State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026

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* (HR Act), I, Jarrod Bleijie, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations, make this statement of compatibility with respect to the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026 (Bill).

In my opinion, the Bill 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 Bill

The Bill proposes reforms to the *State Development and Public Works Organisation Act 1971* (SDPWO Act) to deliver faster, clearer decisions for resource development as well as other key priority sectors, including the development and processing of Queensland's rich deposits of critical minerals. This will place Queensland in a position to push for a share of the US-Australia critical minerals deal which will unlock a USD$8.5 billion pipeline of critical mineral projects.

The Bill amends the SDPWO Act to:

- introduce new facilitation powers for State strategic projects, the State significance notice and modification order, that align Queensland's regulatory framework with other major development jurisdictions, particularly those with competitive critical minerals resources
- provide greater utility for existing facilitation powers, including more flexible use of easement-creating powers and clearer processes for the step-in and notice to decide powers exercised by the Coordinator-General
- reform the prescribed development infrastructure planning function to respond to contemporary challenges and practices for development of the State's resource regions
- deliver greater streamlining of environmental impact assessments, especially for resource projects, through integration of the regional interests development approval process and transport infrastructure approval conditioning under the coordinated project framework
- improve Queensland's ability to plan for, service, and deliver industrial land in key strategic locations via State development areas, to provide ideal locations for investment in downstream processing, manufacturing and export facilities

- carry out operational amendments to ensure the SDPWO Act functions properly in the implementation of the key amendments.

The Bill also makes consequential and/or correctional amendments to the *Transport Infrastructure Act 1994*, *Economic Development Act 2012*, *Local Government Electoral Act 2011*, *Planning Act 2016*, *Planning and Environment Court Act 2016*, *Environmental Offsets Regulation 2014*, *Sustainable Ports Development Act 2015* and the State Development and Public Works Organisation Regulation 2020.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 HR Act)

I have considered each of the rights protected by Part 2 of the HR Act. In my opinion, the majority of the amendments appear likely to impact on corporations, rather than individuals. Corporations do not hold human rights (s 11 of the HR Act). However, insofar as the amendments have the potential to impact on individuals, it is my opinion that the following human rights are relevant to the Bill:

- recognition and equality before the law (section 15)
- right to life (section 16)
- freedom from forced work (section 18)
- freedom of movement (section 19)
- freedom of expression (section 21)
- taking part in public life (section 23)
- property rights (section 24)
- privacy and reputation (section 25)
- protection of families and children (section 26)
- cultural rights – generally (section 27)
- cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28)
- fair hearing (section 31)
- right to education (section 36)
- right to health services (section 37)

The amendments proposed in the Bill engage human rights in the following ways:

<u>Recognition and equality before the law (section 15)</u>

Section 15(3) of the HR Act is known as the right to equality. It ensures that all laws and policies are applied equally, and do not have a discriminatory effect. Public entities, as well as courts and tribunals, are required to treat all people equally when applying the law. It also requires that the laws themselves provide equal protection for everyone. Sometimes it will be necessary for certain groups to be treated differently in order to have equal protection of the

law. Section 15(4) provides a right to equal and effective protection against discrimination. It gives people a separate and positive right to be effectively protected against discrimination.

The definition of discrimination under the HR Act includes discrimination as defined under the *Anti-Discrimination Act 1991* (AD Act).

The features of the Bill that engage and potentially limit this right are:

- Clause 13 inserts new part 5 (Infrastructure coordination plans). Under the new part 5, the requirement for a physical copy of any development application for the infrastructure coordination plans (ICP) framework (formerly called prescribed development), referred to the Coordinator-General and retained by the Minister, to be made available at a particular location has been removed. It is a requirement of the *Planning Act 2016* for access to public documents to be made available online, therefore applications will still be available for viewing. This may disadvantage the aged or person's with a disability who may have difficulty obtaining a copy of the application online. However, the amendments do not directly or indirectly discriminate based on age or disability. The inability to access a hardcopy applies equally to all persons. On that basis, the rights are not limited by this aspect of the Bill.

Freedom from forced work (section 18)

Under this right, a person must not be made to perform forced labour. Forced labour does not include work or service that forms part of normal civic obligations. For labour to be considered a normal civic obligation, it must not have a punitive purpose or effect and must be provided by law.

The features of the Bill that engage and potentially limit this right are:

- Clause 47 of the bill inserts new part 7A, divisions 1AA-1AE which provides for the appointment of authorised officers. New section 157AQ allows an authorised officer to require an occupier to give the authorised officer reasonable help to exercise their powers under section 157AP(1). It is an offence not to comply unless the person has a reasonable excuse (including self-incrimination or exposure to a penalty). In my opinion, directing an occupier to assist an authorised officer is protective rather than punitive as it seeks to identify and prevent the commission of offences against the SDPWO Act. It is also provided by law under the SDPWO Act. Therefore, the right is not limited.

