

Local Government (Moreton Bay City Council) and Other Legislation 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* (the HR Act), I, Steven Miles MP, 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 *Local Government (Moreton Bay City Council) and Other Legislation Amendment Regulation 2023* (the Regulation) made under the *Hospital and Health Boards Act 2011*, *Industrial Relations Act 2016*, *Local Government Act 2009* (LGA), *Nature Conservation Act 1992*, *Planning Act 2016*, *Statutory Bodies Financial Arrangements Act 1982*, *Transport Infrastructure Act 1994* and *Waste Reduction and Recycling Act 2011*.

In my opinion, the Regulation, as tabled in the Legislative Assembly, 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 policy objectives of the Regulation are to:

- amend the *Local Government Regulation 2012* (LGR) to implement the recommendation of the Local Government Change Commission (the Commission) that there be a change to the classification of the Moreton Bay Regional Council (MBRC) to the Moreton Bay City Council
- make a range of consequential amendments to the LGR and other regulations across the statute book
- make transitional provision for references to MBRC in an Act or document.

Implement the Commission's recommendation

Under the LGA, the Commission has jurisdiction to assess and make recommendations in relation to applications for local government changes. Local government changes are changes to a local government's boundaries, divisions (other than the City of Brisbane), number of councillors, name or classification (refer section 17 of the LGA).

Section 18 of the LGA provides that only the Minister for Local Government may propose a local government change to the Commission.

Section 19(1) of the LGA provides that the Commission is responsible for assessing whether a local government change is in the public interest. Section 19(3) provides that the Commission may conduct its assessment in any way that it considers appropriate, including, for example,

by asking for submissions from any local government that would be affected by the proposed local government change or holding a public hearing to ask the public for its views about the proposed local government change.

Under section 19(2) the Commission must also consider:

- (a) whether the proposed local government change is consistent with a ‘Local Government Act’ (as defined in schedule 4 Dictionary)
- (b) the views of the Minister about the proposed local government change
- (c) any other matters prescribed under a regulation.

Section 13 of the LGR prescribes for section 19(2)(c) of the LGA the other matters to be considered if a proposed local government change relates to a change of the classification of a local government area.

On 16 September 2022, a local government change application received from MBRC was referred to the Commission for assessment. MBRC’s submission sought to have its local government area reclassified as a ‘city’ on the basis that the application met the criteria specified in section 13(2) of the LGR.

On 27 April 2023, the Commission provided its report ‘*Electoral Arrangements Review - April 2023 - Moreton Bay Regional Council*’ (the Commission report).¹ The Commission concluded that a change from ‘region’ to ‘city’ was in the public interest.

The Commission also noted that it had considered the requirements of section 58 (Conduct of public entities) and section 13 (Human rights may be limited) of the HR Act in conducting the review and concluded that its recommendation is compatible with human rights.

Section 5(1) of the LGR states the classification of each local government area is mentioned in schedule 1, column 2. Section 6(1) of the LGR states the boundaries of each local government area, and any divisions of the area, are shown on its area map mentioned in schedule 1, column 3. Section 5(1) of the Regulation amends schedule 1, column 2 of the LGR to update the ‘class’ for Moreton Bay local government area from ‘region’ to ‘city’. Section 5(2) of the Regulation amends schedule 1, column 3 of the LGR to update the local government area map title for Moreton Bay local government area from LGB 50 edition 5 to LGB 50 edition 6.

Consequential amendments and transitional provision

MBRC is referred to in a number of Acts and regulations across the statute book.

In addition to making consequential amendments to the LGR, the Regulation amends the subordinate legislation listed below, to reflect the change of classification. Section 41(1A) of the HR Act provides that if there is more than one responsible Minister for subordinate legislation, the human rights certificate for the legislation may be prepared by one of the responsible Ministers under the authority of the other responsible Ministers.

Hospital and Health Boards Regulation 2012

- schedule 1, entry for Metro North, column 2

¹ The Commission report is available at www.ecq.qld.gov.au

Industrial Relations Regulation 2018

- schedule 5, part 2, item 46

Nature Conservation (Protected Areas Management) Regulation 2017

- schedule 1, entry for Beachmere Conservation Park, Buckleys Hole Conservation Park, Byron Creek Conservation Park, Neurum Creek Conservation Park, Sheep Station Creek Conservation Park and Wararba Creek Conservation Park, column 2

Planning Regulation 2017

- schedule 10, part 2A, division 1, section 3A(2)(b)
- schedule 10, part 2A, division 3, table 2, item 1, column 2
- schedule 24, definition *approved neighbourhood development plan*
- schedule 24, definition *local government area 1*, paragraph (h)
- schedule 24, definition *prescribed local government area*, paragraph (g)

Statutory Bodies Financial Arrangements Regulation 2019

- schedule 3, 2nd entry for *Local Government Act 2009*, column 2, 6th dot point
- schedule 4, 5th entry for *Local Government Act 2009*, column 2

Transport Infrastructure (Public Marine Facilities) Regulation 2011

- schedule 1, entry for Moreton Bay Regional Council, column 1
- schedule 1A, entry for Moreton Bay Regional Council, column 1

Waste Reduction and Recycling Regulation 2011

- schedule 2, part 1, item 6
- schedule 4A, column 1, entry for Moreton Bay Regional Council.

Section 4 of the Regulation inserts new section 366 into the LGR providing that a reference in an Act or document to Moreton Bay Regional Council or the Council of the Region of Moreton Bay may, if the context permits, be taken to be a reference to Moreton Bay City Council or the Council of the City of Moreton Bay.

Human Rights Issues

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

The Regulation does not engage any of the 23 human rights protected under the HR Act.

Conclusion

I consider that the Regulation is compatible with the HR Act 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 Olympic and Paralympic Games Infrastructure