

Urban Encroachment

This fact sheet provides an overview of the amended Urban Encroachment provisions under the Housing Availability and Affordability (Planning and Other Legislation Amendment) Bill 2023.

What is urban encroachment?

Increasing urban development can pose difficulties for some owners of premises where their activities involve emissions relating to noise, dust, aerosols, fumes, light and smoke.

Urban encroachment protections allow local governments to plan for increasing urban density, while protecting these existing industries. Where an activity is operating within previously approved limits, an owner can apply to the Planning Minister for an urban encroachment registration. This protects the registered premises from others launching legal action for nuisance relating to air, light or noise emissions.

The owner of a premises is eligible to apply for an urban encroachment registration if their activity provides significant economic, heritage or infrastructure value to Queensland.

Why do we need change?

Across Queensland we are seeing increasing pressures of urban encroachment on industrial land uses and other premises where operations result in noise, dust, aerosols, fumes, light or smoke. However, the urban encroachment registration and renewal process can be onerous and is not providing adequate certainty for these businesses.

Key features:

- A new application process for an expansion of an affected area requires consultation to be with persons in the expanded area only.
- Public consultation is not required for registration renewal where no expansion of the affected area.
- Re-registration is not required where a registered premises obtains a new or amended authority.
- Public consultation for a new or amended registration must be for a minimum of 15 business days.

What does the bill do?

The Bill modernises the urban encroachment provisions to reduce regulatory burden and improve business certainty for these key employment generating activities. The amendments also provide greater certainty and reduce duplication of process for businesses when there is new or amended authority in place which has undergone the necessary approvals process under the Planning Act and *Environmental Protection Act 1994*. These are the appropriate legislative frameworks for assessing impacts of use and emission impacts and determine the relevant approval pathway, including whether public consultation is required.

What are the changes to urban encroachment provisions?

Amendments are proposed to the Planning Act and Planning Regulation.

Proposed amendments ¹	
Planning Act	<p>The Bill improves the urban encroachment provisions by:</p> <ul style="list-style-type: none">• creating a new change registration application process where an existing affected area is modified or expanded, in which consultation only occurs with persons in the expanded area. Amending the process to expand an affected area removes the risk and uncertainty that hard to locate businesses would otherwise face.• simplifying the renewal process so that public consultation is not required when there is an impending lapse in registration and there is no change to the affected area, given consultation

¹ The table below provides indication of the nature of the amendments.



	<p>occurred when the premises was first registered. This will give business certainty for registrations in which there is no change since the initial registration.</p> <ul style="list-style-type: none"> removing the requirement to re-register where a premises obtains a new or amended environmental authority and/or development approval, where the affected area is unchanged and the owner gives notice to the affected area and Planning Minister establishing requirements for public consultation, including a minimum 15 business day consultation period.
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Planning Regulation</p>	<p>Supporting amendments to the Planning Regulation will include:</p> <ul style="list-style-type: none"> updated application requirements matters the Minister must consider as part of the assessment process notice requirements and content.

Why has the requirement to re-register a premises, including public consultation, been removed when the premises obtains a new or amended authority?

The amendments provide greater certainty and reduce duplication of process for these hard to locate uses when there is an authority in place which has undergone the necessary approvals process under the Planning Act and Environmental Protection Act 1994. These are the appropriate legislative frameworks for assessing impacts of use and emission impacts and determine the relevant approval pathway, including whether public consultation is required.

As urban encroachment consultation relates only to the registration (for protection from civil and/or criminal proceedings relating to nuisance), any concerns about emissions that are raised through consultation on the registration cannot be re-considered under the planning and environment frameworks. Persons in the affected area will continue to have access to the complaint and enforcement mechanisms in the planning and environment frameworks. Registration requirements including consultation must be balanced with protecting the ongoing viability of businesses lawfully operating within their approved authority.

Further information

For further information please contact the Department of State Development, Infrastructure, Local Government and Planning via planning4housing@dasilgp.qld.gov.au.