Freedom of movement (section 19)

The right to freedom of movement protects the right to move freely within Queensland, as well as to enter and leave the State and choose where to live.

The features of the Bill that engage and potentially limit this right are:

- Clauses 13, 18 and 46 of the Bill inserts new part 5, division 2, subdivision 2 and new sections 76HA, 76HB and Part 6A which provides the Coordinator-General and proponents with powers of entry for the purposes of conducting an investigation (for example, conduct surveys etc) or undertaking enabling works, respectively. Entry onto land owned or occupied by individuals may engage and limit the right to freedom of moment if a person is unable to more freely around their property (even temporarily).

- Clause 47 of the Bill inserts new part 7A, divisions 1AA-1AE to allow authorised officers appointed by the Coordinator-General to enter land with consent or under a warrant. This may limit the right of the landowner, at least temporarily, to move freely through their land.

Freedom of expression and the right to take part in public life (sections 21 and 23)

The right to freedom of expression protects a person's right to hold an opinion and to express themselves by seeking, receiving, and imparting information and ideas. This includes access to government information. The right to take part in public life provides that every person in Queensland has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

The features of the Bill that engage and potentially limit this right are:

- Clause 11 inserts new part 4, division 6D. New part 4, division 6D is concerned with integrating coordinated projects with regional interests development applications. Under the amendments, the Coordinator-General's final Environmental Impact Statement (EIS) or Impact Assessment Report (IAR) report for a coordinated project is taken to be the report that must accompany an assessment application for a regional interests development approval (RIDA). An assessment application is not notifiable under the *Regional Planning Interests Act 2014* (RPI Act) if the final EIS or IAR for the project was publicly notified. A person will need to make a submission in relation to the EIS or IAR for the project in order for it to be considered by the decision-maker in their assessment of the application under the RPI Act. Also, the submissions on the EIS or IAR are not publicly available under the RPI Act, but the owner can request copies. This may limit the right to freedom of expression and the right to participate in public affairs.

- Clause 13 replaces part 5 (formerly prescribed development). Under new sections 56B and 56K, the Coordinator-General is to give notice about a development investigation and prepare a report with their findings and make a recommendation to the Minister about whether an ICP should be made. The Coordinator-General must give the notice about a development investigation and copy of the investigation report to each 'affected person' and invite them to make submissions about the report (new section 56L). Members of the public and owners of land impacted by the investigation are not included as 'affected persons and are therefore unable to make submissions (although they may be prescribed by regulation to be an 'affected person').

- Clause 13 replaces part 5 (formerly prescribed development). New section 57B requires the Coordinator-General to consult about the draft ICP with parties to the plan, decision-makers and applicants for relevant planning applications referred to the Coordinator-General. Therefore, only a limited range of people will be permitted to make submissions on a draft ICP.

- Clause 13 replaces part 5 (formerly prescribed development). Where a relevant planning application has been referred to the Coordinator-General, and is retained by the Minister for decision, there will be no public notification unless the application would normally have been publicly notified. Further, if an application was previously publicly notified it does not need to be notified again (new section 58K(6) and (7)). Lastly, public notification does not need to be via a newspaper. This may constrain the ability of persons to make submissions on the application.

- Clause 13 replaces part 5 (formerly prescribed development). New division 4 makes the Minister responsible for deciding development applications retained by the Minister rather

than the Governor in Council. Notice of the decision is to be given to certain persons included submitters (this is not currently required in the existing provisions).

- Clause 13 replaces part 5 (formerly prescribed development). There is no longer a requirement for local government to note the effect of the determination of a development application on any planning scheme maps. This may limit the right to access government information.
- Clause 22 inserts new part 5A, division 3B dealing with modification orders. Under new section 76RI(2), before making a recommendation to the Governor in Council that a modification order be made (and in particular circumstances for amending a modification order under 76RQ), the Minister is required to consult only with the proponent, responsible Minister and any local body affected by the making of the order.
- Clauses 24 and 27 amends sections 79A and 84 to allow an approved development scheme to regulate development outside the SDA if the development is SDA-related development. This will displace the application of the existing Council planning scheme or other regulatory instrument, which has been approved by the Council (comprising elected local government representatives) or another government entity, to the SDA-related development land. Further, the review and appeal rights in relation to the development of land in the State development area are more limited than the review and appeal rights generally available under the Planning Act.
- Clause 25 inserts new section 81A which provides the Coordinator-General power to prepare SDA rules. The rules are notified in the gazette but are not necessarily subject to public consultation (consistent with the process for adopting an SDA development scheme).
- Clause 36 inserts a new part 6, division 1A. New section 85C only requires the Coordinator-General, before declaring development to be SDA-related development, to consult with a local government, port authority and any other government entities. There is no requirement to consult with a proponent or undertake public notification. Further, this will displace the application of the existing Council planning scheme, which has been approved by the Council (comprising elected local government representatives) or another planning instrument prepared by a government entity, to the SDA-related development land.
- Clause 36 inserts a new part 6, division 1B which includes provisions allowing the Minister to approve an interim planning instrument following a SDA change (new section 85J). No consultation is required to be undertaken regarding the interim planning instrument, consistent with the making of a temporary local planning instrument under the *Planning Act 2016*.
- Clause 39 replaces part 6, division 7. The requirement to seek submissions on the economic or social significance and benefits of the proposed infrastructure facility (now a State strategic project) from the persons affected by it has been removed**.** These factors are considered by the Minister when declaring a State strategic project.

