

Economic Development (Sunshine Coast Airport PDA) 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 (Sunshine Coast Airport PDA) Amendment Regulation 2023* made under the *Economic Development Act 2012* (EDA).

In my opinion, the *Economic Development (Sunshine Coast Airport PDA) 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 (Sunshine Coast Airport PDA) Amendment Regulation 2023* declares the Sunshine Coast Airport Priority Development Area (SCA PDA).

Section 37(1) of the EDA provides that a regulation may declare a part of the state to be a Priority Development Area (PDA). In accordance with section 37(2)(a) and section 37(2)(b)(ii) of the EDA, the declaration of the SCA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes, in the State. The PDA declaration will provide for the implementation of a streamlined land use planning and development assessment framework to apply over the site. This framework will facilitate land use diversification on the site, increase investor confidence, and provide an accelerated development schedule, delivering economic benefits to the region and Queensland.

In January 2021, the Sunshine Coast Council (the Council) completed the \$334 million SCA Expansion Project. As a non-federally leased airport, planning and development for the SCA site is regulated under the local government planning scheme. PDA declaration will provide a State led approach to the planning and development of the Airport.

PDA declaration is considered necessary to realise the key strategic objectives for the Sunshine Coast and will:

- provide for the implementation of a streamlined land use planning and development assessment framework to apply over the site,
- increase investor confidence and certainty which will enable Investment in the delivery of an expanded aerospace precinct with improved infrastructure to better position the general aviation sector for growth and development,
- attract development and new business to the state,
- deliver the outcomes of the *South East Queensland Regional Plan 2017* by facilitating the growth of the airport as a major economic enabling infrastructure,

- deliver the strategic objectives of the council's *Regional Economic Development Strategy 2013-2033*, and
- build resilience and diversification in the SCA business to secure new revenue streams, by developing activities that are complimentary to the functions of the SCA.

To regulate development, from the time the PDA is declared until a detailed development scheme is finalised, section 38(2) of the EDA provides that an Interim Land Use Plan (ILUP) must be made to regulate development in the entire area proposed to be declared under the amendment regulation. The ILUP has been prepared by Economic Development Queensland (EDQ) in consultation with the Council and SCA. The ILUP will take effect on the commencement of the declaration regulation and will expire 12 months from the date it takes effect.

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 15 – recognition and equality before the law
- section 16 – right to life
- section 19 – freedom of movement
- section 21 - freedom of expression
- section 23 – taking part in public life
- section 24 – property rights
- section 25 – privacy and reputation
- section 26 – protection of families and children
- section 28 – cultural rights – Aboriginal peoples and Torres Strait Islander peoples
- section 29(1) – right to liberty and security of person
- section 31 – right to a fair hearing

The HR Act specifies that Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights as Australia's first people. This right protects the right of Aboriginal and Torres Strait Islander peoples, with other members of their community, to live life as an Aboriginal or Torres Strait Islander person who is free to practice their culture. Declaration of the SCA PDA will not limit an Aboriginal or Torres Strait Islander person's cultural rights. Declaration of the SCA PDA merely introduces a new planning regime to provide for the implementation of a streamlined land use planning and development assessment framework to apply over the site. The ILUP contains provisions to ensure the protection of Aboriginal cultural heritage sites and values. Declaration of the SCA PDA will not affect the applicability of the *Aboriginal Cultural Heritage Act 2003* (ACH Act), and any future development within the PDA will be subject to the ACH Act.

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

Section 15 – recognition and equality before the law

(a) Nature of the right

Section 15 of the Human Rights Act states that:

- every person has the right to recognition as a person before the law,
- every person has the right to enjoy the person’s human rights without discrimination,
- every person is equal before the law and is entitled to the equal protection of the law without discrimination,
- every person has the right to equal and effective protection against discrimination, and
- measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination.

The subordinate legislation limits this right by identifying particular land to be regulated as a PDA under the EDA to the exclusion of other land, and where different regulatory provisions will apply to different parcels of land within the PDA under the ILUP. The subordinate legislation may also limit this right as the dominant land use regulated under the ILUP for the PDA is air services, which use through the associated aircraft activities has the potential to impact wellbeing and quality of life through emissions and impacts on amenity (noting that the aircraft flights are regulated by other legislation and not under the EDA).

