

Planning Amendment Regulation 2025

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, Jarrod Bleijie, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations provide this human rights certificate with respect to the *Planning Amendment Regulation 2025* made under the *Planning Act 2016*.

In my opinion, the *Planning Amendment Regulation 2025*, 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

The policy objectives of the *Planning Amendment Regulation 2025* made under the *Planning Act 2016* are to:

- extend the rooming accommodation provisions within Schedule 6 for a period of 12 months and introduce new landscaping requirements to improve streetscape presentation to respond to community and Local Government concerns;
- extend provisions relating to rural workers' accommodation to:
 - extend the nomination of repurposed existing facilities under Part A of the Queensland Rural Workers' Accommodation Initiative by 12 months
 - extend provisions for new accommodation under Part B of the Queensland Rural Workers' Accommodation Initiative by 24 months;
- clarify that rural workers' accommodation is not exempt from being classified as assessable by a local planning instrument if an overlay applies to the site and the development directly interacts with the mapped overlay area;
- ensure provisions under Schedule 6 for community residences that can be established without a local government development approval continue to support safe and suitable accommodation by limiting the zones where they can be established and improving built form outcomes;
- make relocatable classrooms Temporary Accepted Development until the end of 2029 to ensure they are treated as short-term solutions for enrolment pressures and avoid granting unintended permanent use rights;
- introduce a new land use definition for build to rent housing that is more prescriptive and clearly distinguishes it from other residential uses;
- give effect to the updated State Development Assessment Provisions (SDAP) for the amended State Code 18 for constructing and raising waterway barrier works;

- amend the matters the Chief Executive, as a referral agency must assess against for an application for tourist activities or sport and recreation activities in the South East Queensland (SEQ) Regional Landscape and Rural Production Area (RLRPA), SEQ Rural Living Areas (RLA) and SEQ Northern Inter-Urban Break (NIUB) to remove duplication and ensure these matters are achievable because they are proportionate to the impacts expected from these activities; and
- remove the requirement for a development application for particular dams, and weirs, and pumped hydro projects for constructing or raising waterway barrier works.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human rights under the *Human Rights Act 2019* (Human Rights Act) that may be relevant to the decision are:

- section 15 – recognition and equality before the law
- section 16 – right to life
- section 19 – freedom of movement
- section 21 – freedom of expression
- section 24 – property rights
- section 25 – privacy and reputation
- section 26 – protection of families and children
- section 28 – cultural rights – Aboriginal and Torres Strait Islander peoples
- section 29 – right to liberty and security of person
- section 31 – fair hearing
- section 36 – right to education.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

The decision will potentially limit (or interfere with) the identified human rights:

- section 21 – freedom of expression
- section 24 – property rights
- section 31 – fair hearing.

Freedom of expression (section 21)

(a) the nature of the right

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

Section 21 of the Human Rights Act provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds. It protects the right of all persons to hold an opinion without interference and the right of all persons to seek, receive and express information and ideas (including verbal and non-verbal communication).

It might be argued that the right to freedom of expression may be restricted by the Amendment Regulation because of the effect on third-party consultation and appeal rights in relation to certain development types. Specifically, the amendments continue or introduce additional criteria to provisions that exempt rooming accommodation, rural workers' accommodation, community residences, and relocatable classrooms (the uses) from assessment against a local categorising instrument. Additionally, the introduction of a new land-use definition for build to rent housing may also influence how these types of developments are assessed and communicated to the public.