<u>The right to property and to non-interference with privacy, family, and home (sections 24(2) and 25(a))</u>

The right to property includes the protection from the arbitrary deprivation of property. The term ‘deprived’ is not defined by the HR Act. However, deprivation in this sense is considered

to include the substantial restriction on a person's use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use their property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it, or deriving profits from it).

Section 25(a) protects against unlawful or arbitrary interferences with a person's privacy, family, home or correspondence. Privacy captures personal information but extends to a person's private life more generally, including their mental and bodily integrity.

The features of the Bill that engage and potentially limit these rights are:

- Clauses 13, 18 and 46 of the Bill inserts new part 5, division 2, subdivision 2 and new sections 76HA, 76HB and Part 6A which provides the Coordinator-General and proponents with powers of entry for the purposes of conducting an investigation (for example, conducting surveys etc) or undertaking enabling works. Compensation will be payable to the landholder for any damage caused and a proponent may be required to lodge a bond or security deposit with the Coordinator-General. However, a landowner will be able to make a loss or damage claim only up to 3 months after the expiry of the entry authorisation and a compensation claim for up to a year after expiry of the entry authorisation, or in both cases, a later time allowed by the Land Court. Entry onto land owned or occupied by individuals may engage and limit the right to property if damage occurs or a person is unable to use and enjoy their property (even temporarily). Similarly, a person's home and privacy may be interfered with, including their mental integrity (if the entry causes stress or anxiety).
- Clause 11 inserts new part 4, division 6D which deals with integrating coordinated projects with regional interests development applications. New section 49M requires a proponent to make an amendment application for a RIDA if given a change report by the Coordinator-General under 35J(a). This may impact on the right to property through additional costs in terms of application fees for the proponent (if the proponent is an individual).
- Clause 13 of the Bill inserts section 57F to allow the Minister to amend an ICP made by regulation. If amendment occurs, it may trigger a requirement for a proponent to take steps under another process or Act (such as making a change application). This may impact on the right to property through the proponent having to incur extra cost (if the proponent is an individual), for example, payment of additional fees or production of additional reports.
- Clause 13 inserts section 59. The Minister may require the person to give information that the Minister requires to perform a function under part 5. It is an offence not to comply unless the person has a reasonable excuse. This may impact on the right to property (through exposure to fines) and privacy (being subject to enforcement action may potentially cause anxiety and distress.
- Clause 13 inserts section 58S that requires the Coordinator-General to keep a register of relevant planning applications referred to the Coordinator-General on the department's website. This arguably enhances the right to freedom of expression by providing access to government information.
- Clause 20 and 21 amends section 76L and 76N respectively, to make it clear that a step-in notice can be given after a decision has been made on a prescribed decision or process. This could potentially result in the expenditure of money by a proponent in reliance of the

decision (although this is unlikely given the timeframes for issuing a step-in notice). This is the same position under the existing provisions.

