

Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

Statement of Compatibility

FOR

Amendments Moved During Consideration In Detail By Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations, make this statement of compatibility with respect to the amendments to be moved during consideration in detail of the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 (the Bill).

In my opinion, the amendments to be moved during consideration in detail of the Bill are compatible with the human rights protected by the Human Rights Act. I base my opinion on the reasons outlined in this statement.

Overview of the Amendments

The Bill proposes amendments to the:

- *City of Brisbane Act 2010*;
- *Local Government Act 2009*;
- *Planning Act 2016*;
- *Planning and Environment Court Act 2016*; and
- *Building Act 1975*.

The amendments proposed to the Bill for consideration in detail also proposes amendments to the:

- *Planning Act 2016*;
- *Planning and Environment Court Act 2016*; and
- *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

A primary objective of the Bill is to introduce a community benefit system into the Planning Act that requires uses prescribed by Regulation to be subject to social impact assessment and require a community benefit agreement before a development application can be properly made.

A range of other amendments to the Planning Act are proposed following introduction of the Bill. These amendments are proposed for consideration in detail, and the objectives of the amendments are to:

- amend the period for public submissions to be made on a new regional plan from 60 business days to 30 business days and on amendments to a regional plan from 30 business days to 20 business days;
- clarify that local governments may, and have always been intended to be able to, levy an infrastructure charge for development on premises, such as building work, for extra demand on trunk infrastructure generated by a use of the premises that is a natural and ordinary consequence of the development, including in circumstances where the use could be carried out without a development permit;
- provide for infrastructure charges notices given before commencement of the Bill, which may not have been valid under the relevant planning provisions, to be valid if they comply with the new Planning Act, section 120;
- remove red tape for development in relation to infrastructure under designation on premises in a development control plan (DCP) area, being the Springfield Structure Plan, Mango Hill Infrastructure DCP and DCP 1 Kawana Waters, to allow that development to proceed without the need to comply with any processes in the DCP for making and approving plans or with any plans made under a DCP;
- provide for development already carried out in relation to infrastructure under a designation on premises to which a DCP applies, to be taken to be valid even though it may not comply with any processes in the DCP for making and approving plans or with any plans made under a DCP;
- amend section 106ZM of the Bill with respect to fees for particular matters to specifically include costs which may be charged by a local government as part of its a fee in relation to considering a social impact assessment report; and
- amend section 106ZC of the Bill with respect to mediation processes to prescribe matters for section 106ZC by regulation, including processes or procedures for mediation.

Amendments to the *South-East Queensland (Distribution and Retail Restructuring) Act 2009* are also proposed to solidify and clarify the existing policy intent regarding the circumstances in which distributor-retailers may levy an infrastructure charge. These amendments are consistent with the amendments proposed for the Planning Act for local government to:

- clarify that distributor-retailers may, and have always been intended to be able to, levy an infrastructure charge for development on premises, such as building work, for extra demand on trunk infrastructure generated by the connection, including in circumstances where the use could be carried out without a development permit;

- provide for infrastructure charges notices given before commencement of the Bill, which may not have been valid under the relevant planning provisions, to be valid if they comply with the new *South-East Queensland (Distribution and Retail Restructuring) Act 2009*, section 99BRCJ.

Human Rights Issues

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

In my opinion, the human rights engaged by the amendments to be moved during consideration in detail are:

- section 21 – freedom of expression;
- section 23 –taking part in public life;
- section 24 – property rights; and
- section 31 –fair hearing.

Regional planning amendments

New clauses 85A and 85B will amend the Planning Act, sections 10(3)(c) and (d), to shorten the period within which submissions may be made on new and amended regional plans and therefore potentially limit a person’s right to freedom of expression and a person’s right to take part in public life.

Development control plan amendments

New clauses 85C to 85F amend the Planning Act by:

- amending section 275ZB and section 316; and
- inserting a new Chapter 8, Part 11, which:
 - allows development in relation to infrastructure under a designation on premises to which a DCP applies, to proceed without the need to comply with any processes in the DCP for making and approving plans or with any plans made under a DCP;
 - provides for development already carried out in relation to infrastructure under a designation on premises to which a DCP applies, to be taken to be valid even though it may not comply with any processes in the DCP for making and approving plans or with any plans made under a DCP; and
 - removes the requirement for development in relation to infrastructure under a designation to comply with the repealed *Sustainable Planning Act 2009*, section 857(5) and the repealed *Integrated Planning Act 1997*, section 6.1.45A(2) .

