

# Economic Development (Affordable Housing) 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*, I, Grace Grace MP, Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing provide this human rights certificate with respect to the *Economic Development (Affordable Housing) Amendment Regulation 2024* (Amendment Regulation) made under the *Economic Development Act 2012* (ED Act).

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

On 1 July 2024, the *Economic Development and Other Legislation Amendment Act 2024* (the Amendment Act) amended the ED Act to meet the housing needs of Queenslanders and:

- achieve an increase in housing supply, diversity of housing typologies and provision of quality social and affordable housing at scale across the State;
- build the capacity of government and the housing sector to deliver social and affordable housing outcomes in a flexible manner tailored to specific opportunities;
- leverage government intervention to maximise industry capability, alternative delivery models and funding sources;
- deliver a range of housing outcomes with accelerated timescales; and
- define social and affordable housing outcomes with a supporting set of quantitative targets that require developers to deliver on those targets as part of a broader State-wide housing strategy in consultation with the Department of Housing, Local Government, Planning and Public Works.

The amendments to the ED Act did this by, relevantly, introducing a range of new powers and refined existing powers to create additional pathways to ensure the sufficient supply of social and affordable housing. The provisions in the ED Act relating to affordable housing include:

- Section 3 provides that the main purpose of the ED Act includes facilitating the provision of diverse housing, including affordable housing, in the State.
- Section 57(3)(aa) provides that the content of a development scheme for a priority development area (PDA) may provide for requirements for the supply of affordable housing or the payment of an amount in lieu of the supply of affordable housing.
- Section 88(1)(f) provides that conditions may be imposed on a PDA development approval relating to the supply of affordable housing on the relevant land for the PDA development approval or the payment of an amount in lieu of the supply of affordable housing.

- Section 88A provides that, if a condition is imposed on a PDA development approval that requires the payment of an amount in lieu of affordable housing on the relevant land for the PDA development approval, the amount may be used by MEDQ for the provision of affordable housing in the local government area in which the relevant land for the PDA development approval is situated.
- Part 7A of the ED Act provides for housing agreements about the provision of affordable housing in PDAs.

The Amendment Regulation will insert a new section 2B in the Economic Development Regulation 2023 (ED Regulation) that prescribes, for s 7B of the ED Act, the criteria to be satisfied for housing to be affordable for the following types of households:

- very low income households;
- low to moderate income households;
- key worker households; and
- first home buyer households.

The Amendment Regulation will also insert a new section 2A in the ED Regulation that sets out definitions of terms used in section 2B.

## Human Rights Issues

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

In my opinion, the human rights in the *HR Act* that are engaged by the Amendment Regulation are:

- the right to life (section 16);
- the right to choose where to live (section 19);
- the right to not be arbitrarily deprived of property (section 24);
- the right to privacy, family and home (section 25);
- the right of families and children to protection (section 26); and
- the right to security (section 29).

Since the Amendment Regulation supports the provisions in the ED Act relating to the provision of affordable housing, which is designed to increase housing supply with accelerated timeframes, the Amendment Regulation promotes:

- the right to life, by addressing the direct threat to life and the ability to enjoy life with dignity caused by homelessness;
- the right to choose where to live, by ensuring that affordable housing is provided throughout the State;
- the right to privacy, family and home, which extends to a person's physical integrity and which may be threatened by homelessness;
- the rights of families and children to protection, by providing housing security; and
- the right of a person to security, which includes the right to freedom from injury to a person's physical or mental integrity, which could be caused by homelessness.

The right to not be unlawfully and arbitrarily deprived of property will be engaged by the imposition of conditions on PDA development approvals that require the provision of affordable housing in the development, the subject of the PDA development approval, or the payment of an amount in lieu of the supply of affordable housing. However, the imposition of such a condition on a PDA development approval is not unlawful, since it may be imposed in accordance with the provisions of the ED Act.

Further, the imposition of such conditions is not arbitrary, as it is not capricious, unpredictable or unjust, and not unreasonable in the sense of being disproportionate to the legitimate aim sought. Rather, the imposition of such conditions may apply to all PDA development approvals, is based on clear criteria and is a response to the aim of increasing housing supply, including the supply of quality affordable housing, throughout Queensland.

## **Conclusion**

I consider the *Economic Development (Affordable Housing) Amendment Regulation 2024* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonably and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

**GRACE GRACE MP**  
Minister for State Development and Infrastructure  
Minister for Industrial Relations and  
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