

Statement of Reasons

Statement of Reasons in respect of the decision by the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympic and Paralympic Games Infrastructure, made on 4 October 2023 under section 27 of the *Planning Act 2016* (Qld) (the Planning Act) to intend to make a Temporary Local Planning Instrument.

1 Decision

- 1.1 On 4 October 2023, I, the Honourable Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympic and Paralympic Games Infrastructure, decided, in accordance with section 27 of the Planning Act, to give notice to the Brisbane City Council (the council) in accordance with section 27(2) of the Planning Act, that I intend to take action, namely to make the Temporary Local Planning Instrument No. 2 of 2023 (Kurilpa Sustainable Growth Precinct) (the TLPI).
- 1.2 The TLPI provides an interim policy response to increase housing supply, affordability and diversity in the Kurilpa sustainable growth precinct plan area within the South Brisbane riverside neighbourhood plan area.
- 1.3 The TLPI will suspend or otherwise affect the operation of the *Brisbane City Plan 2014* (the planning scheme) as set out in the TLPI for a period of two years after the effective day, unless repealed sooner.
- 1.4 I am satisfied that the action I have decided to take:
 - (a) should be taken under section 26(2)(b) of the Planning Act to protect, or give effect to, a state interest; and
 - (b) must be taken urgently.
- 1.5 The reasons for my decision made under section 27(2) of the Planning Act are set out below.

2 Background

- 2.1 I was informed by the Planning Assessment Report (PAR) prepared by the Department of State Development, Infrastructure, Local Government and Planning (the department) for the TLPI and provided to me about information relevant to my decision and the relevant statutory provisions.
- 2.2 The legislation and statutory instruments relevant to my decision are:
 - (a) Planning Act
 - (b) Planning Regulation 2017
 - (c) State Planning Policy (SPP)
 - (d) South East Queensland Regional Plan 2017 (*ShapingSEQ*)
 - (e) the planning scheme.
- 2.3 I note the following legislative provisions are relevant to my decision.
- 2.4 Section 27 of the Planning Act applies if I consider that:
 - (a) action should be taken under section 26(2)(b) of the Planning Act to protect, or give effect to, a state interest; and
 - (b) the action must be taken urgently.

- 2.5 A 'state interest' is defined as an interest that I consider:
- (a) affects an economic or environmental interest of the state or a part of the state, or
 - (b) affects the interest of ensuring that the Planning Act's purpose is achieved.
- 2.6 The purpose of the Planning Act 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*'.
- 2.7 Under section 8(2) of the Planning Act, the SPP and *ShapingSEQ* are state planning instruments which are made to 'protect or give effect to state interests'.
- 2.8 The action I can consider taking urgently under section 27 and 26(2)(b) of the Planning Act includes making a TLPI.
- 2.9 Under section 27 I can, as Planning Minister, take action to make a TLPI if I consider this action should be taken under section 26(2)(b) to protect, or give effect to, a State interest, and the action must be taken urgently.
- 2.10 Under section 23(1) of the Planning Act, a local government may make a TLPI if the local government and Minister decide:
- (a) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area;
 - (b) the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk; and
 - (c) the making of the TLPI would not adversely affect state interests.
- 2.11 Under section 27(2) of the Planning Act, before taking action, I must give the relevant local government a notice that states:
- (a) the action that I intend to take; and
 - (b) the reasons for taking the action.
- 2.12 Under section 27(3) of the Planning Act, after giving the relevant notice, I may take the action as required under the process in the Minister's Guidelines and Rules (MGR) without:
- (a) giving a direction to the local government under section 26; or
 - (b) consulting with any person before taking the action.
- 2.13 The MGR is made under section 17 of the Planning Act and includes rules about making or amending TLPIs.
- 2.14 Section 10 of the Planning Regulation 2017 provides that the Minister's guidelines and rules are contained in the document called the 'Minister's Guidelines and Rules' dated July 2023, published on the department's website.
- 2.15 Chapter 3, part 2, section 8 of the MGR prescribes the process for making or amending a TLPI for section 23 of the Planning Act.
- 2.16 A TLPI may suspend, or otherwise affect, the operation of another local planning instrument. However, a TLPI does not amend or repeal the instrument.
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3 The evidence or other material on which findings on material questions of fact are based

3.1 In deciding to exercise my power under section 27 of the Planning Act, I had regard to the following documents:

- (a) The department's Briefing Note and its attachments including:
 - (i) this Statement of Reasons which I have adopted in full
 - (ii) the draft TLPI
 - (iii) the PAR
 - (iv) the consultation report
 - (v) the letter from the council dated 15 August 2023 and the council's suggested amendments
 - (vi) the draft notice to the council.

