

Economic Development (North Harbour PDA and Other Matters) 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 MP, 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 (North Harbour PDA and Other Matters) 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* (ED Regulation) by:

- declaring the North Harbour Priority Development Area (NHPDA) and including an expiry date for the relevant Interim Land Use Plan (ILUP) which is 18 months after the Amendment Regulation commences; and
- renaming The Mill at Moreton Bay Priority Development Area as Moreton Bay Central Priority Development Area.

Section 37(1) of the ED Act provides that a regulation may declare a part of the State to be a Priority Development Area (PDA). In accordance with sections 37(2) and 37(2)(b)(ii) of the ED Act, the declaration of the NHPDA achieves the main purpose of the ED Act to facilitate economic development, and development for community purposes, in the State.

The area of North Harbour is included within the Urban Footprint in ‘ShapingSEQ: South East Queensland Regional Plan 2023’ (ShapingSEQ) and was identified as an SEQ Development Area. The declaration of the area as a PDA provides a pathway for the Minister for Economic Development Queensland (MEDQ) to undertake an integrated land use and infrastructure planning process for the area that addressed the specific matters set out ShapingSEQ (including resolving native title matters for the marina development under the *Native Title Act 1993* (Qld) (Native Title Act), mitigating flood hazard for the area and managing significant environmental values). The NHPDA declaration will:

- provide for the implementation of a streamlined land use planning and development assessment framework to apply over the area

- support the delivery of the ‘Securing Our Housing Foundations’ policy to meet the needs of all residents and provide additional housing supply
- facilitate the development of essential infrastructure, crucial to support new housing development and liveability in the region
- attract jobs and stimulate economy growth with development of the proposed marina and marine industry.

The purpose of the NHPDA is to facilitate urban development, including the delivery of essential infrastructure required to service the development. The PDA will include a variety of land uses including residential, retail, commercial, open space, marina, and marine industry that meet the demographic, social, cultural, economic and lifestyle needs of the community.

The City of Moreton Bay (council) has requested the renaming of The Mill at Moreton Bay Priority Development Area. The council considers that renaming the PDA will improve industry and community recognition of the location of the PDA, resulting in increased economic activity and investment certainty.

Human Rights Issues

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

Amendment to The Mill at Moreton Bay PDA

The renaming of The Mill at Moreton Bay Priority Development Area does not engage or limit any human rights.

Declaration of the North Harbour PDA

I have considered each of the rights protected by the HR Act. In my opinion, the human rights relevant to the Amendment Regulation are:

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

Declaration of the North Harbour PDA

The Amendment Regulation declares the NHPDA and includes an expiry date for the relevant interim land use plan (ILUP) which is 18 months.

Identification of relevant human rights

The declaration of the NHPDA engages, and potentially limits, the identified human rights in the following ways:

Recognition and equality before the law (section 15)

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.

Right to life (section 16)

The declaration of this area of North Harbour 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 NHPDA.

Freedom of movement (section 19)

The right to freedom of movement protects the right to move freely within Queensland and to enter and leave the state and choose where to live.

The declaration of the NHPDA and the making of the ILUP will regulate residential land use within the area and therefore may limit the rights of individuals to freely choose where to live.

Freedom of expression (section 21)

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 NHPDA.

Taking part in public life (section 23)

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 NHPDA 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 NHPDA will displace the application of the existing Moreton Bay City Council planning scheme, which has been approved by the elected local government representatives for the North Harbour area.

Property rights (section 24)

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 NHPDA will result in development in the area being regulated, limiting the ability of property owners in the area to use and enjoy their property.

Privacy and reputation (section 25)

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 NHPDA potentially limits this right by restricting the ways in which landowners and occupiers can build and enjoy their homes.

Protection of families and children (section 26)

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

Cultural rights – generally (section 27)

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 NHPDA will facilitate urban development in the area. Disruption of existing communities may occur in any urban renew and development stage. However, there is no evidence that the disruption would be to an extent that it would preclude people from enjoying their culture or practicing their religion. Therefore, I am satisfied that the rights in section 27 of the HR Act are not limited.

Cultural rights - Aboriginal peoples and Torres Strait Islander peoples (sections 28)

Section 28 of the HR Act protects the right to live life as an Aboriginal person or Torres Strait Islander person who is free to practice their culture and gives rights to individuals as part of a cultural group.

The NHPDA is subject to a Native Title Claim by the Kabi Kabi peoples and native title has been recognised over part of the area. Cultural Heritage exists within the area for the remains of the 'Morayfield Plantation 1867-1885', which represents the earliest phase of the southern Queensland sugar industry and is one of the few surviving places associated with indentured labourers from many different South Sea Islands. In 2010, the site was recorded as a significant heritage site. This cultural heritage site is outside the boundaries of the NHPDA. Heritage and Cultural heritage laws of Queensland will still apply to land within the NHPDA.

