

# Planning and Environment Court Amendment Rule 2024

## Human Rights Certificate

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

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Meaghan Scanlon, Minister for Housing, Local Government and Planning and Minister for Public Works provide this human rights certificate with respect to the *Planning and Environment Court Amendment Rule 2024* (the Amendment Rule) made under the *Planning and Environment Court Act 2016*.

In my opinion, the Amendment Rule, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

The policy objectives of the Amendment Rule are to amend the *Planning and Environment Court Rules* (the P&E Court Rules) to:

- ensure that sections 975G, 975H and 975I of the Uniform Civil Procedure Rules 1999 do not apply to documents filed during proceedings in the Planning and Environment Court (P&E Court)
- provide an avenue for any person to request a copy of a document or a certified copy of a document filed under the P&E Court, and
- provide any person the ability to ask the registrar to search for and permit the person to inspect a document filed under the P&E Court Rules to request to inspect or search for a document.

### Human Rights Issues

#### Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 HR Act)

In my opinion, the human right that may be relevant to the decision is:

- Section 15 – Recognition and equality before the law
- Section 21 – Freedom of expression
- Section 31 – Fair hearing.

#### Consideration of reasonable limitations on human rights (section 13 HR Act)

The following table considers the relevant human rights and whether they are limited by the decision.

Human right	Comment
Section 15 – Recognition and equality before the law	<p>Section 15 of the HR Act provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination, as well as equal and effective protection against discrimination.</p> <p>The Amendment Rule ensures a person who is not a party to a proceeding in the Planning and Environment Court still has equal access to documents which form a part of a proceeding.</p> <p>The Amendment Rule does not limit this human right, but rather will ensure all persons whether a party to a proceeding or not in the P&amp;E Court have equitable access to documents that align with current practice. The Amendment Rule does not include any provisions that change the entitlements for equal protection of the law without discrimination, or equal and effective protection against discrimination.</p>
Section 21 – Freedom of expression	<p>Section 21 of the HR Act provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds. It protects the right of all persons to hold an opinion without interference and the right of all persons to seek, receive and express information and ideas (including verbal and non-verbal communication).</p> <p>The Amendment Rule ensures that any person continues to have access to documents which form part of a proceeding before the P&amp;E Court.</p> <p>The Amendment Rule does not limit this human right and will ensure the existing practices and procedures of the P&amp;E Court are retained. The Amendment Rule does not include any provisions which may impact upon the right to freedom of expression.</p>
Section 31 – Fair hearing	<p>Section 31 of the HR Act provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court after a fair and public hearing. It also provides for the court to exclude people from all or part of a hearing in the public interest of the interests of justice, however the judgements or decisions by the court in a proceeding must be publicly available.</p> <p>The Amendment Rule ensures the existing operation of access by all persons to documents that form part of a proceeding before the P&amp;E Court.</p> <p>The Amendment Rule does not limit a fair hearing for parties in a proceeding.</p>

## Conclusion

I consider that the *Planning and Environment Court Amendment Rule 2024* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

Meaghan Scanlon MP  
 Minister for Housing, Local Government and  
 Planning and Minister for Public Works