

Economic Development (Mackay Waterfront PDA) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 60

made under the
Economic Development Act 2012

General Outline

Short title

The short title of the regulation is the *Economic Development (Mackay Waterfront PDA) Amendment Regulation 2018*.

Authorising law

Sections 37, 38 and 176 of the *Economic Development Act 2012* (ED Act).

Policy objectives and the reasons for them

The policy objective is to amend the *Economic Development Regulation 2013* (ED Regulation) to declare the Mackay Waterfront Priority Development Area (PDA) and to make an Interim Land Use Plan (ILUP) regulating development in the area.

Section 3 of the ED Act provides, that the main purpose of the ED Act is to facilitate economic development, and development for community purposes, in the State. Section 4 of the ED Act, provides that the main purpose of the ED Act is achieved primarily by:

- establishing the Minister for Economic Development Queensland (MEDQ) to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in the State; and
- providing for a streamlined planning and development framework for particular parts of the State (declared as PDAs under the ED Act) to facilitate economic development, and development for community purposes, in or for the parts.

Section 37(1) of the ED Act, provides that a regulation may declare a part of the State to be a PDA. Section 37(2)(a) of the ED Act, provides that in making a declaration regard must be had to the main purpose of the ED Act. Under section 37(2)(b)(i) and (ii) of the ED Act, regard must also be had to any proposed development for land in the area; and the economic and community benefit to the State that may be gained by the proposed development. Further, under

section 37(2)(b)(iii) of the ED Act, regard must be had to the impact the *Planning Act 2016* (PA) may have on the delivery of the proposed development if PA were to apply to development in the area.

Once a PDA is declared, the local government planning scheme and some triggers under the PA no longer apply to the area, unless otherwise stated in the ILUP. In order to regulate development from the time the PDA is declared until a detailed development scheme is finalised, section 38(1) of the ED Act, provides that a regulation must make an ILUP regulating development in the PDA. Under section 38(2) of the ED Act, the ILUP may provide for any matter mentioned in section 57(2)(a), (3) or (3A) of the ED Act, which outline the content of a development scheme.

The ILUP provides the MEDQ or delegate with a planning instrument to assess development applications while preparing the development scheme. The section 38(3) of the ED Act, provides that the ILUP has effect until the earlier of the following: a development scheme for the area takes effect; or the ILUP expires under section 39 of the ED Act. Section 39(1) of the ED Act, provides that an ILUP for a PDA expires 12 months after it commences

ILUPs are temporary planning instruments, intended to protect the future intent of a PDA from inappropriate development and enable appropriate development to occur in advance of adoption of a development scheme for the area. While an ILUP is in place, MEDQ prepares a development scheme for the PDA which is publicly notified under section 59 of the ED Act. Section 64 of the ED Act provides that the development scheme does not take effect until it has been approved under a regulation. Once approved it replaces the ILUP. All subsequent development applications are then assessed against the development scheme.

Achievement of policy objectives

The *Economic Development (Mackay Waterfront PDA) Amendment Regulation 2018* achieves the policy objective by amending the ED Regulation to declare the Mackay Waterfront PDA and make the associated ILUP.

The Mackay Waterfront site includes the Mackay CBD, the Pioneer River waterfront, the Town Beach esplanade, a light industrial area and several significant heritage buildings. Mackay Regional Council has undertaken preliminary planning investigations for the redevelopment of the site and have undertaken community consultation regarding the project. In December of 2017, the Mayor of Mackay Regional Council wrote to the MEDQ to request a PDA be considered.

Declaration of the PDA will ensure certainty and timing for the redevelopment of the Mackay Waterfront site as a mixed-use precinct including residential, commercial, retail, public realm and open space. The site is currently zoned Principal Centre, Open Space, Mixed use, Low-Impact Industry, Medium-Density Residential, and Low-Density Residential under the Mackay Region Planning Scheme 2017 (the planning scheme).

The proposal will allow for the revitalisation of the Mackay City Centre and will deliver significant public realm outcomes including connectivity from the city to the Pioneer River and to Town Beach.

In declaring the Mackay Waterfront PDA and making the associated ILUP, regard has been had to the matters listed in the EDA section 37(2)(a),(b)(i) and (ii). Declaration of a PDA for the Mackay Waterfront will:

- create jobs through construction and completed development;
- increase investor confidence and certainty to attract development and new business;
- unlock government land to help catalyse urban renewal of underutilised or surplus sites; and
- deliver development with community benefit (e.g. community infrastructure, key services, rejuvenated heritage buildings and public realm improvements).

In accordance with section 37(2)(b)(iii) of the ED Act, regard has also been had to the impact the PA may otherwise have on the delivery of the proposed development if it were to apply. It is considered that the preferred proponent's proposal would not be viable under the existing planning framework for the site. An alternative to a PDA declaration is an amendment to the planning scheme. This would be a lengthy process and could cause delays to the project. Declaration of a PDA will streamline plan making and development assessment including addressing key State interests (e.g. heritage) up-front in the plan making process.

The Mackay Waterfront PDA will be administered by the MEDQ or the delegated entity under section 169 of the ED Act and the planning scheme will no longer apply, unless otherwise stated in the ILUP. The development scheme for the Mackay Waterfront PDA will be subject to approval under a regulation under section 64 of the ED Act.

Consistency with policy objectives of authorising law

Declaring the Mackay Waterfront PDA and making the associated ILUP achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed Mackay Waterfront development.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Benefits and costs of implementation

The EDA provides a coordinated and comprehensive framework for efficient delivery of appropriate outcomes with net benefit and potential flow on benefits to the community and broader area.

Mackay Regional Council has budgeted for catalyst development within the PDA at no net cost to the State. The project aims to revitalise the city centre and allow for the development of significant public realm works through the declaration of the PDA.

Declaration of a PDA will help facilitate these outcomes in a streamlined and timely method.

Consistency with fundamental legislative principles

The regulation has been drafted with regard to the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992* and is consistent with these principles.

Consultation

Consultation has been undertaken with Mackay Regional Council about the declaration and boundaries of the PDA and preparation of the ILUP.

A community engagement strategy will be prepared on behalf of the MEDQ to assist in the preparation and public notification of the development scheme for the PDA. The strategy is to address the consultation requirements of the EDA and other complementary activities associated with the development of the PDA. The strategy is to ensure issues and concerns in the PDA are identified and managed.

The Office of Best Practice Regulation (OBPR) in the Queensland Productivity Commission was also consulted under the *Queensland Government Guide to Better Regulation* to determine if further assessment was required under the Regulatory Impact Assessment (RIA) system. OBPR advised that further assessment under the RIA system was not required for the proposed regulation.

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