In circumstances where these developments would traditionally be subject to impact assessment, the removal of public notification requirements may be perceived as a restriction on the ability to receive and impart information relevant to planning decisions. However, it is noted that not all Local Governments require impact assessment for these development types.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

The purpose of the limitation is to continue to facilitate the timely and efficient delivery of essential housing and infrastructure across Queensland. The continuation of exemptions for rooming accommodation and rural workers' accommodation eases pressure on existing housing stock and, for rural workers' accommodation specifically, supports the rapid establishment of housing in regional areas, addressing workforce needs. For community residences, the amendments introduce clearer design and locational requirements, particularly in areas subject to natural hazards, while maintaining streamlined pathways to support housing diversity. The Temporary Accepted Development declaration for temporary relocatable classrooms enables the Department of Education to respond quickly to enrolment growth and infrastructure needs in State schools. The introduction of a new land-use definition for build to rent housing provides greater clarity and consistency in how these developments are assessed, supporting the growth of a housing model that offers long-term rental options.

These changes are consistent with the values of a free and democratic society. They promote human dignity by supporting access to housing and education. The prescribed development standards ensure that potential impacts are appropriately managed, and the overall approach reflects a balance between efficiency and public interest.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

The limitation on freedom of expression, particularly the reduction in opportunities for public consultation and third-party appeals, is directly connected to achieving the purpose of the amendments. By continuing to streamline development pathways for the uses, the amendments enable faster delivery of housing and infrastructure. This includes facilitating rooming accommodation and rural workers' accommodation, improving outcomes for community residences, and enabling the rapid deployment of temporary relocatable classrooms. The new build to rent housing definition ensures that these developments are appropriately distinguished from other residential uses.

Each of these changes contributes to the overarching goal of improving housing supply, infrastructure responsiveness, and planning system efficiency.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

There are no less restrictive ways to achieve the purpose of the amendment.

e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

Freedom of expression is a fundamental right that underpins democratic participation and procedural fairness. However, in this context, the limitation is narrow in scope and applies only to specific development types. The amendments do not prevent individuals from expressing opinions or accessing information through other channels.

These outcomes directly benefit the broader community and support other human rights, such as the right to housing, education, and safety. In relation to rooming accommodation and rural workers' accommodation provisions, the extension is intended to be final, providing certainty for industry, sustaining housing supply, and allowing Local Governments time to update their planning schemes if they choose to do so. The introduction of the build to rent housing definition is designed to improve clarity and access without compromising transparency.

Given the targeted nature of the limitation and the public interest in achieving the planning objectives, the balance weighs in favour of the limitation.

Property rights

(a) the nature of the right

Section 24(2) of the Human Rights Act provides that a person must not be arbitrarily deprived of the person's property. Limitations on section 24(2) property rights must not be 'arbitrary'; they must be proportionate and not capricious, unpredictable, unjust, or unreasonable.

Housing-related amendments (including rooming accommodation, community residences and build to rent housing)

For rooming accommodation, the changes include new landscaping requirements to improve streetscape presentation. For community residences, the amendments refine the land use definition, restrict the zones where they can be established without a development approval, and improve built form outcomes. These new requirements may influence how these types of developments are designed and used in the future. Therefore, it may be argued that this right is limited because these changes impose additional requirements for the design and location of rooming accommodation development and community residences, which narrows the circumstances in which they can proceed without needing a development approval. Provisions will safeguard projects that have already obtained building approval, ensuring property rights remain secure during the transition.

The new build to rent housing definition clearly distinguishes it from other residential uses and includes specific criteria, including a minimum operational period. This requirement limits the ability to sell individual dwellings during that period but is necessary to maintain the integrity of the build to rent model and ensure long-term housing security for tenants. It may be argued that this definition limits property rights as a result. However, the minimum operational period applies only to developments that choose to seek a development approval under the build to rent definition and potential benefit from associated concessions under a local planning scheme (should a Local Government choose to adopt the land use definition and amend their planning schemes to consider local requirements). There is nothing stopping a proponent from seeking a Material Change of Use for a multiple dwelling instead, which would allow the sale of individual units.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Housing-related amendments (including rooming accommodation, community residences, and build to rent housing)

The purpose of these limitations is to improve amenity and safety for residents, respond to community and Local Government concerns, and maintain the integrity of the build to rent model to deliver secure, professionally managed rental housing. These objectives are consistent with a free and democratic society because they promote housing security, community wellbeing, and equitable access to accommodation while preserving flexibility for property owners through alternative development pathways.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Housing-related amendments (including rooming accommodation, community residences, and build to rent housing)

The limitations are directly connected to achieving the intended purposes. Landscaping requirements can improve the overall streetscape presentation for new rooming accommodation developments. Restrictions and refinements for community residences enhance safety and suitability of accommodation.