The declaration of the NHPDA does not affect the Native Title Claim by the Kabi Kabi peoples.

Right to a fair hearing (section 31)

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 (section 13)

(a) The nature of the right

The human rights engaged by the declaration of the NHPDA 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 NHPDA is to enable the establishment of a regulatory framework governing land use and infrastructure planning to facilitate the development of the area, consistent with the intentions of ShapingSEQ. This will contribute to the orderly development in South-East Queensland, including increasing housing supply at a time where there is unmet demand, and increase employment opportunities in the area. The diversity of housing proposed for the NHPDA will cater to changing community needs of the wider Moreton Bay community. The PDA will also protect significant biodiversity and conservation values through the preservation and rehabilitation of critical habitat corridors and the appropriate location of infrastructure, waterways, and land uses. The provision of housing and employment opportunities for residents of South-East Queensland, supported by properly planned and adequate infrastructure, is a proper purpose.

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

Declaring the NHPDA achieves the main purpose of the ED Act to facilitate economic development, and development for community purposes, by providing for a streamlined planning and development framework for the proposed development of North Harbour.

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

I am satisfied there are no less restrictive and reasonably available ways to achieve the development outcomes for North Harbour. An amendment to the council planning scheme would be a lengthy process and could cause delays to the delivery of housing at a time when the pressure on existing housing stock in south-east Queensland is reaching unprecedented levels. Further, a State-led approach, achieved by a PDA declaration, is considered important when delivering complex and catalytic development (such as North Harbour) as it ensures consistent development of the relevant land and implements protections required for the area (including environmental, cultural heritage and native title protections).

(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 and timely development with appropriate infrastructure and amenity are considerable. Under the NHPDA, there will be considered land use planning, protection and enhancement of matters of ecological value and safeguarding of future infrastructure provision. Any environmental impacts of development can be mitigated by appropriate decision-making for individual development applications, which consider relevant environmental factors.

The declaration of the NHPDA will subject the development of residential land within the area to the planning and development framework of the ED Act rather than the Moreton Bay City Council planning scheme. Those wishing to reside within the NHPDA will need to comply the relevant land use requirements and this may limit their freedom of movement (choosing where to live). However, I consider the impact to be slight, and the same limitation would exist if the area remained regulated by the planning scheme.

There is no requirement for public consultation under the ED Act prior to the declaration of a PDA and making of the ILUP. This does limit the rights to freedom of expression and taking part in public life. However, this limitation is consistent with the underlying purpose of making a PDA, namely providing for a streamlined land use planning and development assessment framework led by the State. The ED Act requires that a development scheme be prepared to replace the ILUP. Public notification of a proposed development scheme for a PDA is required which provides an opportunity for any interested party to make a submission. Those submissions are considered, and appropriate amendments made to the development scheme to reflect those submissions.

The rights of landowners and occupiers to use and enjoy their property and home may be limited by the restrictions imposed on the way people can use, or build, on their land within the PDA. However, it is important to note that under section 78 of the ED Act, the declaration of the NHPDA (and the making of the ILUP) cannot prevent or further regulate an existing use of land that is currently lawful. Further, the restrictions are tailored to achieve the purpose of a streamlined planning and development framework that will facilitate economic development and development for community purposes in the area.

Any amenity issues caused by construction in the PDA that impact on the use and enjoyment of property and home will be temporary and mitigated by appropriate development conditions.

The cultural rights of Aboriginal peoples may potentially be limited by the declaration of the PDA and the associated urban development (see above). The declaration of the NHPDA will introduce a new planning and development framework over the site. However, declaration of the NHPDA will not affect the applicability of the *Aboriginal Cultural Heritage Act 2003* (Aboriginal Cultural Heritage Act) and any future development within the PDA will be subject to the Aboriginal Cultural Heritage Act.

The reduction of review and appeal rights is a necessary part of regulating development through the PDA process. The purpose of the ED Act is to ensure economic development, and development for community purposes, is completed in a timely way. The reduction of review and appeal rights allows development decisions to be made with fewer delays. This means 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.

On balance, I am satisfied that the importance of delivering development in North Harbour under the streamlined and coordinated regulatory framework in the ED Act outweighs the potential limitations on the identified human rights.

Because any interference with the rights to privacy and property is proportionate, it is not arbitrary. Therefore, the rights are engaged but not limited. To the extent that the other identified rights may be limited by the declaration NHPDA, the limitation is reasonable and justified.

Accordingly, the declaration of the NHPDA is compatible with human rights.

(f) Any other relevant factors

Not applicable.

Conclusion

I consider that the *Economic Development (North Harbour PDA and Other Matters) 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
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