The proposed amendment to the Planning Act, section 275ZB, may limit a person’s right to freedom of expression and a person’s right to take part in public life. The amendment will allow development under a development approval, that relates to infrastructure under a designation, to proceed without the need:

- for the plans referred to in sections 275ZB(1) to (3), and made under the Springfield Structure Plan, to apply to the premises; or

- to comply with those plans.

The plans would ordinarily be prepared for submission to and approved by Ipswich City Council under the Springfield Structure Plan. Communities may therefore expect that development of premises within the Springfield Structure Plan would be decided by their local government. Any decision of the Ipswich City Council or exercise of any discretion by or on behalf of Council or its delegate or officers under or in connection with any provision of the Structure Plan can be disputed by any person under Part 14, section 11 of the Springfield Structure Plan. The proposed amendment to section 275ZB would have the effect that Council would not need to approve a plan referred to in sections 275ZB(1) to (3) and a person would have no opportunity to take dispute with any Council decision in relation to a plan, limiting a person's right to freedom of expression and a person's right to take part in public life.

The proposed Chapter 8, Part 11 to be inserted in the Planning Act will validate past, and allow future, development in relation to infrastructure under a designation on premises to which a DCP applies. It will not be necessary to comply with any process in the DCP for making and approving plans or with any plans made under a DCP, for the development in relation to infrastructure under a designation.

This amendment is unlikely to engage a person's right to freedom of expression insofar as it will apply to premises within the Mango Hill Infrastructure DCP or the DCP 1 Kawana Waters. This is because these DCPs do not require that public submissions be invited as part of the DCP plan making process. However, as communities may expect that development of premises within the Mango Hill Infrastructure DCP or the DCP 1 Kawana Waters would be decided by their local government, the amendment may limit a person's right to take part in public life.

To the extent the proposed Chapter 8, Part 11 will apply to premises within the Springfield Structure Plan, the amendment may limit a person's right to freedom of expression and a person's right to take part in public life for the reasons identified to in respect of the proposed amendment to section 275ZB.

Removing the obligation to comply with the repealed Acts may limit individuals' rights to a fair hearing. In addition to requiring development in a DCP area to comply with any processes in the DCP for making and approving plans or with any plans made under a DCP, section 857(5) also provides for appeals made where the DCP states that an appeal may be made against decisions under the plan, to be validly made. Removing the requirement that development in relation to infrastructure under a designation comply with the DCP plan process may therefore also remove a person's right to appeal.

The DCP amendments also potentially limit the right of individuals, recognised in section 24(2) of the Human Rights Act, not to be arbitrarily deprived of property. However, as the amendments will allow a person to develop land without complying with any processes in the DCP for making and approving plans or with any plans made under a DCP and will make valid development in relation to infrastructure under a designation on premises in a DCP area which was undertaken prior to commencement of the Bill, a person's right to property will not be limited.

Infrastructure charging amendments

New clauses 85G to 85K will amend:

- the Planning Act to:
 - clarify that local governments may, and have always been intended to be able to, levy an infrastructure charge for development on premises, such as building work, for extra demand on trunk infrastructure generated by a use of the premises that is a natural and ordinary consequence of the development, including in circumstances where the use could be carried out without a development permit;
 - clarify that certain infrastructure charges notices given (or purportedly given) in relation to development on premises before the commencement are taken to be, and always have been, valid and unlawful;

New clauses 85L to 85O will amend:

- the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, to:
 - continue to ensure that infrastructure charges for a water approval may be only for additional demand placed on trunk infrastructure generated by the connection the subject of the approval;
 - clarify what may be included in working out additional demand for a water service or wastewater service;
 - clarify that certain infrastructure charges notices given (or purportedly given) in relation to a water approval before the commencement are taken to be, and to always have been, valid and lawful; and
 - declare that distributor-retailer boards cannot adopt a charge for trunk infrastructure related to public housing or trunk infrastructure related to other development prescribed by regulation.

Section 24 of the Human Rights Act 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. In the human rights context, both 'property' and 'deprivation' are interpreted broadly. In particular, deprivation does not require total acquisition or extinguishment of the property. Limiting the ability to use and enjoy the property can constitute deprivation for the purposes of section 24(2) of the Human Rights Act.