(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 underlying purposes for making the PDA which may restrict a person’s rights to equality before the law in the different ways set out above include to:

1. provide for a new, streamlined land use planning and development assessment framework led by the State, and
2. deliver the outcomes of the *South East Queensland Regional Plan 2017* by facilitating the growth of the airport as major economic enabling infrastructure.

These purposes are consistent with a free and democratic society in which individuals and corporations are subject to planning and development controls, regulations and processes within the framework permitted by the EDA. Further, declaration of the site as a PDA will enable the Sunshine Coast Airport to invest in the expansion of terminal and aviation facilities over the short to medium term, accelerating the Airport’s role as a regional facility of economic growth and diversity as well as its ability to play a role as a transport hub for the Brisbane 2032 Olympic and Paralympic Games.

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

Declaring the SCA PDA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed development of the SCA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework will not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

(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 making of the PDA will provide for the implementation of a streamlined land use planning and development assessment framework to apply over the site, which is considered necessary for this particular area in order to facilitate land use diversification on the site, increase investor confidence, and provide an accelerated development schedule, delivering economic benefits to the region and Queensland.

Potential impacts on well-being and quality of life through emissions and impacts on amenity from the air services that will continue within the PDA are sought to be balanced through the ILUP for the PDA, wherein:

1. the exemption from development approvals under the current planning scheme is maintained for aviation facilities in the whole of Precinct 1 and for air services in Sub-Precinct 1(a), including the terminal expansion. The terminal expansion is considered responsive to the construction of the new runway which was completed in January 2021 and PDA declaration over the Airport site will not override the approvals/ requirements associated with the runway expansion,
2. the primary impacts from the aircraft flights are aircraft noise and emissions, which were assessed in detail through the Sunshine Coast Airport Expansion project Environmental Impact Statement prepared under the *State Development and Public Works Organisation Act 1971* and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*, and
3. the level of regulation around airport-related development being strengthened where development adjoins residential areas (in particular sub-precinct 1(c) under the ILUP) so that a PDA development application will be required for assessment of impacts on adjoining residents.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person's equality before the law under section 15 of the Human Rights Act is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 16 – right to life

(a) Nature of the right

Section 16 states that “every person has the right to life and has the right not to be arbitrarily deprived of life”.

This right is concerned about impacts on people’s right to a healthy and enjoyable life. This right is relevant to the subordinate legislation, and may be limited by the subordinate legislation, given that the dominant land use regulated under the ILUP for the PDA is air services, which through associated aircraft activities has the potential to impact wellbeing and quality of life through emissions and impacts on amenity (noting that the aircraft flights are regulated by other legislation and not under the EDA).

The right is expressed as the right to not be arbitrarily deprived of life. The reference to arbitrary raises a question as to whether this right is subject to an ‘internal limitation’. However, it is not necessary to decide the question of any internal limitation, given the conclusions reached in this assessment.

(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

Development regulated under the PDA framework may impact a person’s right to a healthy and enjoyable life through emissions and impacts on amenity.

The underlying purposes for making the PDA which may restrict a person’s right to life before the law include to:

1. provide for a new, streamlined land use planning and development assessment framework led by the State, and
2. deliver the outcomes of the *South East Queensland Regional Plan 2017* by facilitating the growth of the airport as major economic enabling infrastructure.

These purposes are consistent with a free and democratic society where economic diversity and growth are planned for, and here declaration of the site as a PDA will enable the Sunshine Coast Airport to invest in the expansion of terminal and aviation facilities over the short to medium term accelerating the Airport’s role as a regional facility of economic growth and diversity as well as its ability to play a role as a transport hub for the 2032 Olympics. The community will be benefited from the expansion of the SCA through increased tourism, jobs and improved connectivity. The economic diversity and growth is being planned for having regard to appropriate land use considerations subject to reasonable and relevant development controls, regulations and processes under the EDA.

