

Economic Development (Southern Thornlands PDA) Amendment Regulation 2025

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* (HR Act), I, Jarrod Bleijie, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations provide this human rights certificate with respect to the *Economic Development (Southern Thornlands PDA) Amendment Regulation 2025* (Amendment Regulation) made under the *Economic Development Act 2012* (ED Act).

In my opinion, the Amendment Regulation, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Regulation amends the *Economic Development Regulation 2023* by declaring a new Southern Thornlands Priority Development Area (PDA) and including an expiry date for the relevant Interim Land Use Plan (ILUP) which is 18 months after the Amendment Regulation commences.

Human Rights Issues

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

In my opinion, the human rights relevant to the Amendment Regulation are:

- section 15 – recognition and equality before the law
- section 16 – right to life
- section 19 – freedom of movement
- section 21 - freedom of expression
- section 23 – taking part in public life
- section 24 – property rights
- section 25 – privacy and reputation
- section 26 – protection of families and children
- section 27 – cultural rights - generally
- section 28 – cultural rights – Aboriginal peoples and Torres Strait Islander peoples
- section 31 – fair hearing

Declaration of the Southern Thornlands PDA

The Amendment Regulation declares a new Southern Thornlands PDA and includes an expiry date for the relevant ILUP which is 18 months after the Amendment Regulation commences.

ShapingSEQ 2023 redesignates the land comprising the proposed Southern Thornlands PDA from rural landscape and regional protection area to urban footprint. The redesignation will permit future development of the land for housing and employment uses.

Identification of relevant human rights

In my opinion the creation of the Southern Thornlands PDA will engage each of the human rights identified above.

Section 15 – recognition and equality before the law

Section 15(2), (3) and (4) of the HR Act are concerned with discrimination, which means discrimination on the basis of a relevant attribute identified in the *Anti-Discrimination Act 1991* (AD Act) or an analogous kind of discrimination. Age, impairment and ethnic or racial origin are protected attributes under the AD Act.

The Amendment Regulation engages the rights because the declaration of an area as a PDA facilitates urban development, with its consequential changes to the natural physical environment.

Section 16 – right to life

The declaration of the Southern Thornlands PDA as a PDA will facilitate urban development. The right to life recognised in section 16 of the HR Act is therefore potentially engaged by the proposed declaration of the Southern Thornlands PDA.

Section 19 – freedom of movement

Section 19 of the HR Act recognises that every person lawfully within Queensland has the right to move freely within Queensland and to enter and leave Queensland and the freedom to choose where to live.

The declaration of the Southern Thornlands PDA and the making of the ILUP will regulate land use within the area and therefore engage the right of individuals to choose freely where to live.

Section 21 - freedom of expression

Rights of review and appeal in relation to decisions for development applications within PDAs are more limited than the rights available under the *Planning Act 2016* (Planning Act).

Accordingly, the right to freedom of expression, which includes freedom to seek, receive and impart all kind of ideas and information, is engaged by the declaration of the Southern Thornlands PDA.

Section 23 – taking part in public life

Section 23(1) of the HR Act recognises the rights of all individuals in Queensland to participate, and to have the opportunity to participate, in the conduct of public affairs, either directly or through freely representatives. The declaration of the Southern Thornlands PDA engages aspects of the right recognised in section 23, because:

- the review and appeal rights for development in PDAs are more limited than the review and appeal rights generally available under the Planning Act; and
- the declaration of the Southern Thornlands PDA will displace the application of the existing Redland City Council planning scheme, which has been approved by the elected local government representatives for the Southern Thornlands area.

Section 24 – property rights

Section 24 of the HR Act recognises that people have the right to own property and must not be arbitrarily deprived of their property. Deprivation is interpreted broadly in the human rights context and a limitation or restriction on the enjoyment of property rights can be sufficient to engage the right. The declaration of the Southern Thornlands PDA will result in development in the area being regulated, limiting the ability of property owners in the area to use and enjoy their property.

Section 25 – privacy and reputation

Section 25(a) of the HR Act states that a person has the right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The declaration of the Southern Thornlands PDA potentially limits this right by restricting the ways in which landowners and occupiers can build and enjoy their homes.

Section 26 – protection of families and children

Section 26(2) of the HR Act recognises the right of children to be protected because they are children.

Section 27 – cultural rights – generally

Section 27 of the HR Act recognises that all persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of the same background, to enjoy their culture, declare and practise their religion and to use their language.

Declaring the Southern Thornlands PDA will facilitate urban development in the area. Disruption of existing communities may occur in any urban renewal and development stage. However, as the land comprising the Southern Thornlands PDA is presently zoned as rural and there is no evidence of sizeable and close-knit residential communities in the area, I am not satisfied the Amendment Regulation will limit this right.

Section 28 – cultural rights – Aboriginal peoples and Torres Strait Islander peoples

As I stated above in relation to the rights recognised in section 15 of the HR Act, the declaration of a PDA facilitates urban development.

Further, as I stated above in relation to section 27 of the HR Act, urban development may affect the ability of members of communities of Aboriginal peoples and Torres Strait Islander peoples to develop, maintain and protect their language, cultural identity and kinship ties. However, as stated above, the land is presently zoned rural and there is no evidence that existing communities of Aboriginal peoples or Torres Strait Islander peoples will be affected.

