

Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023

Statement of Compatibility

Prepared in accordance with Part 3 of the Human Rights Act 2019

In accordance with section 38 of the Human Rights Act 2019, I, Michael Berkman, Member for Maiwar, make this statement of compatibility with respect to the *Planning and Other Legislation (Make Developers Pay) Amendment Bill 2023 (the Bill)*.

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019 (HR Act)*. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill seeks to give local governments the flexibility to charge developers for trunk infrastructure according to the cost of delivering that infrastructure. It achieves this objective by amending the *Planning Act 2016* and the *South-East Queensland Water (Distribution and Retail Restructuring Act) 2009* to remove references to maximum adopted charges for providing trunk infrastructure for a development.

These changes are intended to allow for appropriate infrastructure charges to be levied and for developers to contribute appropriately to account for additional pressure on existing local infrastructure such as pedestrian crossings, parks, flood mitigation, public and active transport and other community services and facilities.

Human Rights Issues

In my opinion, the bill does not directly impact any human rights under the HR Act.

The bill would allow local governments to increase the charges levied on developers to provide trunk infrastructure. That decision could arguably engage the property rights of any individuals (protected under section 24 of the Act) who are required to pay additional charges by virtue of their ownership of a development within that local government area.

However, the preponderance of developers that would be subject to any major financial impost from increased infrastructure charges are corporate entities, rather than individuals, and so the HR Act does not apply to them. Additionally, this potential flow-on effect is not a direct result of the bill itself. Rather, any impact on property rights would be a result of local government decisions about the appropriate quantum of infrastructure charges for a particular development.

More importantly, it would not constitute a limitation on property rights because no individual developer would be arbitrarily deprived of their property. The objective of the bill, in giving local governments increased flexibility over the charging of levies on developers for providing trunk infrastructure, cannot reasonably be considered an arbitrary deprivation of a person's property, nor can it be achieved through any alternative or less restrictive methods.

Finally, any potential financial (and by extension, property-related) impacts on individuals are outweighed by the importance of ensuring broader community access to essential public services and infrastructure.