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

Declaring the SCA PDA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed development of the SCA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the

most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework may not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

(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

Potential impacts on well-being and quality of life through emissions and impacts on amenity from the air services that will continue within the PDA are sought to be balanced through the ILUP for the PDA, wherein:

1. the exemption from development approvals under the current planning scheme is maintained for aviation facilities in the whole of Precinct 1 and for air services in Sub-Precinct 1(a), including the terminal expansion. The terminal expansion is considered responsive to the construction of the new runway which was completed in January 2021 and PDA declaration over the Airport site will not override the approvals/ requirements associated with the runway expansion, and
2. the level of regulation around airport-related development being strengthened where development adjoins residential areas (in particular sub-precinct 1(c) under the ILUP) so that a PDA development application will required for assessment of impacts on adjoining residents.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person's right to life under section 16 of the Human Rights Act is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 19 – freedom of movement

(a) Nature of the right

This right protects a persons' right to move freely within Queensland and choose where to live. The underlying value of the right is freedom, which is a necessary precondition for a free and democratic society and the right serves to protect individuals' liberty to choose where they live and travel within the State.

(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 making of the PDA may affect people's freedom of movement because it may impact on where people choose to travel and live through the regulatory provisions in the ILUP and future land use planning and decision-making in accordance with the EDA. This has regard to both development within the PDA (where residential uses are not currently envisaged) and outside the PDA (where residential uses are envisaged under council's planning scheme but will be in close proximity to the existing and anticipated air services development in the PDA).

The underlying purposes for making the PDA which may restrict the rights to free movement include to:

1. Provide for a new, streamlined land use planning and development assessment framework led by the State, and

2. Deliver the outcomes of the *South East Queensland Regional Plan 2017* by facilitating the growth of the airport as major economic enabling infrastructure.

These purposes are consistent with a free and democratic society in which individuals and corporations are subject to planning and development controls, regulations and processes within the framework permitted by the EDA. Further, declaration of the site as a PDA will enable the Sunshine Coast Airport to invest in the expansion of terminal and aviation facilities over the short to medium term accelerating the Airport's role as a regional facility of economic growth and diversity as well as its ability to play a role as a transport hub for the Brisbane 2032 Olympic and Paralympic Games.

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

Any limitations on the freedom of movement imposed by the making of the PDA will be effective to achieve the purposes of the limitation.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework may not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

- (e) *The balance between the importance of the purpose of the limitation and the importance of preserving the human right, considering the nature and extent of the limitation*

The making of the PDA will provide for the implementation of a streamlined land use planning and development assessment framework to apply over the site. This framework will facilitate land use diversification on the site, increase investor confidence, and provide an accelerated development schedule, delivering economic benefits to the region and Queensland.

Those persons who have a right to freedom of movement that may potentially be limited by the subordinate legislation will have the opportunities:

- to have development applications (including for residential development) assessed in accordance with the requirements of the statutory planning framework under the EDA (for land within the PDA) and under council's planning scheme (for land outside the PDA),
- to make submissions on future planning for the PDA when a draft development scheme is prepared and released for public consultation under the EDA, and
- to make submissions on future development applications for assessable development that require public notification in accordance with the EDA.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person's freedom of movement under section 19 of the Human Rights Act is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 21 – Freedom of expression

(a) Nature of the right

Section 21 provides that every person has the right to hold an opinion without interference. Further every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds. This right protects a person's right to hold an opinion and to seek, receive and impart information and ideas.

(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

A person's right to freedom of expression may be limited because the subordinate legislation may be made without general community consultation. Upon declaration of the PDA an ILUP, will come into immediate effect. The ILUP has been prepared by EDQ in consultation with the Sunshine Coast Regional Council (the Council) and reflects the existing airport and intended use of the land for air services.

Further, a person's right to freedom of expression may be limited because, for future activities in the PDA, the EDA prescribes what and how information is made publicly available, when and how a person may make a formal submission about a proposed planning instrument (including the development scheme to replace the ILUP), when submissions may be made for certain development on land in the PDA, and how a formal submission must be considered in decision-making. Further, the EDA only provides for limited appeal rights on development application decisions.

The underlying purposes for making the PDA which may restrict freedom of expression include providing for a new, streamlined land use planning and development assessment framework led by the State. The making of the PDA is in accordance with the relevant considerations under the EDA, including the main purpose of the EDA and the economic and community benefit to the state that may be gained by the proposed development. The purpose of the limitation is consistent with a free and democratic society in which individuals and corporations are subject to particular planning and development frameworks including under the EDA.

