

Economic Development (Variation of Caloundra South UDA) Amendment Regulation 2023

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, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympic and Paralympic Games Infrastructure provide this human rights certificate with respect to the *Economic Development (Variation of Caloundra South UDA) Amendment Regulation 2023* made under the *Economic Development Act 2012* (ED Act).

In my opinion, the *Economic Development (Variation of Caloundra South UDA) Amendment Regulation 2023*, 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 *Economic Development (Variation of Caloundra South UDA) Amendment Regulation 2023* will have the effect of amending the *Economic Development Regulation 2013* to update the Caloundra South PDA Boundary (Map No. UDA 14) to reflect the inclusion of additional land (approximately 13.5 hectares) in the Caloundra South PDA.

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:

- Section 19 – Freedom of movement
- Section 21 – Freedom of expression
- Section 25 – Right to privacy and reputation
- Section 31 – Right to a fair hearing

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)**Section 19 – Freedom of movement***(a) The nature of the right*

This right protects a person's right to move freely within Queensland and choose where to live.

The Amendment Regulation will not alter existing lawful limitations on a person's right to access the additional land included in the PDA.

Section 21 – Freedom of expression*(a) The nature of the right*

This right protects a person's right to hold an opinion and to seek, receive and impart information and ideas.

The ED Act prescribes what and how information is made publicly available, when and how a person may make a formal submission about a proposed planning instrument and PDA development application over land in the PDA, and how a formal submission must be considered in decision making.

(b) The nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Including the land in PDA will promote the proper and orderly planning, development, and management of the land and allow for a streamlined land use planning and development assessment framework to apply.

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

The Amendment Regulation facilitates a minor extension to the PDA, promoting the proper and orderly planning, development and management of the additional land and advancing the main purpose of the ED Act to facilitate economic development and development for community purposes, in the State.

(d) 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 Amendment Regulation facilitates the main purpose of the ED Act to facilitate economic development, and development for community purposes by ensuring the appropriate and responsible development of this land.

Decisions under the ED Act are subject to right to information and judicial review proceedings.

Section 25 – Right to privacy and reputation

(a) *The nature of the right*

This right protects a person’s right for their correspondence not to be unlawfully or arbitrarily interfered with and to not have their reputation unlawfully attacked.

The Minister for Economic Development Queensland (MEDQ) may receive public submissions about a proposed development scheme amendment or PDA development application. The MEDQ is also required to keep a register of development applications and development decisions. These registers must be made available for public viewing.

(b) *The nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom*

Information provided in a public submission is only used for the purposes for which it was obtained and disclosed in accordance with the requirements of the ED Act and any other relevant legislation.

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

Personal information supplied to the MEDQ, either verbally or in writing, is recorded solely for the purpose of processing and responding to enquiries and requests for information about projects and understanding the views of the community, partners and potential customers.

Section 31 – Right to a fair hearing

(a) *The nature of the right*

This right protects the rights of a person who is party to a civil proceeding to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The ED Act does not afford a third-party submitter the right to appeal a decision to amend a PDA development scheme or made in response to a PDA development application.

(b) *The nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom*

The ED Act provides for public notification of certain development applications which provides an opportunity for any interested party to make a submission on the proposed development. Submissions must be considered in decision making. Making a submission on a development allows a person to participate in planning decisions by expressing their views about a development.

(c) *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 limitation is necessary to promote efficient development in the PDA. The inclusion of this land in the PDA is minor and promotes the proper and orderly planning, development, and management of the land.

The Amendment Regulation advances the main purpose of the ED Act to facilitate economic development and development for community purposes. Aligning the boundary to the new road corridor is a logical extension to the PDA and will allow for a streamlined land use planning and development assessment framework to apply. Given the benefits of including this additional land in the PDA and the minor nature of the change, impacts to landholders who may be limited in their exercise to appeal a decision on a development application are considered reasonable. Decisions may still be subject to right to information and judicial review proceedings.

Conclusion

I consider that the *Economic Development (Variation of Caloundra South UDA) Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because while it does limit, restrict or interfere with a human right, the limitation is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

STEVEN MILES MP

Deputy Premier, Minister for State Development,
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