The infrastructure charging amendments may limit the property rights of individuals that own or are entitled to develop land, as the amendments clarify that they will be required to make payments in order to develop land and connect it to essential water infrastructure.

However, for the right recognised in section 24(2) to be limited, the deprivation must be 'arbitrary' which, in the human rights context, means unreasonable, unjust or capricious. It is therefore convenient to consider whether the limitation is reasonable and justifiable using the proportionality analysis under section 13 of the Human Rights Act, because if a limitation is proportionate, it cannot be arbitrary and therefore the right recognised in section 24(2) could not be limited.

Community benefit system amendments

Also, in my opinion, the following amendments do not engage or limit any human rights:

- the proposed amendment to amend section 106ZC of the Bill to prescribe matters for section 106ZC, including processes or procedures for mediation; and
- the proposed amendment to section 106ZM with respect to fees and charges local government may set for particular matters.

If human rights may be subject to limitation if the Bill with these amendments is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (Human Rights Act, s 13)

(a) the nature of the rights

Section 21 of the Human Rights Act recognises that every person has the right to hold an opinion without interference and has the freedom of expression, through speech, art, writing (or other forms of expression) and to seek out and receive the expression of others' opinion. This includes making decisions in relation to the provision of information or restrictions on access to information.

Section 23 of the Human Rights Act states 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.

Section 24 of the Human Rights Act protects property rights, which have long been recognised as an essential feature of free and democratic societies.

Section 31 of the Human Rights Act recognises that a person has the right to have criminal charges or civil proceedings decided by a competent, independent and impartial court or tribunal following a fair, public hearing.

(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

Regional planning amendments

The purpose of this amendment is to enable regional plans across the State to be updated in the next four years to deliver greater policy certainty for communities, industry and local government by providing a long-term plan to protect the lifestyle of communities and appropriately cater for growth. Most regional plans are significantly out of date and do not address contemporary planning issues, creating a disconnect between the State Planning Policy and local government planning schemes.

The requirement to consult for 60 business days derives from the now repealed *Integrated Planning Act 1997* and is no longer necessary as regional plans are long established, and faster and more efficient methods of circulating information, including the use of online tools and social media are available. Public consultation is still required, encouraged and supported in the making or amending of regional plans, within the proposed new timeframes. Providing for a timely update to outdated planning instruments, while continuing to allow for public submissions on that process, is consistent with a free and democratic society based on human dignity, equality, and freedom.

Development control plan amendments

Premises the subject of a designation are for infrastructure which is a priority for the State or local government. Designations are made following a proper planning process which includes public consultation, assessment against relevant State and local government planning instruments, including a relevant DCP, and engagement with the local government. Development in relation to infrastructure under a designation will generally be carried out without the need to obtain development approvals, other than for building work under the *Building Act 1975*. Applying for approval of plans or changing plans made under a DCP, to enable development under a designation to be carried out, would add unnecessary and lengthy delays to delivering infrastructure that is a priority to the State or local government.

The purpose of the amendment is to remove red tape for development in relation to infrastructure under a designation on premises to which a DCP applies, to enable the timely delivery of that development and provide certainty for development in relation to infrastructure under a designation carried out before the Bill commences. Ensuring that development that is a priority to the State or local government is delivered expeditiously, is compatible with a free and democratic society based on human dignity.

Infrastructure charging amendments

The purpose of the infrastructure charging amendments is to provide certainty to local governments, distributor-retailers under the *Planning Act 2016* and distributor-retailers under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, and the community, particularly in light of a recent court decision, that local governments and distributor-retailers may, and have always been intended to be able to, levy an infrastructure charge for:

- development on premises, such as building work, for extra demand on trunk infrastructure generated by a use of the premises that is a natural and ordinary consequence of the development, including in circumstances where the use could be carried out without a development permit; and
- additional demand placed on trunk infrastructure that is generated by the connection that is the subject of a water approval.

The amendments are consistent with a free and democratic society as they will assist local governments and distributor-retailers deliver trunk infrastructure including by removing any risk in respect of infrastructure charges previously levied and received by local governments and distributor-retailers.

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

Regional planning amendments

The limitation on a person's right to freedom of expression and a person's right to take part in public life, by shortening the period within which a person may make a submission in respect of a new or changes to regional plans, achieves the purpose of ensuring the timely update of regional plans across the State.