The provisions of the new build to rent housing land use definition are essential to uphold the integrity of the model and ensure that planning concessions linked to this use deliver long-term rental housing outcomes. These measures are proportionate and targeted to the policy objectives.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

Housing-related amendments (including rooming accommodation, community residences, and build to rent housing)

There are no less restrictive ways to achieve the purpose of the Amendment Regulation.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

Housing-related amendments (including rooming accommodation, community residences, and build to rent housing)

The balance between the importance of the purpose and the importance of preserving the human right is appropriate. The limitations are minimal and proportionate because they do not prohibit development, they maintain the ability to lodge a development application, and they apply only to specific land uses benefiting from concessions.

Given the targeted nature of the limitation and the public interest in achieving the planning objectives, the balance weighs in favour of the limitation.

Fair hearing (section 31)

(a) The nature of right

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

Section 31 of the Human Rights Act provides that every person has the right to have criminal charges or civil proceedings decided by a competent, independent, and impartial court or tribunal after a fair and public hearing. This right ensures procedural fairness and access to justice, including the ability to participate in legal processes and, where relevant, to seek review or appeal of decisions that affect one's rights or interests.

It might be argued that the right to a fair hearing may be impacted by the Amendment Regulation, in that it will continue the removing of the requirement for the uses to require assessment against a local planning scheme and Planning Regulation. As a result, some opportunities for public consultation and third-party appeal, particularly in cases where the development would have otherwise been subject to impact assessment, may continue to be removed.

The proposed changes are part of a broader effort to continue to streamline development processes for specific types of development as well as reduce regulatory burden. While the right to a fair hearing may be limited in some cases, the extent of the limitation is narrow and proportionate to the planning objectives being pursued.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom.

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

The purpose of the limitations introduced by the Amendment Regulation is to continue to streamline planning processes, improve housing delivery mechanisms, and ensure appropriate land use outcomes. These amendments are designed to continue to facilitate the delivery of safe and suitable accommodation, support housing supply, and remove unnecessary regulatory barriers.

These objectives are consistent with the values of a free and democratic society. They promote human dignity by enabling access to appropriate housing, equality by supporting inclusive development pathways, and freedom by reducing unnecessary regulatory burdens that may otherwise hinder development beneficial to the community.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

The limitation is directly connected to the purpose of the amendments. For example, restricting community residences to certain zones without requiring a development application helps ensure appropriate location and built form outcomes, supporting safety and suitability. Similarly, making relocatable classrooms temporary accepted development enables rapid deployment of infrastructure in response to educational needs.

These limitations reduce administrative burden and improve certainty for developers and local governments, helping to achieve the intended planning outcomes efficiently. The limitation is therefore proportionate and instrumental in achieving the purpose of the amendments.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

There are no less restrictive ways to achieve the purpose of the amendment.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

Relocatable classrooms and housing-related amendments (including rural workers' accommodation, rooming accommodation, and community residences):

The right to a fair hearing is fundamental to procedural justice. However, in this context, the limitation is narrow and applies only to specific development types that are unlikely to generate significant community concern or adverse impacts. The amendments do not remove access to other fair hearing mechanisms. The amendments contribute to the realisation of other human rights, such as the right to housing, education, and security.

Given the targeted nature of the limitation and the public interest in achieving the planning objectives, the balance weighs in favour of the limitation.

Conclusion

I consider that the *Planning Amendment Regulation 2025* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

JARROD BLEIJIE MP

Deputy Premier, Minister for State Development, Infrastructure and Planning
and Minister for Industrial Relations

© The State of Queensland 2025