- Clause 22 inserts new part 5A, division 3B. New section 76RO makes it an offence for a proponent of a State strategic project to fail to comply with a condition stated in a modification order.
- Clause 48 amends section 157A to make (a) a requirement for carrying out SDA self-assessable development for SDA-related development, under an approved development scheme or decided under section 85D(4) and (b) a condition stated in a modification order, enforceable conditions (thereby allowing the Coordinator-General to issue an enforcement notice under section 157B). Section 157B has also been amended to allow an enforcement notice to be given for contravening section 84A. This may impact on the right to property (through exposure to fines) and privacy (being subject to enforcement action may potentially cause anxiety and distress).
- Clause 36 inserts a new part 6, division 1B, subdivisions 2 and 3 which includes provisions dealing with SDA approvals when there is an SDA change. New subdivisions 2 and 3 place some restrictions on how the new authority may deal with approvals converted to Planning Act approvals following an SDA change. However, this will protect the rights of property holders rather than limit them.
- Clause 34 amends section 84H by extending the existing currency periods for SDA approvals for a material change of use from 4 years to 6 years (for future approvals), so that approval holders have sufficient time to obtain all necessary secondary approvals for the proposed development. This amendment, which will only apply prospectively, engages property rights but I am satisfied that, because the life of the approval will be extended rather than reduced, it does not limit them. The Coordinator-General can also extend the currency period for existing approvals (amended section 84H), with an approval for which an extension is sought not lapsing whilst the extension is decided.
- Clause 32 inserts new section 84EA that give the Coordinator-General power to impose a condition on a SDA approval for payment of charges to contribute to the cost of infrastructure (regardless of whether the Coordinator-General is responsible for the construction or ongoing maintenance of the infrastructure networks). The Coordinator-General will also be able to direct that the charges be paid directly to the relevant infrastructure provider. This is unlikely to result in an additional cost for proponents as if infrastructure charges are imposed on an SDA approval, further charges would not be applicable under the *Planning Act 2016*.
- Clause 32 inserts new section 84EB that allows the Coordinator-General to impose a condition on an SDA approval requiring or relating to an environmental offset. The Coordinator-General may currently condition an SDA approval to provide an offset. The change will allow the Coordinator-General to condition an offset and allow it to be delivered in line with the whole of government offset framework and is unlikely to limit any property rights.
- Clause 33 amends section 84F to allow the Coordinator-General to impose a condition under new sections 84EA and 84EB on an application to change an SDA approval.
- Clause 35 amends section 85 to impose a time restriction (2 years after the approved development scheme started to apply to the land) for the owner of land to make a prior affected development request to the Coordinator-General. Failure to make the application

within the timeframe may result in the owner of the land committing an offence under sections 84A or 84B if they commence the development.

- Clause 36 inserts a new part 6, division 1A. New section 85D allows the Coordinator-General to declare development to be SDA-related development. This will mean a proponent's ability to develop or manage the infrastructure asset comes under the control of the Coordinator-General rather than the local government or other government entity and changes how they may deal with their property. However, it is not necessarily the case that the changes will impose additional restrictions; indeed, there may be benefits through a reduction in duplicative assessment.

- Clauses 28 and 29 amend sections 84A and 84B to make it an offence to carry out SDA assessable development without an SDA approval and SDA self-assessable development otherwise in accordance with the approved development scheme or decided by the Coordinator-General (if declared SDA-related development). This may impact on the right to property (through exposure to fines) and privacy (being subject to enforcement action may potentially cause anxiety and distress).

- Clause 46 of the Bill inserts new part 6A (Access authorities). There are several offence provisions in relation to access authorities; new sections 153U (compliance with conditions of authority), 153V(1) and (4) (issuing and return of an associated persons written identification), 153W (production of authority or identification) and 153ZA (pretending to be the holder of an authority or an associate person). These provisions have been replicated from the previous investigator authority provisions, however may impact on the right to property through exposure of individuals to fines.

- Clause 47 of the Bill inserts new part 7A, divisions 1AA-1AE to allow authorised officer appointed by the Coordinator-General to enter land with consent or under a warrant. They may also enter land to take action required under an enforcement notice where there has been non-compliance with an enforceable condition (or section 84A) and recover the cost as a debt (new section 157HA). Entry onto land owned or occupied by individuals may engage and limit the right to property if damage occurs or a person is unable to use and enjoy their property (even temporarily). Similarly, a person's home and privacy may be interfered with, including their mental integrity (if the entry causes stress or anxiety). Further new sections allow authorised officers to seize certain things that may later be forfeited or disposed of, therefore limiting the right to property. Lastly, there are several offence provisions involving authorised officers and the exercise of their entry powers (new sections 157AD, 157AQ, 157AU, 157ND, 157NE and 157NF) that may impact on the right to property through exposure of individuals to fines.

- Clause 39 replaces part 6, division 7. The new division provides provisions about the making of a regulation declaring a State strategic project as a purpose for which land can be taken under section 125. The Minister may recommend the making of a regulation only if the criteria in new section 143 is met. The taking of private land by compulsory acquisition for a State strategic project may limit the property rights of landowners and potentially the property rights of Aboriginal and Torres Strait Islander peoples through the possible extinguishment of native title. New sections 144 and 148 require a proponent to pay a fee to make the application to the Coordinator-General for approval of the project as a purpose for which land can be taken and to have an approval amended or repealed. New section 153AA provides that the Coordinator-General may recover from the proponent the reasonable cost of advice or services necessary to decide applications under section 146 and 148.

- Clause 56 amends section 158 to allow the Coordinator-General to negotiate and enter into contracts with proponents to recover the Coordinator-General's (or a cooperating person's) costs of providing services, undertaking compulsory acquisition etc. However, as these contracts are voluntary, it is my opinion they do not limit the right to property.
- Clauses 59 and 61 amend the *State Development and Public Works Organisation Regulation 2020* (SDPWO Regulation) to replace schedules 6 and 7 to include the fees for an application for approval of a State strategic project as a purpose for which land can be taken under section 125 and an access authority. These fees are the same fees that previously applied under the former investigator authority and private infrastructure facility functions.