Development control plan amendments

The limitation on a person's right to freedom of expression and a person's right to take part in public life, by removing their ability to make submissions during a process for making and approving plans under the DCP for development for infrastructure under a designation, achieves the purpose of ensuring that development, that is a priority to the State or Local Government, is delivered expeditiously, without complying with additional approvals and providing certainty for development carried out before the Bill commences.

Infrastructure charging amendments

The amendments will be effective to achieve the purpose of providing certainty to the local governments, distributor-retailers and the community that local governments and distributor-retailers are, and have always been intended to be able to, levy an infrastructure charge for extra demand on trunk infrastructure generated by particular kinds of development or connections the subject of particular water approvals.

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

Regional planning amendments

Limiting time frames for making submissions on new, and amendments to, a regional plan is the only way to ensure efficient and timely delivery of much needed updates to regional plans.

Development control plan amendments

Removing the need for the proponent of development in relation to infrastructure under a designation to comply with any processes in the DCP for making and approving plans or with any plans made under a DCP, and making valid development undertaken in relation to infrastructure under a designation before the Bill commences, is the only way to provide certainty for existing development and ensure that future development in relation to infrastructure under a designation is carried out without the need for further approvals.

Infrastructure charging amendments

Specifically providing for when a local government or distributor-retailer may levy trunk infrastructure charges for extra demand on trunk infrastructure generated by a use of the premises and validating infrastructure charges previously levied for that extra demand is the only way to clarify that local government and distributor-retailers have and have always been intended to be able to levy an infrastructure charge for development on premises, such as building work, for extra demand on trunk infrastructure generated by a use of the premises that is a natural and ordinary consequence of the development, including in circumstances where the use could be carried out without a development permit.

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

Regional planning amendments

In my opinion, the regional planning amendments strike a fair balance between the benefits gained by the public through the timely update to outdated regional plans and the limitation on the right to freedom of expression or right to take part in public life.

Development control plan amendments

In my opinion, the DCP amendments strike a fair balance between the benefits gained by the public through the expedited delivery of State identified priority infrastructure and certainty for existing infrastructure and any limitation on a person's right to freedom of expression or right to take part in public life.

Infrastructure charging amendments

In my opinion, the infrastructure charging amendments strike a fair balance between the benefits gained by the public by providing certainty around when a local government or distributor-retailer may levy trunk infrastructure charges for extra demand on trunk infrastructure generated by a use of premises and any limitations on property rights associated with that ability to levy infrastructure charges.

(f) any other relevant factors

Nil.

Conclusion

In my opinion, the amendments to be moved during consideration in detail of the Bill are compatible with human rights under the Human Rights Act. As any limitation on property rights is reasonable, it is not arbitrary and therefore the right recognised in section 24(2) of the Human Rights Act is not limited. To the extent the amendments limit the other human rights identified, the limitation is reasonable and demonstrably justifiable in accordance with section 13 of *the Human Rights Act*.

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

Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

Statement of Compatibility

FOR

Amendments Moved During Consideration In Detail By Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations make this statement of compatibility with respect to the amendments to be moved during consideration in detail of the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 (the Bill).

In my opinion, the amendments to the Bill to be moved during consideration in detail are compatible with the human rights protected by the *Human Rights Act*. I base my opinion on the reasons outlined in this statement.

Overview of the amendments

Amendments to be moved during consideration in detail - Chapter 4 of the Bill – Brisbane Olympic and Paralympic Games Arrangement Act 2021

The policy objectives of amendments to be moved during consideration in detail (ACiDs) of Chapter 4 of the Bill – Brisbane Olympic and Paralympic Games Arrangement Act 2021 are to:

- clarify whether a public sector employee or public sector officer should be subject to the same requirements as other board members, for confidentiality of information obtained in the course of their employment other than as a board member;
- clarify that the chief executive under the *Brisbane Olympic and Paralympic Games Arrangements Act 2021* (BOPGA Act) may delegate the State representative function to an appropriately qualified person;
- clarify the provisions relating to legal challenge and review;

- ensure improved opportunities for awareness of the information notice as part of the alternative cultural heritage provisions;
- include a mechanism for the chief executive (cultural heritage) to be notified when a default plan takes effect under the alternative cultural heritage provisions;
- clarify that the Minister may issue directions to infrastructure entities including government owned corporations (GOCs), to ensure the timely delivery of authority venues, other venues and villages, and the timely construction of games-related transport infrastructure;
- correct the reference to the Gold Coast Arena in Schedule 2 Other Venues to better reflect the detail of the venue; and
- address minor administrative amendments in the Bill and to seek clarification about confidentiality.