4 Findings on material questions of fact

4.1 I made the following findings of fact having regard to the evidence or other material as set out in Section 3 above.

4.2 I accept the information contained in the PAR, specifically:

- (a) the assessment of the TLPI against the statutory provisions; and
- (b) the purpose and effect of the TLPI.

4.3 Further I am informed by the information contained in the PAR that:

- (a) In recent years, the Brisbane metropolitan area has experienced high rates of population growth and property price increases.
- (b) Queensland is experiencing sustained net increased interstate migration. Statistics from the Australian Bureau of Statistics shows that between June 2021 and June 2022, Brisbane City experienced the largest population increase of the Australian capital cities with 59,200 people and the highest growth rate of 2.3 percent – this was also the most of any Queensland local government area.¹
- (c) Other factors affecting Queensland's property market include materials and skills shortages in the construction industry, a change in housing tenure where residents were opting to sell and buy properties instead of rent due to the lowering of interest rates, longer running demographic trends like the move towards smaller household sizes, and the impact of weather events including the 2022 Queensland floods.
- (d) Housing supply in Brisbane has not kept up with increased demand.² In particular, the number of properties available in the private rental market has reduced, impacting the availability and affordability of rental properties.
- (e) Queensland Treasury analysis prepared for the October 2022 Queensland Housing Summit identified that, at June 2022, there were 55,000 fewer rental dwellings available in Queensland than would have been expected based on pre-COVID-19 trends. This particularly impacts Queenslanders renting or aspiring to rent at the lower-priced end of the private market.

¹ www.abs.gov.au/statistics/people/population/regional-population/latest-release

² www.qld.gov.au/about/queensland-housing-summit#:~:text=The%20Queensland%20Housing%20Summit%20Outcomes%20Report%20sets%20out,Qeensland%20Housing%20Summit%20Outcomes%20Report%20%28PDF%2C%202%20MB%29

- (f) The higher demand for new housing and rental stock is also causing an increased risk of homelessness in the local government area. There is also an increased risk for individuals, households and families being accommodated in temporary or unsuitable housing.

4.4 On 7 June 2023, the council submitted the Kurilpa Sustainable Growth Precinct Temporary Local Planning Instrument No. 01 of 2023 (TLPI 01/2023) for my consideration.

4.5 I undertook public consultation on TLPI 01/2023 from 13 to 26 July 2023. On 4 October 2023, I decided not to approve TLPI 01/2023.

5 Reasons for decision

5.1 On 4 October 2023 I decided, having regard to the above evidence, material and facts, to intend to make TLPI 02/2023 for the following reasons.

Section 23(1)(a) of the Planning Act – Significant risk of serious economic and social conditions

5.2 I consider the impacts of the high demand for housing supply, diversity and affordability and reduced availability as discussed in the PAR and as outlined above pose a significant risk of serious economic and social conditions occurring in the local government area, for the following reasons:

- (a) I am satisfied that the Brisbane local government area has experienced unprecedented, sustained rates of population growth through interstate migration, exacerbated by the COVID pandemic, creating pressures on Queensland's housing system.
- (b) I am satisfied that the impacts of the COVID pandemic on the housing market and building and construction industry (labour shortages and the rising costs of construction) have yet to ease resulting in housing supply being unable to keep up with the increased demand.
- (c) The draft *ShapingSEQ* review, which was released on 2 August 2023 for public consultation, outlines that South East Queensland is expected to be home to an additional 2,161,800 residents by 2046 with 457,000 of those residents expected to settle in the Brisbane local government area. With housing already under extreme pressure and demand, an influx of housing supply is urgently needed to cater for this additional population increase.

Section 23(1)(b) of the Planning Act – Increased risk

5.3 I am satisfied that the delay in implementing planning provisions that will facilitate increased housing supply in the Kurilpa area would increase the risk of serious adverse social and economic conditions in the local government area.