The right to privacy will only be limited if the interference with privacy is unlawful or arbitrary. The interference with privacy will be authorised by the Act and will therefore be lawful. Arbitrary means capricious, unpredictable, unjust, or unreasonable in the sense of not being proportionate to the legitimate aim sought. If an interference is proportionate under section 13 of the HR Act, it will not be arbitrary. Accordingly, whether the interference with privacy is arbitrary will be addressed below when considering the factors in section 13.

The right to property will only be limited if the deprivation is arbitrary. Arbitrary means capricious, unpredictable, unjust, or unreasonable in the sense of not being proportionate to the legitimate aim sought. If an interference is proportionate under section 13 of the HR Act, it will not be arbitrary. Accordingly, whether the interference with property is arbitrary will be addressed below when considering the factors in section 13.

Right to not have reputation unlawfully attacked (section 25(b))

A person has the right not to have their reputation 'unlawfully' attacked.

Clause 47 of the Bill inserts new part 7A, divisions 1AA-1AE. Under new section 157HA an authorised officer may enter land to take action required under an enforcement notice where there has been non-compliance with an enforceable condition or section 84A and can recover costs as a debt. Being subject to enforcement action could damage a person's reputation. However, provided the enforcement action taken is in accordance with the provisions of the SDPWO Act it will not be 'unlawful.' Therefore, the right is engaged but not limited.

Protection of families and children (section 26)

Section 26 is concerned with the protection of children and families by the State. Families take many forms, and the right accommodates the various social and cultural groups whose understanding of family may differ. Section 26(2) recognises that children have the same rights as adults, but with additional protections because they are children.

The provisions of the Bill discussed above that provide for entry to land by the Coordinator-General, authorised officers and proponents for various purposes may impact on a child's right to property and privacy in the same manner as their parents or guardians.

Cultural rights (sections 27 and 28)

Cultural rights are directed towards ensuring the survival and continued development of the cultural, religious, and social identity of minorities. All persons have the right to enjoy their culture, to practise or declare their religion and to use their language, either alone or with others

who share their background. Section 28 of the HR Act recognises that Aboriginal peoples and Torres Strait Islander peoples have a rich and diverse culture. There are many hundreds of distinct Aboriginal groups and Torres Strait Islander groups in Australia, each with geographical boundaries and an intimate association with those areas. Many of these groups have their own languages, customs, laws, and cultural practices.

Section 28 explicitly protects the right to live life as an Aboriginal person or Torres Strait Islander person who is free to practise their culture and gives rights to individuals as part of a cultural group. Expedited development (of whatever kind) under the amended provisions may impact on the cultural heritage of Aboriginal peoples and Torres Strait Islander peoples. They have a right to enjoy, maintain and control their cultural heritage, and to maintain and strengthen their distinctive relationship with the land with which they have a connection under their tradition.

The Bill aims to deliver faster, clearer decisions for resource development as well as other key priority sectors, including the development and processing of Queensland's rich deposits of critical minerals. The amendments to the Bill may interfere with the ability of Aboriginal peoples and Torres Strait Islander peoples to maintain their traditional connection to the land by limiting their access and their ability to conserve and protect the environment and productive capacity of their traditional lands and waters.

The Bill expands the Coordinator-General's power to enter land without consent, dispose of land which has been previously subject to compulsory acquisition and the taking of land under section 125 for State strategic projects (including land potentially subject to native title). The requirement under former section 153AA for an EIS to be provided with an application for approval of a State strategic project as a purpose for which land can be taken under section 125 no longer applies as it did under the former private infrastructure facility function. This does not mean that an EIS is no longer required for a project. The Bill also gives the Coordinator-General new powers to provide development assessment rules for SDAs.

These amendments all potentially engage and limit cultural rights of Aboriginal peoples or Torres Strait Islander peoples who have a connection to the land under Aboriginal tradition or Island custom respectively. Whether the cultural rights are actually engaged and, if they are, the manner in which they are engaged cannot be fully explored in the abstract, as it will depend on the individual content of the rights of the Aboriginal peoples or Torres Strait Islander peoples whose land is affected in each case. Therefore, it is only possible at this stage to acknowledge the potential for limitation.

Right to a fair hearing (section 31)

The right to a fair hearing in section 31 of the HR Act entitles a party to a civil proceeding to have the proceeding decided by a competent, independent, and impartial court or tribunal after a fair and public hearing. This includes a right of access to a court or tribunal. The right to a fair hearing is relevant to restrictions imposed on a person's ability to commence proceedings as well as restrictions on a person's ability to continue or properly conduct proceedings already commenced.