Human Rights Issues

In my opinion, the ACiDs are compatible with human rights because they either do not limit human rights, or limit human rights only to the extent that is justified within the meaning of sections 8 and 13 of the *Human Rights Act*.

Chief executive confidentiality obligation amendment

The ACiDs amend the Bill by including an express requirement that the chief executive under the BOPGA Act preserve the confidentiality of confidential information provided by the Games Independent Infrastructure and Coordination Authority (Authority), in response to a request under the proposed new section 53AI(1).

In my opinion, this amendment does not limit any human rights.

Chief executive delegation amendment

The ACiDs amend the Bill allow the chief executive under the BOPGA Act power to delegate the chief executive's power under the proposed section 53AI(5) to an appropriately qualified person. The provision currently allows the chief executive to delegate to an appropriately qualified public service employee employed in the department.

The effect of this amendment is to broaden the range of people to whom the chief executive may delegate power. In my opinion, it does not limit any human rights.

Director disclosure duty amendment

Proposed section 53CAA(2) of the BOPGA Act provides that a director of the Authority does not have a duty to disclose to the Authority confidential information that:

- has been given to the director in the director's capacity as an elected office holder (or in another capacity specified in proposed section 53CAA(1)(a)); and
- is relevant to a matter being considered by the Authority's Board.

The ACiDs propose to include public servants in section 53CAA(1)(a), to reflect the fact that public servants may now be appointed to the Board of the Authority.

In my opinion, this amendment does not limit any human rights.

Civil proceedings amendment

Proposed section 53DD(3) precludes the commencement of civil proceedings in relation to the development, use or activity if there is a reasonable prospect that the proceeding will prevent the timely delivery of an authority venue or other venue or village or the timely completion of games related transport infrastructure.

The ACiDs propose to:

- insert a new section 53DD(3A) which will provide that section 53DD(3) does not limit, and is not limited by, section 53EG;
- amend section 53DD(3) by replacing the words ‘in relation to’ with words that have the effect of narrowing the types of proceedings that are prevented by section 53DD(3); and
- amend section 53DD(3) to provide that civil proceedings may not be started if the relief sought would have the direct effect of restraining or restricting the carrying out of the development, use or activity.

The justification analysis provided in the Statement of Compatibility tabled with the Bill in relation to the limitation of a person’s rights to a fair hearing under section 31 of the Human Rights Act by restricting the ability to commence proceedings (pages 23-27) is relevant to any proceedings that may still be precluded following the amendments to section 53DD(3). The conclusion formed in the Statement of Compatibility tabled with the Bill, that the amendments are compatible with human rights, applies equally to applicable to these ACiDs.

Aboriginal and Torres Strait Islander cultural heritage amendments

The ACiDs amend proposed section 53DK(5) to require a proponent to publish an information notice for the purpose of identifying Aboriginal parties or Torres Strait Islander parties for a project area in at least one newspaper circulating in the project area and in which notices affecting Aboriginal peoples and Torres Strait Islander peoples are regularly published.

The purpose of this amendment is to increase publicity and, therefore, awareness, of opportunities for Aboriginal peoples and Torres Strait Islander peoples to negotiate Part 3 plans for project areas for which they are an Aboriginal party or a Torres Strait Islander party. In my opinion, this amendment does not limit any human rights.

The ACiDs include a further amendment relating to the Aboriginal and Torres Strait Islander cultural heritage provisions to be inserted in the BOPGA Act, namely inserting a new section 53DS that will require a proponent to give notice of the default plan taking effect for a project area to the chief executive under the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*. At present, the Bill requires proponents only to give notice to the chief executive under the BOPGA Act.

The purpose of this amendment is to ensure the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multicultural Affairs is informed that the default plan is in effect for a project area. This is appropriate as the protection of Aboriginal cultural heritage and Torres Strait Islander cultural heritage is part of that department’s portfolio responsibilities. In my opinion, the amendment does not limit any human rights.

