

Forest Wind Farm Development Bill 2020

Statement of Compatibility

FOR

Amendments during consideration in detail moved by the Honourable Kate Jones MP

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (HR Act), I, the Honourable Kate Jones MP, Minister for State Development, Tourism and Innovation make this statement of compatibility with respect to the amendments to be moved in consideration of detail (ACiDs) for the Forest Wind Farm Development Bill 2020 (the Bill).

In my opinion, the ACiDs for the Bill are 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 amendments

This Statement of Compatibility relates to the proposed ACiDs. The purpose of clauses 74 to 77 of the Bill is to amend the *Planning Act 2016* in relation to the Springfield Structure Plan (SSP) including five minor amendments as well as additional matters raised in submissions to the State Development, Tourism, Innovation and Manufacturing Committee (the Committee). These amendments will improve operational flexibility, remove duplication, clarify the provisions, improve accountability under the Springfield Structure Plan (SSP) and extend the transitional arrangements.

Human Rights Issues

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

Property rights (section 24)

Amendments to the *Planning Act 2016*

The Planning Act currently continues the operation of Development Control Plans, including the plan for the Springfield area, the SSP. This gives effect to the planning and development processes within the Springfield area, including the delivery of infrastructure. These amendments to the proposed clauses support the plan-making processes of the SSP.

(a) The nature of the right

Section 24 of the Act protects the right of all persons to own property (alone or with others) and provides that people have a right not to be arbitrarily deprived of their property. The ability to own and protect property historically underpins many of the structures essential to maintaining a free and democratic society based on human dignity, equality and freedom.

(b) The nature of the purpose of the limitation to be imposed by the ACiDs if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The proposed amendments to the originally proposed clauses are to improve their function following the consideration by the Committee, including the submissions to the Committee. These amendments are to:

- Require that precinct plans be ‘generally consistent with’ rather than ‘consistent with’ the Land Use Concept Master Plan under the SSP;
- Include explicit reference to sections 316 and 231 of the Planning Act to ensure validity of appeal process;
- Expand the scope of transitional arrangements to include development applications made but not decided before the commencement of the Bill;
- Remove potentially duplicative consultation procedures;
- Provide for appropriate input into plan application assessments by Queensland Urban Utilities;
- Provide for some minor exceptions to the requirement under the Bill that development not start until all required plans are in effect;
- Refine the infrastructure-related matters the Ipswich City Council may consider in assessing a plan application to more closely reflect those in the current Springfield Structure Plan; and
- Expand the scope of transitional arrangements in relation to plan applications made before the introduction of the Bill.

(c) The relationship between the limitation to be imposed by the ACiDs if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The limiting effect of the ACiDs on the right to develop property in the Springfield area will help to achieve the purpose and supporting the plan-making processes of the SSP and allow clear appeal processes for residents.

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

In the circumstances, I am satisfied that the ACiDs limit the property rights of existing approval holders in the least restrictive way available to achieve the purpose in relation to the amendments. The proposed amendments support the function and workability of the Bill to re-establish the accepted position prior to recent court decisions.

- (e) The balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

Taking into account the importance of implementing a balanced approach for future development in the Springfield area, the amendments in the ACiDs ensure that the Bill functions efficiently and effectively, allowing the local government to retain ultimate discretion on the mitigation of the limitation on property rights. I am satisfied that the limitation is reasonable and demonstrably justifiable in accordance with section 13 of the Act and that the Bill is in this respect compatible with the rights identified in section 24 of the Act.

Conclusion

Amendments to the *Planning Act 2016*

In my opinion, the ACiDs for the Forest Wind Farm Development Bill 2020 is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

THE HONOURABLE KATE JONES MP
MINISTER FOR STATE DEVELOPMENT, TOURISM AND INNOVATION

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