

# Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022

## 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, Amy MacMahon, Member for South Brisbane, make this statement of compatibility with respect to the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022* (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. It serves to protect fundamental human rights and limits other rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

### Overview of the Bill

The bill will ensure our taxation system provides an incentive for property owners to put vacant residential homes onto the rental market by establishing an empty homes levy which would require owners of vacant residential land to pay a levy of 5 percent of the capital improved value of the land. The levy will apply if the land has been occupied for 6 months or less in a given year.

This will help to address the problem caused by low rental vacancy rates across all regions of Queensland, which exacerbates the housing and homelessness crisis.

The levy is payable as at 30 June at the end of each financial year.

Exemptions will apply when:

- Land has changed ownership during the previous year.
- A residence was being constructed or renovated during the previous year, and the Commissioner of State Revenue is satisfied that this was not carried out to avoid to avoid the levy, and wasn't delayed by the owner.
- The land was used as a wildlife habitat during the previous year.
- The owner of the land passed away in the previous year.
- Occupants of the land moved into an aged care facility, hospital or supported accommodation during the previous year.
- An order of a court or government authority prevents the land being used as a principal place of residence, and arises from circumstances unable to be addressed by the owner.
- The land was used for primary production in the previous year.

- The Commissioner of State Revenue is satisfied that imposing the levy would be unfair and would not further the aims of the levy.

## Human Rights Issues

### Human rights relevant to the Bill (Part 2, Division 2 and 3 Human Rights Act 2019)

This Bill will improve Queenslanders' access to housing in the private rental market, and as such it engages human rights in a significant way.

Without stable and appropriate housing, Queenslanders' ability to enjoy the human rights protected by the *Human Rights Act 2019* (Qld) are seriously limited. This is particularly the case with property rights, the right to privacy and reputation, the right to protection of families and children, cultural rights including those held by First Nations people, the right to liberty and security of person, the right to education and the right to health services.

Without access to appropriate housing, any member of our society is at a disadvantage when it comes to their other human rights. This especially applies to vulnerable groups such as children, people with disability, older people, First Nations people and people from culturally and linguistically diverse backgrounds.

During last year's parliamentary inquiry and debate about whether no-grounds evictions should end, Queensland's Human Rights Commissioner intervened to urge parliamentarians to 'carefully consider a range of human rights.'<sup>1</sup>

He said 'While much of the conversation has so far focussed on the property rights of property owners, there are also rights held by tenants which need to be properly considered - including their rights to protection of families and children, and freedom from interference with their home, which is protected under the right to privacy and reputation.'

This bill does engage the property rights of property owners, by enacting a levy where property owners choose to leave a residential property vacant. In relation to a property owner's right to deal with their property as they choose, the Human Rights Commissioner pointed out last year, that '[F]or this right to be unreasonably limited, a person needs to be "arbitrarily deprived" of their property.' While imposing a levy based on the nature of use of a property may amount to an indirect diminution of a lessor's property rights, it is not an arbitrary deprivation, particularly in the context of a statewide housing shortage.

As the Commissioner said last year 'An estimated one in 100 Queenslanders is experiencing homelessness. In the private rental market, one in five moves are made by tenants involuntarily. Many of the 1.8 million Queensland tenants are facing constant moves, with the media tenancy lasting only 13.1 months for units and 17.9 months for houses. 43% of renting households include children for whom housing stability, connection to community and

---

1

[https://www.qhrc.qld.gov.au/\\_data/assets/pdf\\_file/0006/33747/2021.07.08-Media-statement-re-proposed-Qld-tenancy-reforms.pdf](https://www.qhrc.qld.gov.au/_data/assets/pdf_file/0006/33747/2021.07.08-Media-statement-re-proposed-Qld-tenancy-reforms.pdf)

access to schools is vitally important - and families and children are also entitled to protection under Queensland's human rights legislation.'

In 2022, the situation has become even worse.

To say that a property owner's right to leave a residential home vacant is more important than Queenslanders' rights to housing is a perversion of human rights law. There is no alternative proposal which can ensure housing justice for Queenslanders without limiting landlord's rights to leave a property vacant.

The law has a long history of endowing owners of property with not only rights, but also responsibilities (such as a duty of care owed to others entering the property, or responsibility to contribute to the public good by paying council rates). This bill puts an onus on owners to put their investments to responsible use or else contribute to the public good an amount commensurate to the value and rights that their investment entails in order to further the security of every person's human rights.

### **Conclusion**

In my opinion, the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022* is compatible with human rights under the *Human Rights Act 2019* (Qld). Any indirect and minor limitation on human rights is only to the extent that is reasonable and demonstrably justifiable, in accordance with section 13 of the Act. Indeed, if the human rights of everyday Queenslanders to safe, adequate housing are to be supported, this Bill is necessary.