Necessary games infrastructure amendment

The ACiDs propose to amend the definition of ‘government entity’ in proposed section 53EB(11) to include Government Owned Corporations (GOC). This will allow the Minister to give directions to a GOC (including electricity entities, for example) about necessary games infrastructure under proposed section 53EB. In my opinion, this amendment does not limit any human rights.

Amendments are also made to section 53EB to the process for giving directions to prescribed entities, which include the Queensland Bulk Water Supply Authority and Queensland Rail Transit Authority. In my opinion, these amendments do not limit any human rights.

Funding agreements amendment

The ACiDs propose minor and technical amendments to clause 67 of the Bill to make clear that that an agreement entered into by a corporation with the Minister under is a funding agreement.

In my opinion, the amendment does not limit any human rights.

Dictionary amendments

The ACiDs amend a typographical error in clause 19.1(c) of proposed Schedule 5. The amendment does not limit any human rights.

Other venues amendments

The ACiDs propose to update the reference in proposed Schedule 2 – Other Venues for the facility to be known as the Gold Coast Arena. This is to ensure the games-related use and legacy use aligns with the proposed development of the Gold Coast Arena as follows:

- the Games-related use is a new indoor entertainment and sport venue with seating for between 12,000 to 15,000 people; and
- the Legacy use is indoor entertainment and sports venue with seating for between 12,000 to 15,000 people.

In my opinion, this amendment does not limit any human rights.

Conclusion

I consider the amendments to the Bill which are to be moved during consideration in detail are compatible with the human rights protected under the *Human Rights Act*.

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

Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by the Honourable Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations make this statement of compatibility with respect to amendments to be moved during consideration in detail of the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 (the Bill).

In my opinion, the amendments to be moved during consideration in detail of the Bill related to the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (the Corporation) 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 during consideration in detail of the Bill will amend the *Brisbane Olympic and Paralympic Games Arrangements Act 2021* (BOPGA Act) to ensure that:

- should the position of an Honorary Life President of the Australian Olympic Committee (AOC) on the Corporation's Board be vacated, or there is no Honorary Life President of the AOC, then the AOC Chief Executive Officer (CEO) holds a position on the Board instead;
- there are two Vice Presidents of the Corporation's Board – one nominated by the Minister as the Queensland Government representative under the proposed section 17(1)(b) of the BOPGA Act as originally proposed in the Bill; and one nominated by the Prime Minister as the Australian Government representative under the proposed section 17(1)(c) of the BOPGA Act;

- any director of the Corporation's Board that is a public service employee does not have a duty to disclose certain confidential information acquired in their capacity as a public service employee to the Corporation.

Human Rights Issues

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

Consideration has been given as to whether the proposed amendments to the Bill related to the Corporation might engage certain human rights under the *Human Rights Act 2019*, and which rights might be relevant to the Bill.

It has been concluded that the amendments related to the Corporation do not engage any human rights.

Conclusion

In my opinion, the amendments to be moved during consideration in detail of the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 related to the Corporation are compatible with human rights under the *Human Rights Act 2019* because they do not limit human rights.

JARROD BLEIJIE

Deputy Premier

Minister for State Development, Infrastructure and Planning

Minister for Industrial Relations

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations make this statement of compatibility with respect to amendments to be moved during consideration in detail of the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 (the Bill).

In my opinion, the amendments to be moved during consideration in detail of the Bill are compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the amendments

The Bill will amend the *Queensland Building and Construction Commission Act 1991* (QBCC Act), which establishes the statutory insurance scheme (known as the Queensland Home Warranty Scheme (QHWS)). The QHWS provides assistance to consumers of residential construction work for loss associated with work that is defective or incomplete. The QBCC Act prescribes the terms of cover under which a person is entitled to assistance and when cover under the QHWS comes into force.

A recent Queensland Civil and Administrative Tribunal (QCAT) decision highlighted an anomaly between interpretation and practice with respect to QHWS coverage. The amendments to the QBCC Act are technical amendments. They confirm QHWS coverage for the range of agreements between a homeowner and a builder (including oral and other forms of informal agreement recognised, such as exchange of emails, under common law principles) and retrospectively validate previous impacted decisions and actions.

Human Rights Issues

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

Consideration has been given as to whether the proposed amendments to the Bill might engage certain human rights under the HR Act, and which rights might be relevant to the Bill.

