



8 February 2019

The Honourable Cameron Dick  
Minister for State Development, Manufacturing, Infrastructure and Planning  
1 William Street  
BRISBANE QLD 4000

Via email: [statedevelopment@ministerial.qld.gov.au](mailto:statedevelopment@ministerial.qld.gov.au)

Dear Minister, the Honourable Cameron Dick,

**RE: OBJECTION TO BRISBANE'S PROPOSED TLPI TO IMMEDIATELY BAN MULTIPLE DWELLINGS & TOWNHOUSES IN THE MAJORITY OF RESIDENTIAL AREAS**

**1. INTRODUCTION**

We write with urgency, on an open basis, requesting you to reject outright Brisbane City Council's proposal to introduce a Temporary Local Planning Instrument (TLPI) that seeks to immediately ban all forms of multiple dwellings (including townhouses, apartments and triplexes) from the majority of our residential neighbourhoods in Brisbane.

We take this opportunity to raise with you our concerns about the proposed ban on multiple dwellings, and more urgently, our serious concerns about the use of the TLPI process to effectively circumvent due process and cut the community out of the planning process.

In our opinion, the proposed ban on townhouses and other forms of multiple dwellings from Brisbane's low density residential areas:

- (a) Does not meet the Significant Risk Test;
- (b) Does not warrant a more Urgent Response than the standard amendment process, given that the current provisions have been in effect and largely operating successfully since City Plan 2000;
- (c) Has the potential to adversely affect State interests;
- (d) Would therefore fail the test for making a TLPI;

**BRISBANE**

- (e) Would circumvent due process and cut the community out of the process and would actually remove the ability for any resident in support of multiple dwellings to be able to comment on the change;
- (f) Would result in other serious adverse social impacts on the City by removing an important housing type which meets the needs of a significant portion of the market, both from a financial and locational perspective; and
- (g) Would be a poor planning outcome for the community and an adverse planning change.

## 2. SIGNIFICANT RISK TEST

Building low density townhouses in low density residential areas of Brisbane cannot be considered *“a significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area”* (section 23(1)(a) of the *Planning Act 2016*).

Not only is there no significant risk, in fact to the contrary, the proposed ban is likely to result in a significant risk of serious adverse economic, environmental and social conditions happening in Brisbane. In our opinion, it will erode housing choice and affordability, locking people out of the Brisbane residential housing market on financial grounds, including lower income families, single parent households and key workers such as nurses and police officers, forcing them into high rise apartments or other local government areas at a price point they can afford. It will also exacerbate urban sprawl by removing a more compact form of urban living from the available housing typologies within Brisbane’s low density suburbs. It is a well established planning principle that urban sprawl is undesirable from an economic, social and environmental perspective.

Council’s reliance on ‘adverse social impact’ is founded in a non-statutory, public-relations exercise including gaming technology, which was far from thorough and sought to extract feedback on broad concepts rather than specific topics such as a ban of this nature.

## 3. NO URGENCY

A policy that actively supports compact low density housing forms such as townhouses in our large expanses of low density residential neighbourhoods, within walking distance of centres and high frequency public transport, is good planning policy which is consistent with the South East Queensland Regional Plan. This is an integral component of Brisbane’s housing policy set out in City Plan 2014 and within previous planning schemes for the last 20 years.



Any proposal to wind this policy backwards, let alone turn it on its head completely as is being sought by Council, cannot and should not be considered urgent, and must go through the normal statutory plan making process. As outlined above, the proposed ban will make living in Brisbane more expensive and potentially out of reach for many families, exacerbate urban sprawl and further erode housing choice and affordability in our residential suburbs. How could a proposal of this nature possibly be considered at increased risk should due process be followed?