Section 31 – fair hearing

Section 31 of the HR Act recognises (among other things), the right of parties to a civil proceeding to have the matter decided by a competent, impartial and independent court or tribunal following a fair and public hearing.

As I stated above, there are fewer rights of review and appeal for decisions on development applications made in PDA than are generally available under the Planning Act. Accordingly, the Amendment Regulation potentially limits this right.

Consideration of reasonable limitations on human rights (HR Act, section 13)

(a) The nature of the rights

The human rights engaged by the declaration of the Southern Thornlands PDA are all fundamentally important for a free and democratic society based on human dignity, equality and freedom.

(b) The nature of the purpose of the limitation

The purpose of declaring the Southern Thornlands PDA is to enable the establishment of a regulatory framework governing land use planning and infrastructure requirements needed to facilitate the intention of the ShapingSEQ as it is proposed to be amended. This will contribute to orderly development in south-east Queensland, including increasing housing supply at a time when there is unmet demand, and increased employment opportunities in the area. The proposed housing typologies for the Southern Thornlands PDA will cater to changing community needs and provide affordable housing options for lower and moderate income households.

The provision of housing and employment opportunities for residents of Queensland's south east, supported by properly planned and adequate infrastructure, is consistent with a free and democratic society based on human dignity, equality and freedom.

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

Presently, most of the land that comprises the proposed Southern Thornlands PDA is zoned rural under the Redland City Council's planning scheme. This zoning is incompatible with the proposed increase in housing in the area and services and infrastructure to support the new community. The planning scheme that will operate in the Southern Thornlands PDA will enable the construction of suitable, affordable housing and supporting infrastructure.

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

Declaring the Southern Thornlands PDA will streamline development and approval processes, resulting in increased affordable housing support at a time when the pressure on existing housing stock in South East Queensland is reaching almost unprecedented levels. This cannot be achieved within the same timeframe through the Redland City Council's planning scheme. I am therefore satisfied that there is no less restrictive and reasonably available way to achieve the purpose.

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

The benefits that individuals obtain from well-planned communities with appropriate infrastructure and amenity are considerable. At a time when housing supply in south-east Queensland is under severe pressure, facilitating opportunity for timely housing development, and associated economic opportunities, will benefit low and moderate income households in the south-east.

The proposed 18 month expiry period for the ILUP is considered necessary to provide sufficient time to undertake proper and orderly land use and infrastructure planning for the entirety of the PDA, however early release housing development will be able to proceed during this time. A robust infrastructure funding and delivery framework is critical to the expedited delivery of development in the PDA. On declaration of a PDA, EDQ will commence preparations of a Development Charges and Offsets Plan (DCOP) that identifies trunk infrastructure requirements for the PDA and the development charges required to fund that infrastructure. The DCOP process is underpinned by financial modelling to provide for the equitable and sustainable funding of infrastructure.

Further, the environmental impacts of development can be mitigated by appropriate decision-making for individual development applications, that takes account of environmental factors.

The limitations on freedom of movement are not expected to be greater than the limitations caused by any planning scheme.

While declaring the Southern Thornlands PDA will have the effect of displacing the Redland City Council's planning scheme, it is relevant to note that members of the community were given the opportunity to make submissions in response to the proposed redesignation of the area of the Southern Thornlands PDA to urban footprint in ShapingSEQ. Thirty-seven submissions were received. I also take into account that the Southern Thornlands PDA aligns with the broader objectives in ShapingSEQ 2023, which benefit the entire South East Queensland region in addition to residents of the Redland Local Government Area.

In relation to property rights, the right recognised in section 24(2) of the HR Act is the right not to be arbitrarily deprived of property. Arbitrary has an accepted meaning in the context of human rights law, as being something that is capricious, unjust, unreasonable or disproportionate to a legitimate aim sought to be achieved. To the extent the ability of landowners in the Southern Thornlands PDA to use and enjoy their land is restricted by the regulation resulting from the PDA declaration, I am satisfied the limitation is not arbitrary in the relevant sense because the regulation does not exceed what is necessary to achieve orderly development of a functioning residential community.

In relation to the limitation on the enjoyment of property rights, it is also important to note that under section 78 of the ED Act, the declaration of the Southern Thornlands PDA (and the making of the ILUP) cannot prevent or further regulate an existing use of land that is currently lawful. Nor do these events require the owner or occupier of the land to change the use in future.

The reduction in review and appeal rights is a necessary part of regulating development through the PDA process, because the streamlining allows development decisions to be made with fewer delays. Not only does this mean that the benefits of proposed development are realised

more quickly, it also encourages developers to undertake projects as they have a higher degree of certainty.

Having weighed the potential benefits of the declaration of the Southern Thornlands PDA against relatively small limitations on human rights identified and the absence of alternative ways of achieving the purposes of supporting the amended Shaping SEQ and facilitating the development of more affordable housing, I am satisfied that the limitations are reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

Conclusion

I consider that the *Economic Development (Southern Thornlands PDA) Amendment Regulation 2025* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

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

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