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

Declaring the SCA PDA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed development of the SCA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework may not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

(e) The balance between the importance of the purpose of the limitation and the importance of preserving the human right, considering the nature and extent of the limitation

The EDA requires regard be given to the main purpose of that Act, being economic development and development for community purposes (section 37(2)). This ‘regard’ includes consideration of the economic and community benefit to the State that may be gained by the proposed declaration of the PDA.

The EDA also requires consideration be given to the impact the *Planning Act 2016* (Planning Act) may have on the delivery of the proposed development if the declaration regulation were not made. The declaration of the PDA and associated ILUP does not enable any development to occur that would otherwise be allowed under the existing planning regime. Therefore, the declaration does not impose any additional limitation on the public’s right to comment on the proposed development.

The EDA requires that a development scheme be prepared to replace the ILUP. The EDA requires statutory notification of proposed development schemes which provides an opportunity for any interested party to make a submission on the proposed development scheme. Submissions are considered and appropriate amendments made to the development scheme to reflect those submissions. The submissions report is made publicly available.

The EDA regulates how a person may make a formal submission on development applications, and how that submission is considered in the assessment of the development proposed. The EDA also 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 are considered in deciding the development application.

The EDA regulates the process for public notification to ensure that the opinions of others are properly considered in the planning and development process. The EDA does not limit the rights of individuals to express their opinion on development outside of the formal notification process under the EDA.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person’s freedom of expression under section 21 of the Human Rights Act is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 23 – Taking part in public life

(a) Nature of the right

Section 23 provides that every person in Queensland has the right, and is to have the opportunity, without discrimination to participate in the conduct of public affairs, directly or through freely chosen representatives. Every eligible person has the right, and is to have the opportunity, without discrimination—

- to vote and be elected at periodic State and local government elections that guarantee the free expression of the will of the electors; and
- to have access, on general terms of equality, to the public service and to public office.

(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

A person’s right to take part in public life may be limited because the subordinate legislation may be made without general community consultation. Upon declaration of the PDA an ILUP

will come into immediate effect. The ILUP has been prepared by EDQ in consultation with the Council and reflects the existing airport and intended use of the land for air services.

The right to take part in public life involves some similar issues to those arising in connection with the right to freedom of expression under section 21 (addressed above). It is considered that a PDA declaration would increase investor confidence and provide an accelerated development schedule, in turn delivering economic benefits to the region and Queensland. The making of the PDA is in accordance with the relevant considerations under the EDA, including the main purpose of the EDA and the economic and community benefit to the state that may be gained by the proposed development. The purpose for the limitation is consistent with a free and democratic society.

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

Declaring the SCA PDA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed development of the SCA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework may not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

(e) The balance between the importance of the purpose of the limitation and the importance of preserving the human right, considering the nature and extent of the limitation

The EDA requires regard be given to the main purpose of that Act, being economic development and development for community purposes (section 37(2)). This 'regard' includes consideration of the economic and community benefit to the State that may be gained by the proposed declaration of the PDA.

The EDA also requires consideration be given to the impact the Planning Act may have on the delivery of the proposed development if the declaration regulation were not made. The declaration of the PDA and associated ILUP does not enable any development to occur that would otherwise be allowed under the existing planning regime. Therefore, the declaration does not impose any additional limitation on the public's right to comment on the proposed development.

As stated above, the EDA requires that a development scheme be prepared to replace the ILUP. The proposed development schemes will be publicly notified, which provides an opportunity for any interested party to make a submission on the proposed development scheme. Submissions are considered and appropriate amendments made to the development scheme to reflect those submission. The submissions report is made publicly available. The EDA regulates the process for public notification to ensure that the opinions of others are properly

considered in the planning and development process. The EDA does not limit the rights of individuals to express their opinion on development outside of the formal notification process under the EDA.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person's right to taking part in public life under section 23 of the Human Rights Act is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 24 – Property rights

(a) Nature of the right

Section 24 states that:

- all persons have the right to own property alone or in association with others, and
- a person must not be arbitrarily deprived of the person's property.

This right is concerned with decisions that include restricting the use of private property, including under planning laws, and their right to the enjoyment of their property. The subordinate legislation may have the impact of limiting the use of land within the PDA however the Council as the landowner of the site and the SCA Pty Ltd as the operator of the site has requested declaration of the site as a PDA. Further however, as a result of the dominant use within the PDA, namely air services which have associated aircraft flights, the right to enjoyment of by persons of their property outside the PDA may be limited by the decision.