Currently under the City Plan an application for a Material Change of Use for a Multiple Dwelling in low density residential zoned land requires an application to Council which follows the Impact assessment process. Existing City Plan codes include provisions specifically focused on scale, built form and the contextual relationship of the proposed development. Such an application must demonstrate how it complies with the City Plan, and further, undergo public notification, enabling public concerns to be taken into account for each development application. Council and the community rely upon the City Plan in understanding how a proposed development is to be assessed, and it is held that the City Plan is the only current and true expression of the feedback derived from the broader community during formal public consultation undertaken during the City Plan's preparation. The City Plan therefore expresses reasonable community expectations for development in all areas across the city, including townhouses in low density areas. Council are afforded the opportunity through the assessment process to seek information that demonstrates how any development complies with the City Plan, and further has the powers to request changes to a proposal to align with the requirements of the City Plan, or to issue a refusal. The community are also afforded opportunity to make submissions for or against a proposal, and appeal the decision if they are not satisfied with the outcome.

Therefore, in our opinion, there is no increase in risk to the community or Council accordingly, and certainly no urgency. The TLPI will therefore directly conflict with Section 23(1)(b) of the *Planning Act 2016*.

#### **4. ADVERSE IMPACT ON STATE INTERESTS**

The TLPI will directly conflict with Section 23(1)(c) of the *Planning Act 2016* as it has the potential to adversely impact State Interests, specifically Liveable Communities and Economic Growth. These State interests are invested in the South East Queensland Regional Plan 2017 (Shaping SEQ) which is a document that advances certain State interests in established planning strategies and direction, not least of which includes housing targets for all local government areas in South East

Queensland and an appropriate framework to deliver a range of housing types at a range of price points to suit a range of income levels.

We understand you queried the Council about how their proposed planning scheme amendment to ban multiple dwellings will impact on housing supply, being a State interest. Given the proposed TLPI deals with the same issue, we would expect this matter of State interest remains unresolved, with a potential adverse impact on State interests remaining a significant risk.

In our opinion, consideration of the impact on housing supply needs to properly consider all types of housing and all income levels, and not simply raw numbers. The potential impact on 'missing middle' housing forms specifically needs detailed consideration. Furthermore, the impact on the potential for lower income families, single income families and key workers to enter the Brisbane market requires careful consideration.

## **5. FAILURE TO MEET THE TESTS TO MAKE A TLPI**

Based on the above issues, we are of the strong opinion that a TLPI should not be made because it fails to meet the three test sets out in section 23 of the *Planning Act 2016*, including:

- (a) There is not a significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area to warrant an immediate and non-consulted ban. In our opinion, approving the proposed TLPI would instead create a significant risk of this nature, as detailed above, and result in other serious social consequences;
- (b) The time involved in following due process to make a planning scheme amendment would not increase any risk, but would rather introduce the significant risk that due process is being circumvented for non-planning, and potentially political reasons, without proper consideration and consultation with the community;
- (c) Making a TLPI of this nature would adversely affect State interests, being housing supply, particularly in the form of 'missing middle' housing, at a range of price points.

## **6. CIRCUMVENTING DUE PROCESS WITHOUT PUBLIC NOTIFICATION**

Actioning the proposed ban via a TLPI is extraordinarily concerning, as it is attempting to circumvent due process for an ordinary issue of planning and housing policy and certainly not an issue displaying significant risk or potential harm. At best this is ill conceived, at worst it is an abuse



of process. This is an issue that requires careful consideration and community consultation, consistent with any proposed planning scheme amendment.

The community should not be cut out of the planning process. Indeed, any resident who would support multiple dwellings have been denied any ability to comment on this change. While it is recognised that there are appropriate matters of serious risk and potential harm for which the TLPI process was established, decisions to use the TLPI process should not be taken lightly, given the significant power it provides and due process it avoids. This process should not be able to be abused for non-serious and non-threatening matters of local politics.

## **7. POOR PLANNING OUTCOME**

The intent of both the proposed major amendment to the City Plan currently under State interest check and the proposed TLPI appears to be to create exclusive areas all over Brisbane protected solely for single family dwellings, with no housing choice or diversity.

Already, 3000m<sup>2</sup> sites for multiple dwellings and retirement facilities are the only alternative housing forms to single family dwellings (through Impact assessment) in Brisbane's low density areas. All other alternate housing forms to a single family dwelling, including a second household living in a granny flat / Fonzie flat, 'invisible density' such as a duplex consistent with the form of a traditional house, as well as triplexes, row housing and smaller groups of townhouses are already effectively 'banned' in low density areas of Brisbane, through the intent of the Zone. This proposed ban will simply strip out all and any multiple dwelling as an alternative form of low density living.

