievement of ecological sustainability</li> <li>Section 5 Advancing purpose of Act, (2) Advancing the purpose of this Act includes...(f) providing for housing <b>choice, diversity and affordability</b>.</li> </ul> <p><b>SPP – Guiding principles: Efficient</b></p> <ul style="list-style-type: none"> <li>Plans regulate development only to the extent necessary to address potential impacts. When applied, plans adopt the <b>lowest appropriate level of assessment</b> required to efficiently and effectively address those impacts.</li> </ul> <p><b>SPP – State interest: Housing supply and diversity</b></p> <ul style="list-style-type: none"> <li>Policy (2) The development of residential land is facilitated to address and cater for all groups in the current and projected demographic, economic and social profile of the local government area, <b>including households on low to moderate incomes</b>.</li> <li>Policy (3) A diverse, affordable and comprehensive range of housing options in accessible and well-serviced locations, is facilitated through: <ul style="list-style-type: none"> <li>(b) supporting an appropriate <b>mix of lot sizes and dwelling types</b>, including housing for seniors and people requiring assisted living</li> <li>(c) considering <b>incentives to promote affordable</b> and social <b>outcomes</b>, particularly in areas in close proximity to services and amenities</li> </ul> </li> </ul> <p><b>ShapingSEQ – Goal 1: Grow</b></p> <ul style="list-style-type: none"> <li>Element 1: Efficient land use – Urban development uses land and infrastructure efficiently.</li> <li>Element 4: Housing diversity – Housing diversity meets the changing make-up of our population, community needs and lifestyles, and provides choice and affordability.</li> </ul> <p><b>Building Act 1975 and Building Regulation 2021</b></p> <ul style="list-style-type: none"> <li>On-site parking provisions for class 1 buildings (as per those covered under QDC MP1.1 and 1.2) are not accompanied by quantifiable standards. Section 6 of the Building Regulation 2021 clarifies that local governments may for relevant performance criteria (including P8) under QDC MP1.1 and 1.2, provide: <ul style="list-style-type: none"> <li>a qualitative statement for a matter provided for under the performance criteria mentioned in paragraph (a) or (b) for the building work, if the scheme also provides for quantifiable standards for the statements.</li> </ul> </li> </ul>	

Dated this 17<sup>th</sup> day of July 2023



**STEVEN MILES MP**  
**DEPUTY PREMIER**  
**Minister for State Development, Infrastructure,**  
**Local Government and Planning**  
**Minister for Assisting the Premier on Olympic and Paralympic**  
**Games Infrastructure**