

Housing Legislation Amendment Bill 2022

Statement of Compatibility

FOR

Amendments moved during consideration in detail by the Honourable Leeanne Enoch MP, Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Leeanne Enoch, Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts make this statement of compatibility with respect to amendments during consideration in detail to be moved to the Housing Legislation Amendment Bill 2022 (the Bill).

In my opinion, the amendments to be moved to the Bill are 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 amendments

The amendments to be moved to the Bill will:

- clarify the requirement that donations raised in the State can only be used for social and affordable housing projects within Queensland by including the words “in the State” in the definition of “charitable donation deed” at section 94I, paragraph (b)(ii)(A); and
- clarify the intent that a registered owner of a property can request the removal of an administrative advice noting the existence of a charitable donation deed, by adding “or a registered owner of the lot” at Section 94K(1)(b).

Human Rights Issues

Human rights relevant to the Bill (Part 2, Divisions 2 and 3 of the *Human Rights Act 2019*)

Amendment 1 adds the words “in the State” to the definition of ‘charitable donation deed’ in section 94I(b)(ii)(A), to provide consistency with the wording in paragraph (B) of the definition and to ensure that donations raised in the State can only be used to provide, or to assist to provide, social and affordable housing within Queensland.

Amendment 2 clarifies that in addition to a ‘party’ to a charitable donation deed, the registered owner of the lot may request removal of an administrative advice under Section 94K(1)(b).

These amendments provide clarification and do not change the human rights considerations previously addressed in the Statement of Compatibility that was tabled with the Bill.

In my opinion, the human rights that are relevant to the amendments to be moved to the Bill are as follows:

- Property rights (section 24)

For the reasons outlined below, I am of the view that the amendments to be moved to the Bill are compatible with human rights.

Section 24 provides that all persons have the right to own property alone or in association with others and that a person must not be arbitrarily deprived of the person's property. The ability to own and protect property historically underpins many of the structures essential to maintaining a free and democratic society based on human dignity, equality and freedom.

The right includes the protection from the deprivation of property. Deprivation in this sense has been held to include the substantial restriction on a person's use or enjoyment of their property. Property is likely to include all real and personal property interests recognised under general law (for example, interests in land, contractual rights and shares) and may include some statutory rights (especially if the right includes traditional aspects of property rights, such as to use, transfer, dispose and exclude). The right does not provide a right to compensation.

Under the Bill, a land owner's right to dispose of and profit from their property is not limited, as the scheme is voluntary and participants can withdraw from a donation deed and can request the removal an administrative advice at their discretion and with no or minimal financial impost. Amendment 2 strengthens this intent by ensuring a registered owner of a property who is not also a party to the charitable donation deed, can also request the registrar of titles remove the record of the existence of the charitable donation deed.

The Homes for Homes donation deed model aims to increase charitable donations for the purpose of increasing the supply of social and affordable housing in Queensland. It is consistent with the values of a free and democratic society because it is voluntary and seeks to promote prosperity, create connections and opportunities for vulnerable Queenslanders to fully participate in social and economic life, consistent with the *Queensland Housing Strategy 2017-2027*.

Conclusion

In my opinion, the amendments moved to the Housing Legislation Amendment Bill 2022 are compatible with human rights under the *Human Rights Act 2019* because they do not limit any human rights.

Leeanne Enoch MP
Minister for Communities and Housing,
Minister for Digital Economy and
Minister for the Arts