(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

Impacts associated with development progressed inside the PDA may impact a person's right to enjoy privately owned property outside of the PDA. The dominant land use within the PDA is air services, which has the potential to impact well-being and quality of life through the associated aircraft flights which result in emissions and impacts on amenity and thereby impact a person's right to enjoy privately owned property outside of the PDA (noting that the aircraft flights are regulated by legislation other than the EDA).

The underlying purposes for making the PDA which may restrict a person's property rights include to:

1. provide for a new, streamlined land use planning and development assessment framework led by the State, and
2. deliver the outcomes of the *South East Queensland Regional Plan 2017* by facilitating the growth of the airport as major economic enabling infrastructure.

These purposes are consistent with a free and democratic society in which individuals and corporations are subject to planning and development controls, regulations and processes within the framework permitted by the EDA. Further, declaration of the site as a PDA will enable the Sunshine Coast Airport to invest in the expansion of terminal and aviation facilities over the short to medium term accelerating the Airport's role as a regional facility of economic growth and diversity as well as its ability to play a role as a transport hub for the Brisbane 2032 Olympic and Paralympic Games.

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

Declaring the SCA PDA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed development of the SCA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework may not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

(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

Potential impacts on the right to enjoyment of property through potential well-being and quality of life through emissions and impacts on amenity from the air services that will continue within the PDA are sought to be balanced through the ILUP for the PDA, wherein:

1. the exemption from development approvals under the current planning scheme is maintained for aviation facilities in the whole of Precinct 1 and for air services in Sub-Precinct 1(a), including the terminal expansion. The terminal expansion is considered responsive to the construction of the new runway which was completed in January 2021 and PDA declaration over the Airport site will not override the approvals/ requirements associated with the runway expansion,
2. the primary impacts from the aircraft flights are aircraft noise and emissions, which were assessed in detail through the Sunshine Coast Airport Expansion project Environmental Impact Statement prepared under the *State Development and Public Works Organisation Act 1971* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and
3. the level of regulation around airport-related development being strengthened where development adjoins residential areas (in particular sub-precinct 1(c) under the ILUP) so that a PDA development application will required for assessment of impacts on adjoining residents.

Notably, the ILUP is a temporary planning instrument and will be replaced by the development scheme, for which further planning will be undertaken, public consultation held, and submissions considered.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person's property rights under section 24 of the Human Rights Act is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 25 - Right to privacy and reputation

(a) Nature of the right

Section 25 states that a person has the right:

- not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with
- not to have the person's reputation unlawfully attacked.

This right is concerned about decisions that limit the right to the enjoyment and quality of the family and home.

(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 right to privacy and reputation involves some similar issues to those arising in connection with the right to property under section 24 (addressed above). It is considered that a PDA declaration would increase investor confidence and provide an accelerated development schedule, in turn delivering economic benefits to the region and Queensland. The making of the PDA is in accordance with the relevant considerations under the EDA, including the main purpose of the EDA and the economic and community benefit to the state that may be gained by the proposed development. The purpose for the limitation is consistent with a free and democratic society.

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

Declaring the SCA PDA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed development of the SCA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework may not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

(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

Potential impacts on rights to privacy through emissions and impacts on amenity arising from the air services that will continue within the PDA are sought to be balanced through the ILUP for the PDA, wherein:

1. the exemption from development approvals under the current planning scheme is maintained for aviation facilities in the whole of Precinct 1 and for air services in Sub-Precinct 1(a), including the terminal expansion. The terminal expansion is considered

responsive to the construction of the new runway which was completed in January 2021 and PDA declaration over the Airport site will not override the approvals/ requirements associated with the runway expansion,

2. the primary impacts from the aircraft flights are aircraft noise and emissions, which were assessed in detail through the Sunshine Coast Airport Expansion project Environmental Impact Statement prepared under the *State Development and Public Works Organisation Act 1971* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and
3. the level of regulation around airport-related development being strengthened where development adjoins residential areas (in particular sub-precinct 1(c) under the ILUP) so that a PDA development application will be required for assessment of impacts on adjoining residents.

