

State Development and Public Works Organisation (State Development Areas) (Gladstone) Amendment Regulation 2022

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, Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympics Infrastructure, provide this human rights certificate with respect to the *State Development and Public Works Organisation (State Development Areas) (Gladstone) Amendment Regulation 2022* (amendment regulation) made under the *State Development and Public Works Organisation Act 1971* (SDPWO Act).

In my opinion, the amendment regulation, as tabled in the Legislative Assembly, 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 principal objective of the amendment regulation is to vary the existing Gladstone State Development Area (SDA) in accordance with the SDPWO Act. The variation removes 260.4 hectares from the Gladstone SDA. Lots identified for removal from the Gladstone SDA include land parcels where only a portion of the land parcel sits within the Gladstone SDA. New uses on these land parcels would be subject to regulation by both the Gladstone SDA development scheme and the Gladstone Regional Council's planning scheme. The land parcels are not of strategic importance to the Gladstone SDA and removing these portions of land parcels will reduce regulatory burden and complexity on landowners.

Another part of the land proposed to be removed from the Gladstone SDA consists of land that is now designated as Strategic Port Land. Without the SDA, the Strategic Port Land would only be regulated under the Gladstone Ports Corporation Land Use Plan 2012. The removal of Strategic Port Land would remove the overlapping planning regulation applying to the land, noting that a new Land Use Plan is currently being prepared by Gladstone Ports Corporation Limited.

The remaining land proposed to be removed from the Gladstone SDA consists of undevelopable coastal areas mapped as road parcels and part of a seabed lease area, which are also not of strategic importance to the Gladstone SDA. Removing this land from the Gladstone SDA provides a consistent approach for the SDA boundary and provides further clarity to proponents.

Accordingly, the variation of the Gladstone SDA is in the public interest and general welfare of persons resident in the State as it reduces regulatory burden and complexity on landowners by removing multiple planning authorities regulating a single lot of land; and aligns the boundary of the Gladstone SDA to be consistent with the purpose of the SDA.

This objective is achieved by amending Schedule 1 of the *State Development and Public Works Organisation (State Development Areas) Regulation 2019*, to update the plan reference number for the declared Gladstone SDA from GSDA_001_013 to GSDA_014 to reflect a variation to the boundary of the Gladstone SDA.

In accordance with section 77 of the SDPWO Act, a regulation may declare any part of the State or any area over which the State claims jurisdiction to be an SDA, if the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the State requires it. This also includes the power to vary an SDA by excluding or including additional land.

Section 173(1) of the SDPWO Act provides for the Governor in Council to make regulations not inconsistent with the SDPWO Act in respect of a range of matters, including the declaration of an SDA and similarly, a variation of an SDA.

Human Rights Issues

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

In my opinion, the human rights that are relevant to the subordinate legislation are:

- Property rights (section 24).

The clauses of the subordinate legislation that are relevant to this right are:

- Schedule 1, reference to the Gladstone State Development Area (column 2, Plan).

The effect of the clause is to reference a plan which spatially identifies the extent of the Gladstone SDA. The amendment regulation gives effect to a variation to the boundary of the Gladstone SDA to exclude land. Land within an SDA is subject to compulsory acquisition powers in accordance with section 82 of the SDPWO Act. In accordance with section 77(2)(b) of the SDPWO Act, land excluded from an SDA ceases to be within that SDA.

The exclusion of land from an SDA engages property rights by removing the compulsory acquisition powers under section 82 of the SDPWO Act. Accordingly, the variation to the boundary of the Gladstone SDA to exclude land does not limit property rights and further consideration of the limitation (including restriction or interference) of this right is not required.

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

n/a

Conclusion

I consider that the *State Development and Public Works Organisation (State Development Areas) (Gladstone) Amendment Regulation 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

STEVEN MILES MP
Deputy Premier, Minister for State Development,
Infrastructure, Local Government and Planning
and Minister Assisting the Premier on Olympics Infrastructure

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