Given the retirement and aged care provisions in City Plan are also currently under review, we are also concerned this form of housing may also be lost in low density areas in the future, if the Council's objective is to create certainty for the community that all these areas will be is areas for single family dwellings.

We strongly believe there are many benefits to having low density multiple dwellings as an alternative and often more affordable housing form in Brisbane's low density suburbs. There are benefits to downsizers looking for an alternative lower maintenance housing product in the years between retirement and a retirement village, and to our children (the millennials) hoping to be able to afford to rent or buy a home in the neighbourhood they've grown up in. Many downsizers need an alternative form of housing in the neighbourhood they call home. We raise this as a very important issue, noting loneliness is recognised now as one of the major causes of death in the

elderly yet many people do not want to move straight from their single family home to a nursing home or retirement village, they want to downsize in their own neighbourhood typically by moving to a townhouse or apartment. If that becomes impossible in the majority of Brisbane's residential areas, this raises an important planning issue and a significant social risk to Brisbane.

The exclusion of all multiple dwelling housing typologies from low density residential zoned land in Brisbane will see a transition of currently accessible, inclusive communities into suburbs that are only accessible for residents of a certain economic demographic, resulting in social exclusion across our city.

## 8. CONCLUSION

We believe the real risk to the Brisbane community arising from the proposed multiple dwelling ban is:

- (a) Eroding housing choice and affordability across the clear majority of Brisbane's residential land, particularly in terms of missing middle housing forms at a range of price brackets;
- (b) Bringing into force an immediate change to planning rules without proper process or community consultation, resembling an abuse of process;
- (c) Depriving land owners of their rights in terms of seeking compensation, which is not available for the period in which a TLPI is in force; and
- (d) Pandering to what may well be a vocal minority who are acting in their own self interests to preserve their expensive and exclusive suburbs from new development.

This will be a poor planning outcome, not properly considered or debated in the wider community. In our opinion, planning policy would be better placed moving in the opposite direction, by Council actually facilitating the discussion with the community to respond to the need to provide housing choice, the desire to provide healthy, walkable neighbourhoods, rich in real character and protecting the ability to deliver housing at a range of price brackets to meet community needs.

On face value, the notion of a TLPI is nothing more than a political stunt. As the Minister responsible for promoting good planning outcomes and good planning processes in Queensland, we are confident you will not allow this TLPI to proceed.



We strongly urge you to reject Brisbane City Council's proposed TLPI outright.

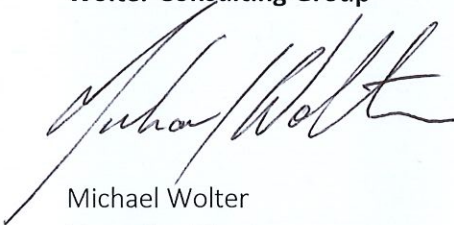
Yours sincerely,



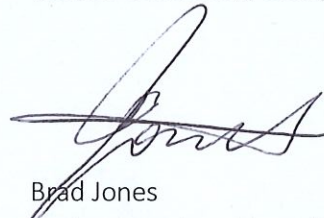
Natalie Rayment  
Manager – Planning Services, Director  
**Wolter Consulting Group**



Andrew Crawford  
Manager – Planning Services, Director  
**Wolter Consulting Group**



Michael Wolter  
Managing Director  
**Wolter Consulting Group**



Brad Jones  
Senior Associate, Town Planner  
**Wolter Consulting Group**



Hannah Tohill  
Associate, Town Planner  
**Wolter Consulting Group**

Cc  
Kerry Doss  
Deputy Director-General Planning Group  
Department of State Development,  
Manufacturing, Infrastructure and Planning  
[kerry.doss@dsdmip.qld.gov.au](mailto:kerry.doss@dsdmip.qld.gov.au)

Steve Conner  
Executive Director  
Development Assessment Division – Planning Group  
Department of State Development, Manufacturing, Infrastructure and Planning  
[Steve.Conner@dsdmip.qld.gov.au](mailto:Steve.Conner@dsdmip.qld.gov.au)