The features of the Bill that engage and potentially limit these rights are:

- Clause 13 inserts section 58N. The Minister's decision on a development application under the infrastructure coordination plans framework is not subject to appeal and section 58P provides the approval has effect in law. This is the same case under the existing provisions.
- Clause 22 inserts new part part 5A, division 3A. New section 76RF states that a prescribed decision to which a State significance notice applies cannot be appealed by persons other than the proponent under the relevant law.
- Clause 22 inserts new part 5A, division 3B. New section 76RN states that a modification order can provide that a decision made under a modified Act, as applying under the modification order, to approve a State strategic project cannot be subject to appeal or review under an Act (other than the *Judicial Review Act 1991*). However, the modification order cannot exclude or modify a review or appeal started by the proponent.
- Clause 23 amends section 76W with the effect that the decision of the Minister to give a State significance notice or a written notice under section 76RD(4) is not subject to judicial review under the *Judicial Review Act 1991*.
- Clause 24 amends section 79A to allow an approved development scheme to regulate development outside an SDA if the development is SDA-related development (displacing the local government planning scheme). The review and appeal rights in relation to the development of land in the State development area are generally more limited than the review and appeal rights generally available under the *Planning Act 2016*.
- Clause 36 inserts a new part 6, division 1A. New section 85D allows the Coordinator-General to declare development to be SDA-related development. The owner of the land on which the development is proposed has no right of review in relation to the SDA-related development declaration.
- Clause 36 inserts new section 85ZF which precludes a person from appealing a converted SDA approval or its conditions under the *Planning Act 2016*.

Right to education and right to health services

The right to education in section 36(1) of the HR Act protects the rights of children to access primary and secondary education appropriate to their needs. The right to health services in section 37(1) of the HR Act protects the right of people to access health services without discrimination. It is possible that the amendments may limit these rights as rapid expansion of regional industrial and extractive activity, such as the development of multiple mines, may result in a population increase putting pressure on community services such as schools and health services. However, one of the intended purposes of the infrastructure coordination plan mechanism is to manage and offset these impacts by planning and providing for the delivery of infrastructure and services such as health, childcare and other social services, commensurate with the demand created by the projects. Therefore, in my opinion, these rights are not limited.

Climate change

Climate change, and the contribution made to it by the expedited and expanded development approval processes for accessing deposits of critical minerals may limit various rights. This includes the rights to life, privacy, children and families, and cultural rights of Aboriginal peoples and Torres Strait Islander peoples in sections 16, 25, 26, and 28 of the HR Act.

The right to life (section 16 of the HR Act) confers positive obligations to ensure the right is protected as well as an obligation to refrain from conduct that causes arbitrary deprivation of life.

Section 25(a) of the HR Act provides that every person in Queensland has the right not to have the person's privacy, family, home, or correspondence unlawfully or arbitrarily interfered with. The scope of the right to privacy is very broad. It extends to a person's private life generally, so protects the individual against interference with, relevantly, their family and home.

Section 26 of the HR Act protects families and children. Families take many forms, and the right accommodates the various social and cultural groups whose understanding of family may differ. Section 26(2) recognises that children have the same rights as adults, but with additional protections because they are children.

Section 28 of the HR Act recognises the distinct cultural rights of Aboriginal and Torres Strait Islander peoples and explicitly protects the right to live life as an Aboriginal or Torres Strait Islander person who is free to practise their culture.

Development has the potential to contribute to climate change though the generation of emissions. Climate change can have immediate impact on the right of life (through extreme weather events such as floods and cyclones) or a more gradual impact, through a deterioration in people's general health, food or water shortages or an increased exposure to disease (air and water born) caused by changes in temperature. Climate change has intergenerational impacts, effecting future, as well as current, generations of families and children and their homes (sections 25 and 26 of the HR Act). Climate change may impact on the cultural rights of Aboriginal and Torres Strait Islander peoples by affecting the integrity of the land and waters with which Aboriginal peoples and Torres Strait Islander peoples have traditional or customary connection (section 28(2)(a), (d) and (e) of the HR Act).

Provisions where impacts on human rights is not reasonably foreseeable

The Bill introduces some broad discretionary powers, including:

- the Minister being able to impose any condition they consider reasonable and desirable on a development approval (under new section 58K)
- the State significance notice may direct the decision maker to have regard to section 76A and other matters set out in the notice. This applies despite any provision under the relevant law under which the prescribed decision is made
- the modification order can provide that specific provisions of the relevant law do not apply, or apply with modifications, for the State strategic project
- the modification order can exclude or modify the application of provisions of the affected Act which provides for the criteria for which an approval may be granted or a process that applies in relation to the making of a decision to grant the approval.

