



## Tara Cheyne MLA

Assistant Minister for Economic Development  
Minister for the Arts  
Minister for Business and Better Regulation  
Minister for Human Rights  
Minister for Multicultural Affairs

Member for Ginninderra

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Mr Peter Cain MLA  
Chair  
Standing Committee on Justice and Community Safety (Scrutiny Role)  
GPO Box 1020  
CANBERRA ACT 2601

Our ref: MIN:2021/001624/PRO22/1406

21 June 2022

Dear Mr Cain

I refer the letter dated 12 July 2021 sent by Mr Hanson on behalf of the Standing Committee on Justice and Community Safety (Scrutiny Role) (the Committee). That letter canvassed possible changes to the Committee's human rights scrutiny functions in respect of subordinate legislation.

I apologise for the significant delay in responding to you while this important issue was being considered.

I acknowledge the potential benefits of amending the *Human Rights Act 2004* (HRA) to formalise the Committee's mandate to scrutinise and report on the human rights impact of subordinate legislation presented to the Assembly. While the Committee already provides valuable commentary on these issues in its reports, it would be beneficial for this role to be specifically recognised in the Human Rights Act.

While there are strong arguments for broadening the Committee's remit, the potential benefits of requiring a compatibility statement in respect of all subordinate legislation are less clear. Such a requirement could have significant resourcing implications in requiring centralised internal scrutiny of all delegated legislation.

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I note that the existing Human Rights Act framework already ensures that human rights are considered as part of the development of subordinate legislation, and that human rights analysis is generally included in explanatory statements for subordinate legislation.

I intend to progress consideration of amendments to enhance the Committee's mandate to consider human rights in subordinate legislation. While the Government does not intend to introduce a requirement for compatibility statements for subordinate legislation at this point, I have written to remind Ministers there is an expectation that explanatory statements include human rights analysis.

In the meantime, I thank the Committee for raising these issues and supporting enhanced human rights scrutiny in the Territory.

Sincerely



Tara Cheyne MLA  
Minister for Human Rights