The EDA requires regard be given to the main purpose of that Act, being economic development and development for community purposes (section 37(2)). This ‘regard’ includes consideration of the economic and community benefit to the State that may be gained by the proposed development. The SCA is major economic enabling infrastructure, and also provides broader community benefit through the provision of air services. These matters support the making of the PDA.

Notably, the ILUP is a temporary planning instrument and will be replaced by the development scheme, for which further planning will be undertaken, public consultation held, and submissions considered.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person’s rights to privacy and reputation under section 25 of the Human Rights Act is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 26 – Protection of families and children

(a) Nature of the right

Section 26 states that:

- families are the fundamental group unit of society and are entitled to be protected by society and the State,
- every child has the right, without discrimination, to the protection that is needed by the child, and is in the child’s best interests, because of being a child, and
- every person born in Queensland has the right to a name and to be registered, as having been born, under a law of the State as soon as practicable after being born.

This right may be relevant as the dominant land use regulated under the ILUP within the PDA is air services, which through associated aircraft flights may result in environmental and climate change effects and amenity impacts (noting that the aircraft flights are regulated by other legislation and not under the EDA).

(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

Future air services, which are regulated under the PDA framework, may impact a person’s right to a healthy and enjoyable life through emissions and impacts on amenity particularly

from aircraft flights associated with the air services (noting that the aircraft flights are separately regulated).

The underlying purposes for making the PDA include to:

1. Provide for a new, streamlined land use planning and development assessment framework led by the State, and
2. Deliver the outcomes of the *South East Queensland Regional Plan 2017* by facilitating the growth of the airport as major economic enabling infrastructure.

These purposes are consistent with a free and democratic society where economic diversity and growth are planned for, and here declaration of the site as a PDA will enable the Sunshine Coast Airport to invest in the expansion of terminal and aviation facilities over the short to medium term accelerating the Airport's role as a regional facility of economic growth and diversity as well as its ability to play a role as a transport hub for the Brisbane 2032 Olympic and Paralympic Games. The community will be benefited from the expansion of the SCA through increased tourism, jobs and improved connectivity. The economic diversity and growth is being planned for having regard to appropriate land use considerations, including any impacts on amenity, subject to reasonable and relevant development controls, regulations and processes under the EDA.

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

Declaring the SCA PDA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed development of the SCA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework may not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

(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

Potential impacts on well-being and quality of life through emissions and impacts on amenity from the air services that will continue within the PDA are sought to be balanced through the ILUP for the PDA, wherein:

1. the exemption from development approvals under the current planning scheme is maintained for aviation facilities in the whole of Precinct 1 and for air services in Sub-Precinct 1(a), including the terminal expansion. The terminal expansion is considered responsive to the construction of the new runway which was completed in January 2021

and PDA declaration over the Airport site will not override the approvals/ requirements associated with the runway expansion,

2. the primary impacts from the aircraft flights are aircraft noise and emissions, which were assessed in detail through the Sunshine Coast Airport Expansion project Environmental Impact Statement prepared under the *State Development and Public Works Organisation Act 1971* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and
3. the level of regulation around airport-related development being strengthened where development adjoins residential areas (in particular sub-precinct 1(c) under the ILUP) so that a PDA development application will required for assessment of impacts on adjoining residents

Accordingly, I am satisfied that the limit the subordinate legislation may impose on the rights of families and children under section 26 of the Human Rights Act is minimal, reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 29(1) – Right to liberty and security of person

(a) Nature of the right

Section 29(1) of the Human Rights Act recognises the right of every individual to liberty and security. This right may include a right to bodily security and protection against environmental impacts and impacts from climate change. The right is therefore relevant to the subordinate legislation as the dominant land use regulated within the PDA is airport services, and the associated aircraft flights may result in environmental, emissions and amenity impacts (noting that the aircraft flights themselves are regulated under other legislation not the EDA).

(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 underlying purposes for making the PDA include to:

1. provide for a new, streamlined land use planning and development assessment framework led by the State, and
2. deliver the outcomes of the South East Queensland Regional Plan 2017 by facilitating the growth of the airport as major economic enabling infrastructure.

These purposes are consistent with a free and democratic society and here declaration of the site as a PDA will enable the Sunshine Coast Airport to invest in the expansion of terminal and aviation facilities over the short to medium term accelerating the Airport's role as a regional facility of economic growth and diversity as well as its ability to play a role as a transport hub for the Brisbane 2032 Olympic and Paralympic Games. The economic diversity and growth is being planned for having regard to appropriate land use considerations, including any impacts and benefits for the surrounding community, subject to reasonable and relevant development controls, regulations and processes under the EDA.