In my opinion, these provisions do not, of themselves, limit human rights. It is the manner of their exercise, with reference to the facts or circumstances of the individual case, which will engage and potentially limit rights. In the case of modification orders, human rights will have to be formally considered at the time of making the regulation (in accordance with section 41

of the HR Act). I have considered the other provisions of the Bill and am satisfied that they do not engage or limit human rights.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 of the HR Act)

In my opinion, any limits on human rights are considered reasonable and justified under section 13 of the HR Act as follows:

(a) the nature of the right

- Right to life in section 16 of the Human Rights Act protects the right to life and not to be deprived of life (including the right to be protected against threats to life).
- Freedom of movement in section 19 of the Human Rights Act protects against restrictions on movement falling short of physical detention. It is about freedom.
- Freedom of expression in section 21 of the Human Rights Act protects the right to hold an opinion and express oneself freely as a person. It is about freedom.
- Taking part in public life in section 23 is concerned with providing the opportunity for people to participate in public affairs. It is about political participation.
- The right to property in section 24 of the Human Rights Act protects the right to own property and not be deprived of property.
- The right to privacy in section 25 of the Human Rights Act protects personal information but also extends to an individual's private life more generally, including protection from interference with a person's physical and mental integrity. Privacy is about having control over one's own life and being left alone.
- The protection of children and families in section 26 of the Human Rights Act is concerned with the protection of children and families by the State.
- Cultural rights in sections 27 and 28 of the Human Rights Act preserve the ability of people of a particular background to enjoy their culture in community with others, including their ability to maintain kinship ties.
- Right to a fair hearing in section 31(1) of the Human Rights Act protects the rights of parties in criminal or civil proceedings to a fair hearing by a competent court or tribunal. This includes the right to access the court or tribunal. It is about procedural fairness.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the amendments is to deliver faster, clearer decisions for resource development as well as other key priority sectors, including the development and processing of Queensland's rich deposits of critical minerals. This will allow Queensland to position to push for a share of the US-Australia critical minerals deal which will unlock USD$8.5 billion pipeline of critical mineral projects, creating jobs for Queenslanders and boosting the local economy. This is a proper purpose as there is a public interest in the State effectively leveraging its critical mineral resources to meet global demand.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The amendments will help achieve the purpose of delivering streamlined, consistent and timely assessment of critical mineral projects in Queensland, as well as other significant projects, while still protecting the environment and local communities. The Minister will be able to coordinate multiple resource projects under the infrastructure coordination plans framework and prepare infrastructure coordination plans to facilitate the delivery of enabling common-user infrastructure. The Coordinator-General will be able to state conditions for project approvals under the RPI Act, and *Transport Infrastructure Act 1994* reducing duplication and approval timeframes.

Limited public consultation and review rights in particular situations will ensure there are limited delays to the commencement of resource development projects through legal challenges, for those the subject of the infrastructure coordination plans framework, State significance notice, modification order, coordinated projects, and State development areas. Broadening support for priority industry in State development areas will further the purpose of achieving economic outcomes and driving industrial growth. State significance notices and modification orders will provide mechanisms for enabling economic development through the progression of those projects declared State strategic projects.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

Despite the expedited approval processes for resource development, including the ability for the Coordinator-General to state conditions for project approvals under various Acts and the limitation of consultation and review rights, a number of important protections have been retained. For example, modification orders and State significance notices can only be made for projects declared as State strategic projects and are subject to threshold tests. Modification orders cannot remove the requirement for key authorisations, such as a development approval, an environmental authority or cultural heritage management plans. The Governor in Council's approval of infrastructure coordination plans is to remain given its significant effects on other entities, the level of expenditure that may be involved, and its effects on laws and processes (such as referral of applications to the Coordinator-General).

As stated above, it is difficult to talk in general terms about the impact of the amendments on the cultural rights of Aboriginal peoples and Torres Strait Islander peoples. This in turn limits the scope of any proportionality analysis. However, at a general level, I consider the impacts are likely to be minimal because the amendments (with the exception of modification orders and State significance notices) expand the application of existing powers under the SDPWO Act (such as land entry powers) to the infrastructure coordination plans framework, prescribed projects and investigations for compliance.

Entry onto land to carry out enabling works can only be approved by the Governor in Council for State strategic projects. Further, before compulsorily acquired for a State strategic project under section 125, the proponent must have demonstrated reasonable steps taken to negotiate an indigenous land use agreement (where native title exists), with rights further supported through the established objection process under the *Acquisition of Land Act 1967*. Where relevant, section 127 (Relationship with native title legislation) will apply to land taken under

section 125 for a State strategic project when determining compensation. Modification orders cannot remove the requirement for cultural heritage management plans or exclude the operation of an Act that protects the rights and interests of Aboriginal and Torres Strait Islander peoples. Lastly, to the extent the exercise of powers created by the amendments in the Bill may limit the specific cultural rights of a particular group of Aboriginal people or Torres Strait Islander people, the requirement under s 58(1) of the HR Act will operate to ensure the limitation is proportionate and justifiable in that case.

