

Rebecca Vassarotti MLA

Minister for the Environment, Parks and Land Management

Minister for Heritage

Minister for Homelessness and Housing Services

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Member for Kurrajong

Our ref: CMTEDD2024/3871

Mr Peter Cain MLA

Chair

Standing Committee on Justice and Committee Safety

Scrutiny@parliament.act.gov.au

Dear Mr Cain

Peter

Thank you for the comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) in its Scrutiny Report No. 45 on the Subordinate Law SL2024-17, being the *Environment Protection Amendment Regulation 2024 (No 1)* (Amendment Regulation).

In its report, the Committee identified that the Regulatory Impact Statement (RIS) for the subordinate law did not discuss the requirements of paragraph 35(h) of the *Legislation Act 2001* and on this basis did not meet the technical or stylistic standards expected by the Committee.

I advise that the absence of this discussion was an administrative oversight. To rectify this inadvertent omission, I provide the following brief assessment of the consistency of the Amendment Regulation with the Committee's principles for its consideration:

Consistency with the Committee's principles:

The position in relation to each term of reference is as follows:

- (i) *is in accord with the general objects of the Act under which it is made*

The Amendment Regulation is in accordance with the general objects of the *Environment Protection Act 1997*. In particular:

- The Amendment Regulation reflects the existing planning controls and policies established in for the City Centre Entertainment Precinct (CCEP) in the new *Territory Plan (Inner North and City District Policy)*. In conjunction with these existing controls, the Amendment Regulation

will ensure future buildings will be appropriately attenuated to protect the occupants from the impacts of noise levels that are already occurring in the CCEP (Object 3C(1)(b)); and

- In accordance with Object 3C(1)(d), the Amendment Regulation establishes appropriate Noise Standards that balance the need to protect the health and wellbeing of residents living in and on the border of the CCEP with delivering the community's economic and social considerations and expectations of the CCEP.

Further detailed information can be found in the *Noise in the City Centre Entertainment Precinct Regulatory Impact Statement*.

(ii) *unduly trespasses on rights previously established by law*

The proposed setting does not unduly trespass on rights previously established under law.

The Amendment Regulation has limited engagement with rights under the *Human Rights Act 2004*. As noted in the RIS, the Amendment Regulation may have privacy and amenity impacts for residents living in buildings within or on the boundary of the CCEP Frame. However, the new Noise Standards strike a balance between the community expectations of a city with a vibrant nightlife and enjoyment of the night-time economy with enjoyment of a place of residence. The impact on the right to privacy and reputation is expected to be minimal and any limitations are proportionate.

Furthermore, avenues for noise complaints and a free Conflict Resolution Service remain available on the Access Canberra Noise Portal for residents living in and on the boundary of the CCEP. These are important safeguards against any limitations on an individual's right to enjoyment of their home without undue nuisance due to noise pollution. Any limitations on the right to privacy are therefore reasonable and proportionate in accordance with section 28 of the *Human Rights Act 2004*.

Further detailed information can be found in the *Environment Protection Amendment Regulation 2024 (No 1)* Explanatory Statement.

(iii) *makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions*

The proposed setting does not make rights, liberties and/or obligations unduly dependent upon non reviewable decisions.

(iv) *contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly*

The proposed setting does not require further amendments to an Act and the subject matter is appropriate for a disallowable instrument.

I trust that this response addresses the Committee's comments on RIS for *Environment Protection Amendment Regulation 2024 (No 1)* (SL2024-17).

Yours sincerely



Rebecca Vassarotti MLA
Minister for the Environment, Parks and Land Management

17/10/2024