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

Declaring the SCA PDA achieves the main purpose of the EDA to facilitate economic development, and development for community purposes by providing for a streamlined planning and development framework for the proposed development of the SCA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most appropriate mechanism to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable as they may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council's planning framework may not be timely and will not result in a State led approach which is considered important to attracting catalytic development and private sector investment at the Airport).

(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

Potential impacts on well-being and quality of life through emissions and impacts on amenity from the air services that will continue within the PDA are sought to be balanced through the ILUP for the PDA, wherein:

1. the exemption from development approvals under the current planning scheme is maintained for aviation facilities in the whole of Precinct 1 and for air services in Sub-Precinct 1(a), including the terminal expansion. The terminal expansion is considered responsive to the construction of the new runway which was completed in January 2021 and PDA declaration over the Airport site will not override the approvals/ requirements associated with the runway expansion, and
2. the level of regulation around airport-related development being strengthened where development adjoins residential areas (in particular sub-precinct 1(c) under the ILUP) so that a PDA development application will required for assessment of impacts on adjoining residents.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person's rights to liberty and security of person under section 29 of the Human Rights Act is negligible, reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 31 – Right to a fair hearing

(a) 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. Section 31 is directed at the procedure of trials for criminal offences and civil proceedings. It protects the right to a fair and public hearing by an impartial decision maker.

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

However, the EDA does not provide for general merits appeal rights for submitters for notifiable development applications (as is the case for development outside a PDA under the Planning Act). Further, applicants only have a limited right to appeal against particular conditions.

The limitation is a product of the statutory framework under the EDA. The explanatory notes to the Economic Development Bill 2012 stated: *“Allowing for the imposition of appeal processes similar to those under SPA could lead to substantial delays in the development in PDAs. This undermines the object of the Bill in ensuring economic development, and development for community purposes, is completed in a timely way.”*

The limitation will apply for this decision because it will apply to the proposed new PDA which has been identified as an area where opportunities for economic development, and development for community purposes, exist.

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

The limitation helps to achieve the purpose which is to provide for the implementation of a streamlined land use planning and development assessment framework to apply over the site, being through the PDA framework under the EDA.

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

The EDA provides for the declaration of PDAs in Queensland, to provide a streamlined planning and development framework for the areas, to facilitate economic development, and development for community purposes, in or for the PDAs. The subordinate legislation is the most reasonably available way to provide for the new, streamlined land use planning and development assessment framework led by the State. Other mechanisms that are available are not reasonable given the existing powers under the EDA may not be less restrictive on rights (for example, special purpose legislation), and may not fully achieve the purpose (for example, amendments to the council’s planning framework may not be timely and will not result in a State led approach which is believed to be important to attracting catalytic development and private sector investment at the Airport).

(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 limitation is necessary to facilitate land use diversification on the site and deliver economic benefits to the region and Queensland. Declaration of the SCA PDA will:

- provide for the implementation of a streamlined land use planning and development assessment framework to apply over the site,
- increase investor confidence and certainty which will enable investment in the delivery of an expanded aerospace precinct with improved infrastructure to better position the general aviation sector for growth and development,
- attract development and new business to the state,
- deliver the outcomes of the *South East Queensland Regional Plan 2017* by facilitating the growth of the airport as a major economic enabling infrastructure,
- deliver the strategic objectives of the council’s *Regional Economic Strategy 2013-2033*, and

- build resilience and diversification in the SCA business to secure new revenue streams, by developing activities that are complimentary to the functions of the SCA.

The positive impact to the broader community must be viewed against the backdrop of both the social and economic impacts to landholders who may be limited in their exercise to appeal a decision on a development application. Decisions may still be subject to right to information and judicial review proceedings.

Accordingly, I am satisfied that the limit the subordinate legislation may impose on any person's rights to a fair hearing under section 31 of the Human Rights Act is reasonable and demonstrably justifiable in accordance with section 13 of the Act

Conclusion

I consider that the *Economic Development (Sunshine Coast Airport PDA) 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,
Infrastructure, Local Government and Planning
and Minister Assisting the Premier
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