Consideration was given to whether there are alternative ways to achieve the purpose that would further minimise the limitations on human rights. The following alternatives were considered:

- Infrastructure coordination plans
    - No action – implementation of existing part 5 of the Act would be met with challenge given it does not contemplate the current system of land use planning and confers significant unqualified discretions which are inconsistent with contemporary standards and are impractical
    - Case specific policy solution – use of policy statements and existing regulatory tools to guide development in a region.
- Project facilitation
    - No action – rely on existing limitations of prescribed project powers, critical infrastructure easements and compulsory acquisition powers for private infrastructure facilities. This option does not provide solutions to common issues for major projects, nor keep Queensland's regulatory framework competitive with other jurisdictions.
- Project evaluation
    - No action – results in duplication of process where matters relating to transport or regional interests are evaluated as part of a coordinated project.
- State development areas
    - No action – results in ambiguity across a range of matters relating to State development areas, including uncertainty of the status and effect of applications and approvals when there is a change in development regulated by a development scheme; ineffective enforcement frameworks for development offences, as well as inefficiencies in the operation of development schemes and infrastructure charging processes
    - Infrastructure charges – to be levied by service providers at time of SDA approval or on subsequent approvals – results in uncertainty of infrastructure charge liabilities for applicants and potential for charges to not align with the intent for the area as expressed through the SDA development scheme
    - SDA related development – amending boundary of an SDA (and development scheme) to include development seeking to be regulated – this is a lengthy process and results in greater risk of unintended consequences.

However, these alternatives are not reasonably available. Whilst non-regulatory approaches to identifying projects of significance, planning and coordination are possible and can be effective, providing for statutory means creates clear frameworks and allows for accounting of interactions with other Acts. Statutory mechanisms are necessary where it is intended existing processes be streamlined or exchanged for context-specific alternatives. As there is no less restrictive way to deliver streamlined, consistent and timely assessment of critical mineral projects and other significant projects in Queensland, the limits imposed on human rights are necessary to achieve that purpose.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The restriction of public consultation requirements in relation to the investigation for development of an infrastructure coordination plan, impacts on the right to freedom of expression and participation in public life. However, this is in keeping with the existing operation of the provisions in the Act. The approval of resource development is of significant public interest, having long-term impacts on the communities in which they are undertaken. People have an expectation of being able to formally comment in relation to significant mining development under relevant statutory frameworks and have access to significant documents (such as notated planning scheme mapping) as part of a free and democratic society. Whilst individuals are not consulted as part of the investigation for development of an infrastructure coordination plan, local governments who represent the interests of their communities are consulted as part of the framework, with consultation processes for development applications related to the framework being retained.

The restriction of review rights precludes third parties from challenging a prescribed decision made under a State significance notice or modification order. This is consistent with other legislative frameworks where the interests of the State are a consideration for decision-making and making of interventions (e.g. the Minister's call in power under the Planning Act).

In relation to the impacts on human rights caused by climate changes, it is expected that the contribution of the emissions through the potential for accelerated development of resource mining will be addressed and mitigated through the in-built mechanisms in the Act. For example, through the Coordinator-General's EIS or IAR for a coordinated project, the declaration and function criteria for prescribed projects and the SDA application process. It is through these mechanisms that the tangible impacts of climate change are considered.

The expansion of land entry powers may impact on people's right to property, privacy and freedom of movement. However, doing so is a function of last resort (where entry by negotiated means has failed) and will be temporary, for example, associated with an investigation for the development of an infrastructure coordination plan or as part of compliance activities for enforceable conditions. A person subject to the exercise of the power is given notice and will be entitled to compensation where loss or damage occurs.

In balancing the limitations on human rights, I have considered the significant public purpose in delivering streamlined, consistent and timely assessment of critical mineral projects, as well as other key priority sectors. The US-Australia critical minerals deal provides a unique opportunity for Queensland to leverage natural assets, boosting the economy and delivering

jobs to Queensland. Local governments will be provided with mechanisms to ensure that their communities are not disadvantaged by increase in demand for infrastructure and services generated by the potential for accelerated development of critical mineral projects and adequate safeguards will be put in place to ensure the protection of our natural environment and associated cultural rights of Aboriginal and Torres Strait Islander peoples. On balance, I am satisfied that the importance of delivering streamlined, consistent and timely assessment of critical mineral and other key priority projects outweigh the impacts on people to the extent there are restrictions of existing public consultation, review rights, and freedom of movement.

As any impacts on the rights to privacy and property are proportionate, and thus are not arbitrary, those rights are not limited. To the extent that a person's right to life, freedom of movement, freedom of expression, taking part in public life, cultural rights and a fair hearing may be limited by the amendments, the limitation is reasonable and justified.

(f) any other relevant factors

Nil.

Conclusion

In my opinion, the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026 is compatible with human rights under the HR Act because it limits a human right only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

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