

Economic Development (Port Hinchinbrook Provisional 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 (Port Hinchinbrook Provisional 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* (ED Regulation) by declaring the Port Hinchinbrook Provisional Priority Development Area (the Port Hinchinbrook Provisional PDA).

Section 34(1) of the ED Act provides that a regulation may declare a part of the State to be a provisional priority development area (PDA). In accordance with section 34(2)(b)(ii) of the ED Act, the declaration of the Port Hinchinbrook Provisional PDA achieves the main purpose of the ED Act to facilitate economic development, and development for community purposes, in the State. In accordance with section 35 of the ED Act, a draft provisional land use plan was made for the Port Hinchinbrook Provisional PDA on 6 November 2025.

Port Hinchinbrook was developed progressively from the late 1980s as a mixed-use, resort-style development. The area fell into disuse and disrepair over time, due to various factors including the impact of Cyclone Yasi in 2011 and financial insolvency of the developer. Subsequent occasional efforts to revitalise the area have been unsuccessful.

The declaration of the Port Hinchinbrook Provisional PDA will support Port Hinchinbrook realising its potential as a region-leading tourism destination. The Port Hinchinbrook Provisional PDA will achieve this vision by ensuring that appropriate infrastructure is provided and operated to support the continued development and ongoing use of Port Hinchinbrook. Historically, issues relating to the provision, funding and operation of infrastructure have been key impediments to the revitalisation of Port Hinchinbrook. The Port Hinchinbrook Provisional PDA will provide a framework, and activate additional legal mechanisms, to enable those issues to be addressed.

The declaration of the Port Hinchinbrook Provisional PDA will:

- provide for the implementation of a streamlined land use planning and development assessment framework to apply over the area
- facilitate the revitalisation of Port Hinchinbrook as a region-leading tourism destination

- facilitate the development of essential infrastructure, crucial to support ongoing development and use of Port Hinchinbrook
- attract jobs and stimulate economic growth through tourism industry development.

The purpose of the Port Hinchinbrook Provisional PDA is to facilitate tourism industry development, including the delivery of essential infrastructure required to service the development. The Port Hinchinbrook Provisional PDA will include a variety of land uses including residential, retail, commercial, marina, and tourism facilities that meet the demographic, social, cultural, economic and lifestyle needs of the community.

Human Rights Issues

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

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 Port Hinchinbrook Provisional PDA

The Amendment Regulation declares the Port Hinchinbrook Provisional PDA.

Identification of relevant human rights

The declaration of the Port Hinchinbrook Provisional PDA 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 Provisional PDA facilitates urban development, with its consequential changes to the natural physical environment.

Right to life (section 16)

The declaration of the area of Port Hinchinbrook Provisional PDA as a Provisional 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 Port Hinchinbrook Provisional PDA.

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 Port Hinchinbrook Provisional PDA and the making of the draft PLUP will regulate land uses 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 Provisional 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 Port Hinchinbrook Provisional PDA.

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 Port Hinchinbrook Provisional PDA engages aspects of the right recognised in section 23, because:

- the review and appeal rights for development in Provisional PDAs are more limited than the review and appeal rights generally available under the Planning Act; and
- the declaration of the Port Hinchinbrook Provisional PDA will displace the application of the existing Cassowary Coast Regional Council planning scheme, which has been approved by the elected local government representatives for the Port Hinchinbrook 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 Port Hinchinbrook Provisional 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. The declaration of the Port Hinchinbrook Provisional PDA will also enliven acquisition of land powers in certain circumstances and where this occurs any owner of an interest in the land will be entitled to seek compensation under the *Acquisition of Land Act 1967*.

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 Port Hinchinbrook Provisional PDA 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 Port Hinchinbrook Provisional PDA will facilitate urban development in the area. Disruption of existing communities may occur in any urban renewal 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 (section 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 Port Hinchinbrook Provisional PDA is located in an area with Aboriginal and Torres Strait Islander cultural connections, including native title determinations in favour of the Girramay People.

The declaration of the Port Hinchinbrook Provisional PDA does not affect the native title determinations, and cultural heritage laws will continue to apply within the Provisional PDA.