5.4 More specifically, having regard to the department's assessment, I am satisfied the delay involved in undertaking a process in sections 18 to 22 of the Planning Act, to make or amend another local planning instrument, would increase the risk of serious economic and social conditions outlined above, noting:

- (a) the housing challenges, involving pressures on housing and rental stock availability and affordability, and increased homelessness have been worsening over the past three years and will continue to worsen without immediate action to increase housing supply.
- (b) the impacts of COVID-19 on the building and construction industry are yet to ease.
- (c) the delay in implementing planning provisions that will facilitate increased housing supply in the Kurilpa area would increase the risk of serious adverse social and economic conditions in the local government area by slowing the supply of new dwellings which would be made possible by the higher density residential buildings provided for under the TLPI.
- (d) facilitating housing supply now would allow construction to commence and/or conclude prior to the 2032 Olympic and Paralympic Games construction commencement which may take precedent for resources and materials. Immediate facilitation of housing supply would also assist in anticipating the housing needs of the estimated 457,000 residents that are expected to locate to the Brisbane local government area by 2042.

Section 23(1)(c) of the Planning Act – No adverse affect on state interests

5.5 I have had regard to the department’s assessment of the proposed TLPI against relevant state interests as articulated in *ShapingSEQ* and the SPP, and the interest of ensuring the purpose of the Planning Act is achieved.

5.6 On this basis, I am satisfied that making the TLPI would not adversely affect any state interest.

Section 27(1)(a) of the Planning Act – Action to protect of give effect to a state interest

5.7 I note that section 27(1) of the Planning Act allows me as the Planning Minister to make a TLPI where I consider:

- (a) the action should be taken to protect or give effect to a state interest; and
- (b) the action must be taken urgently.

5.8 I consider for the reasons detailed below, that the requirements set out in section 27 of the Planning Act are met as:

- (a) the TLPI should be made to protect or give effect to the state interests outlined below; and
- (b) the TLPI should be made urgently.

5.9 Having regard to the department’s assessment, I consider the TLPI should be made to protect or give effect to the state interest, for the following reasons:

- (a) Ensuring the purpose of the Planning Act is achieved, namely:
 - (i) achieves economic development by facilitating housing supply that promotes affordability and diversity to meet the needs of the community and addresses the housing challenges
 - (ii) creates and maintains a healthy, prosperous, liveable and resilient community with affordable, efficient, safe and sustainable development by including provisions for affordable and diverse development and linking these provisions to the levels of assessment to entice uptake
 - (iii) addresses the impacts from climate change through sustainable development by facilitating sustainable building design and ensuring flood mitigation measures are appropriately accounted for in each development
- (b) Housing supply and diversity (SPP):
 - (i) provides for affordable and diverse housing by reflecting these qualities throughout the TLPI, including in the purpose, to ensure these aspects of development are considered at all levels of assessment
 - (ii) incentivises developers to provide housing that is affordable and diverse by linking this provision to the levels of assessment and the additional height for higher density residential buildings
 - (iii) ensures development caters to all groups in the current and projected demographic by ensuring housing supply is affordable and diverse
 - (iv) ensures development is sustainable and enhances amenity and liveability through providing community benefits
- (c) Natural hazards, risk and resilience (SPP):
 - (i) mitigates the risk to people and property from flooding events by requiring development to include a flood risk assessment by linking it to the additional building heights for higher density residential buildings in the flood effected precincts within the TLPI area
- (d) Grow (*ShapingSEQ*):
 - (i) facilitates well-designed residential density in a location that has good access to high-frequency public transport and employment

- (ii) facilitates housing affordability and diversity to accommodate the projected population and employment growth, including low to moderate income households
- (e) Sustain (*ShapingSEQ*):
 - (i) enhances liveability and amenity through strengthening the purpose of the proposed TLPI to highlight the importance of providing community benefits in the public areas and separating the provisions for public artwork and multipurpose space from housing affordability and diversity to highlight its importance
- (f) In summary, I am satisfied the provisions within the TLPI will, and should be made to, protect, or give effect to, the State interests addressed above.

Section 27(1)(b) of the Planning Act – Urgency

5.10 As outlined above, I am satisfied that:

- (a) there is a significant risk of serious adverse social and economic conditions occurring in the Brisbane local government area;
- (b) the housing challenges, involving pressures on housing and rental stock availability and affordability, and increased homelessness will continue to worsen without immediate action to increase housing supply; and
- (c) the effects of the housing shortage is likely to continue to worsen during the typical drafting and processing timeframe for a statutory amendment to a planning scheme under the Planning Act.

5.11 The proposed TLPI is an appropriate instrument that can address these issues urgently whilst appropriate review, drafting and consultation occur on longer term amendments to the planning scheme.

5.12 On this basis, I consider it is necessary to urgently implement the TLPI.

Dated this 4th day of October 2023



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