In my opinion, the human rights under the HR Act that are relevant to the amendments are:

- Equal protection of the law without discrimination (section 15 (3))
- Not to be arbitrarily deprived of property (section 24(2))
- Fair hearing (section 31))

a) the nature of the rights

Section 15(3) of the HR Act establishes the right to equal protection of the law without discrimination. This right ensures that everyone is treated equally under the law, with no discriminatory application or enforcement. Specifically, it means:

Equality before the law: everyone is treated equally when the law is applied or enforced, with no discriminatory or arbitrary actions.

Equal protection of the law without discrimination: everyone has the right to be protected by the law, including protection from discriminatory laws themselves.

In essence, the right to equal protection of the law without discrimination focuses on the fairness of the legal process and the protection of individuals from discriminatory laws and their application, ensuring all are treated equally under the law.

The right to property, specifically the right not to be arbitrarily deprived of one's property, is protected under section 24 of the HR Act. This right ensures that individuals cannot be unjustly or unfairly taken of their property.

The right to a fair hearing, as outlined in section 31 of the HR Act, guarantees that individuals have the right to procedural fairness when appearing before a court or tribunal, in both criminal and civil proceedings. This includes the right to be heard by a competent, impartial, and independent court or tribunal, and to have a reasonable opportunity to present their case.

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 right to equal protection of the law without discrimination is potentially engaged because of the potential disadvantage to some domestic building contract parties (building contractors) resulting from the validating amendments and with respect to past decisions made and actions taken by the QBCC under the QHWS. However, the right is not limited in this case because the right stated in section 15(3) of the HR Act is the right to equal protection of the law without discrimination. Under the HR Act, 'discrimination' includes direct and indirect discrimination within the meaning of the *Anti-Discrimination Act 1991* (AD Act), on the basis of an attribute stated in section 7 of the AD Act. Any disadvantage sustained by some persons as a result of the validating amendments is not because they have a protected attribute under the AD Act.

The right not to be arbitrarily deprived of property is potentially engaged because some persons (mainly building contractors) may be deprived of rights to commence proceedings and obtain compensation for the amount recovered from them by QBCC after accepting claims of consumers under the QHWS. Property in the context of human rights law is considerably wider than it is under the general law. The right stated in section 24(2) of the HR Act will not be limited unless the deprivation is arbitrary, which in this context means capricious, unjust or unreasonable. A decision or action that is proportionate cannot be arbitrary.

The validating amendments will remove uncertainty about the validity of what is likely to be a large number of QBCC's decisions and administrative actions made since introduction of the QHWS under the QBCC Act (and its earlier iterations) and prevent any further disputes about those actions. Certainty and finality in dispute resolution is compatible with a free and democratic society based on human dignity, equality and freedom.

The right to a fair hearing is potentially engaged because the validating amendments remove the opportunity for building contractors to challenge the validity of certain QBCC decisions. These decisions involve claims accepted under the QHWS as both insurance premiums were paid for and an informal building contract existed. However, the right stated in section 31 of the HR Act does not ensure or guarantee access to the courts. It is a right that applies to individuals who are charged with a criminal offence or who are parties to a civil proceeding and requires the criminal or civil proceedings be conducted competently, fairly and impartially. Here, there is no issue of criminal charges and persons who may have otherwise had a right to commence proceedings are not parties to a proceeding. Accordingly, the proposed decision does not limit the right.

- 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 proposed curative amendments do not limit any human rights stated in the HR Act, but to the extent the proposed decision relates to the validating amendments, it engages the human rights outlined above. These amendments will create certainty and remove any doubts regarding QBCC's previous and current actions in administering the QHWS. It also clarifies the QHWS's terms of cover for future policies and ensures that homeowners benefit from appropriate protection under the QHWS.

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

There are no other available ways to achieve the purpose of the Bill other than amendments to the QBCC Act.

- 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 provisions in the Bill relating to the curative and validating amendments do not limit, but only engage the human rights outlined above. The engagement is considered justified and defensible in the circumstances.

Further, it is important that legislation maintains currency with societal and consumer expectations, such as supporting and delivering services in an effective and efficient way. This is particularly the case concerning informal common law contracts and their eligibility under the QHWS.

f) any other relevant factors

Nil.

Conclusion

In my opinion, the amendments to the Bill which are to be moved during consideration in detail are compatible with human rights protected under the HR Act.

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

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