

Planning Amendment Regulation 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 Amendment Regulation 2024* (the Amendment Regulation) made under the *Planning Act 2016*.

In my opinion, the Amendment Regulation, 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 Regulation are to amend the *Planning Regulation 2017* (the Planning Regulation) to:

- rectify state referral development assessment threshold issue in item 43, Schedule 20 for developments impacting on state transport infrastructure. Certain development applications trigger assessment to the State Assessment and Referral Agency (SARA) under Schedule 10 of the Planning Regulation. SARA identified issues with one of the assessment triggers where proposed development in proximity to state transport infrastructure are being incorrectly being captured for assessment due to inadequate threshold measures in Schedule 20 of the Planning Regulation. The amendments resolve these issues, thereby ensuring impacts on state transport infrastructure are appropriately assessed by local government.

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 24 – property rights (the right to own property and not be arbitrarily deprived of it).

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 24 — property rights (the right to own property and not be arbitrarily deprived of it)	Section 24 of the HR Act recognises that people are protected from having their property taken, unless the law says it can be taken. This right is concerned about decisions that include restricting the use of private property, including under planning laws, and their right to the

enjoyment of their property. Planning decisions may have the impact of limiting the use of land.

This right may be relevant as the Amendment Regulation involves a change to the threshold measures for development on a person's land that may impact on state transport infrastructure. However, it does not restrict, affect or limit property rights in any way, because the Amendment Regulation does not change the right to develop land, or any aspect of property ownership. A person will still have the right to apply for a development application over their property for each of the land uses.

Conclusion

I consider that the *Planning Amendment Regulation 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

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