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 Port Hinchinbrook Provisional 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 Port Hinchinbrook Provisional PDA is to support Port Hinchinbrook realising its potential as a region-leading tourism destination by ensuring that appropriate infrastructure is provided and operated to support the continued development and ongoing use of Port Hinchinbrook.

The Port Hinchinbrook Provisional PDA will be administered by the MEDQ who will undertake an integrated land use and infrastructure planning process. This will contribute to the orderly development in Far North Queensland, including tourism and marine industry development, and increase employment opportunities in the area. The Provisional PDA will

also facilitate the delivery of essential infrastructure to support sustainable development. The provision of tourism, employment and infrastructure opportunities for residents of Far North 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 Port Hinchinbrook Provisional PDA 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 Port Hinchinbrook.

(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 Port Hinchinbrook. Historically, issues relating to the provision, funding and operation of infrastructure have been key impediments to the revitalisation of Port Hinchinbrook. Subsequent occasional efforts to revitalise the area have been unsuccessful.

An amendment to the Cassowary Coast Regional Council planning scheme would be a lengthy process and would less readily facilitate the provision of essential infrastructure. Further, a State-led approach, achieved by a Provisional PDA declaration, is considered important when delivering complex and catalytic development as it ensures consistent development of the relevant land whilst addressing the specific infrastructure challenges that have historically prevented revitalisation.

(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 Port Hinchinbrook Provisional PDA, there will be considered land use planning, protection and enhancement of environmental values and safeguarding of future infrastructure provision. Environmental impacts of development can be mitigated by appropriate decision-making for individual development applications, which take into account relevant environmental factors.

The declaration of the Port Hinchinbrook Provisional PDA will subject the development of land within the area to the planning and development framework of the ED Act rather than the Cassowary Coast Regional Council planning scheme. Those wishing to reside within the Port Hinchinbrook Provisional PDA will need to comply with 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.

The ED Act's legislative framework for Provisional PDAs provides for consultation on the draft PLUP. Relevant matters of State interest have been considered in the preparation of the draft PLUP and will be considered further as part of the assessment of a PDA development application. Public notification is required where, in the opinion of the MEDQ, the development may have adverse impacts on the amenity or development potential of adjoining land under separate ownership, is for a use or of a size or nature which warrants public notification, or compromises the implementation of the draft PLUP. This provides opportunities for community participation whilst maintaining streamlined processes.

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 Provisional PDA. However, I note that the draft PLUP seeks to preserve and adopt existing development entitlements under the Cassowary Coast Planning Scheme 2015, which in turn incorporates the key historical approvals given for Port Hinchinbrook. This protects existing lawful uses and development expectations. In any event, the Provisional PDA is 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, particularly addressing the infrastructure challenges that have historically prevented revitalisation.

Any amenity issues caused by construction in the Provisional 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 development. The declaration of the Port Hinchinbrook Provisional PDA will introduce a new planning and development framework over the site. However, declaration of the Port Hinchinbrook Provisional PDA will not affect the applicability of the *Aboriginal Cultural Heritage Act 2003*. Development may also require assessment against other legislation including the *Environmental Protection Act 1994*, *Nature Conservation Act 1992*, and *Environmental Protection and Biodiversity Conservation Act 1999*, and relevant Commonwealth legislation, which may include native title legislation and processes.

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 and the associated infrastructure at Port Hinchinbrook under the streamlined and coordinated regulatory framework in the ED Act outweighs the potential limitations on the identified human rights. The Provisional PDA framework is particularly appropriate as it enables immediate protection of essential infrastructure corridors whilst allowing for further planning and investigation to determine the preferred form of development, addressing the specific challenges that have prevented revitalisation of Port Hinchinbrook.

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 of Port Hinchinbrook Provisional PDA, the limitation is reasonable and justified.

Accordingly, the declaration of the Port Hinchinbrook Provisional PDA is compatible with human rights.

(f) Any other relevant factors

Not applicable.

Conclusion

I consider that the *Economic Development (Port Hinchinbrook Provisional 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

Deputy Premier

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