

Sanctuary Cove Resort Regulation 2020

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, Cameron Dick, Treasurer and Minister for Infrastructure and Planning, provide this human rights certificate with respect to the remake of the *Sanctuary Cove Resort Regulation 2009* (the regulation).

In my opinion, the *Sanctuary Cove Regulation 2020* (the amending regulation), 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 *Sanctuary Cove Resort Act 1985* (SCR Act) provides for the management and operation of the Sanctuary Cove Resort area, including land use planning and development control requirements separate to the *Planning Act 2016* and body corporate arrangements separate to the *Body Corporate and Community Management Act 1997*.

The system of land use planning and development control established in the SCR Act means that no development applications may be lodged with the Sanctuary Cove Resort area. Instead the SCR Act and the regulation together directly determine approved uses for the zones of the Sanctuary Cove Resort area. Any of these approved uses for a zone may begin on any properties within the zone with no applications. Any uses that are not approved within a zone are prohibited and may not begin or be applied for.

The amending regulation defines the approved uses for the different zones within the Sanctuary Cove Resort area.

Human Rights Issues

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

Section 20 – Freedom of thought, conscience, religion and belief

This right has been identified as relevant because the schedule will regulate where places of worship may be located. ‘Place of Worship’ is an approved use within the Village Zone only and therefore prohibited in any other area.

The SCR Act is able to permit or prohibit land uses within certain zones to ensure the amenity of the Sanctuary Cove Resort is maintained. The limitation is also rational and necessary given the amenity impacts that a place of worship may have on a locality (in particular, traffic impacts occurring on days of worship). Given the a ‘Place of Worship’ is also able to occur within the Village Zone, the limitation is also considered balanced as the regulation does not prohibit this use from occurring within the Sanctuary Cove Resort area.

The imposition of reasonable restrictions on the use of land for a ‘Place of Worship’ under the Sanctuary Cove regulatory framework is therefore considered to be in accordance with the *Human Rights Act 2019*.

Section 24 – Property rights

This right has been identified as relevant because the schedule regulates where different uses may be located. The amending regulation will continue to restrict and empower what land uses are possible for the lots within the Sanctuary Cove Resort area.

Given this is remake is supported by the Primary Thoroughfare Body Corporate which represents the residents of the Sanctuary Cove Resort, it is considered that the amending regulation will have no additional impact on any individuals’ existing property rights.

Section 36 – Right to education

This right has been identified as relevant because the schedule will regulate where buildings used for education may be located. There are no defined uses for primary and secondary education facilities, therefore no education services can be provided within the Sanctuary Cove Resort area.

Given the amenity impacts that an education facility may have on a locality, the restriction is considered justified. The SCR Act is permitted to permit or prohibit land uses within certain zones to ensure the amenity of the Sanctuary Cove Resort is maintained. The limitation is also rational and necessary given the amenity impacts that an education service (such as a school) may have on a locality (in particular, traffic impacts occurring on days of worship).

Several schools and other education services exist in the broader locality within a reasonable distance of the Sanctuary Cove Resort. The imposition of reasonable restrictions on the use of land for educational facilities under the Sanctuary Cove regulatory framework does not limit a person’s ability to access education and is therefore considered to be in accordance with the *Human Rights Act 2019*.

Section 37 – Right to health services

This right has been identified as relevant because the schedule will regulate where buildings used for health services may be located. ‘Health care institution’ is a defined use, approved for the Village zone only.

Given the amenity impacts that a health care institution may have on a locality, the restriction is considered justified. The SCR Act is permitted to permit or prohibit land uses within certain zones to ensure the amenity of the Sanctuary Cove Resort is maintained. The limitation is also rational and necessary given the amenity impacts that a health care service such as doctor’s surgery may have on a locality (in particular, traffic impacts). Given that a health care institution can occur within the Village Zone, the limitation is considered balanced as the amending regulation does not outright prohibit a health care facility from occurring within the Sanctuary Cove Resort area.

The imposition of reasonable restrictions on the use of land for health care services under the Sanctuary Cove regulatory framework is therefore considered to be in accordance with the *Human Rights Act 2019*.

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

While there are relevant rights, there has not been a limit or interference with those rights.

Conclusion

I consider that the *Sanctuary Cove Resort Regulation 2020* is compatible with the *Human Rights Act 2019* because it raises human rights issues but does not limit human rights.

Cameron Dick MP
Treasurer, Minister for Infrastructure and Planning

© The State of Queensland 2020