

Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

Statement of Compatibility

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations make this statement of compatibility with respect to the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025.

In my opinion, the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 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 Bill

Amendments contained in Chapter 2 of the Bill

The Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 (the Bill) proposes to amend the following Acts:

- *City of Brisbane Act 2010*
- *Local Government Act 2009*
- *Planning Act 2016*
- *Planning and Environment Court Act 2016*
- *Building Act 1975*.

The primary objective of the Bill is to introduce a community benefit system into the *Planning Act 2016* (Planning Act) that requires uses prescribed by Regulation to be subject to social impact assessment and require a community benefit agreement before a development application can be properly made.

The Bill amends the Planning Act to require a proponent for development, that is prescribed by the Planning Regulation 2017 (the Planning Regulation) to be development for which social impact assessment is required, to comply with the community benefit system prior to an application being lodged under the Planning Act. Local communities are to be consulted as part of the social impact assessment process.

The social impact assessment informs the community benefit agreement between the proponent and the local or state government. The community benefit agreement is intended to ensure that local communities receive tangible and long-lasting benefits, initially from renewable energy projects including wind farms and solar farms.

The amendments to the Planning Act allow for other emerging industries to be subject to the community benefit system in the future.

Amendments contained in Chapter 3 of the Bill - Economic Development Act 2012

The Bill also amends the *Economic Development Act 2012* (ED Act).

The purpose of the amendments to the ED Act is to improve administrative efficiency of both the Economic Development Board and the Minister for Economic Development Queensland (MEDQ).

The Bill seeks to achieve this by:

- amending the ED Act to provide that the Governor in Council can remove the chief executive officer (CEO) and acting chief executive officer (Acting CEO) of MEDQ at any time;
- amending the ED Act to provide that the Governor in Council can remove an appointed board member of the Economic Development Board at any time; and
- providing that particular members of the Economic Development Board can attend a meeting of the Board by proxy.

The Bill includes amendments to the ED Act to give effect to this purpose, including omitting:

- the existing grounds for the removal of the CEO and Acting CEO of MEDQ currently set out in section 32V of the ED Act; and
- the existing grounds for the removal of a board member of the Economic Development Board currently set out in section 134(6) of the ED Act.

Amendments contained in Chapter 4 of the Bill – Brisbane Olympics and Paralympics Games Arrangements Act 2021

The making of the Bill will also amend the *Brisbane Olympic and Paralympic Games Arrangements Act 2021* (the Act).

Brisbane was elected as host of the 2032 Olympic and Paralympic Games by the International Olympic Committee (IOC) in July 2021. Under the Olympic Host Contract (host contract), the IOC entrusts the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (corporation), the State of Queensland, Brisbane City Council, and the Australian Olympic Committee with the planning, organising, financing, and staging of the Brisbane 2032 Olympic and Paralympic Games (Games), in accordance with the terms of the host contract and the IOC's Olympic Charter.

Following consideration of the Games Independent Infrastructure and Coordination Authority's (authority) *100 Day Review Brisbane 2032 Olympic and Paralympic Games Infrastructure Report* (100 Day Review Report), the Queensland Government released the *Games Delivery Plan* on 25 March 2025. The Plan articulated governance arrangements that will be implemented to ensure the successful delivery of the Games, as well as plans for Games infrastructure, including delivery considerations.

The main purpose of the amendments is intended to ensure that State complies with its obligations under relevant games agreements by ensuring that the 2032 Olympic and Paralympic Games (the Games) venues and villages are delivered in a timely manner and in a way that maximises the legacy benefits of the Games.

The Bill seeks to achieve this by:

- identifying authority venues and other venues (collectively, Games venues) and villages and their Games-related and legacy use in the Act;
- making changes to the functions and powers of the Games Independent Infrastructure and Coordination Authority (the Authority) to align with Authority's role to deliver, or monitor the delivery, of Games venues and the introduction of requirements for the Authority to share information with the chief executive of the department;
- identifying Games-related transport infrastructure;
- providing an expedited pathway for the delivery of Games venues and villages and the construction of Games-related transport infrastructure identified in the Act by removing the requirements for compliance with relevant Acts relating to development and use (other than building work and cultural heritage) and limiting review rights;
- provide for a streamlined corporation board to ensure efficient and effective decision-making capability;
- further improve oversight and proactive management of potential risks by providing for an observer at corporation board and committee meetings; and
- acknowledge the Games Leadership Group and that both the corporation and authority must have regard to its advice in carrying out their respective functions, as part of broader whole-of-Games governance arrangements.

The Bill makes other incidental amendments to the Act by:

- removing references to the 100 Day Review, as that review has been completed;
- amending the dictionary in the Act to include new or amended terms; and
- removing the requirement for the Authority to prepare a Transport and Mobility Strategy and Games Coordination Plan (now to be undertaken by relevant Departments).

Human Rights Issues

Amendments contained in Chapter 2 of the Bill

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

I have considered each of the rights protected by Part 2 of the Human Rights Act. In my opinion, the human rights that are relevant to the Bill are:

- recognition and equality before the law (section 15)
- right to life (section 16)
- freedom of expression (section 21)
- taking part in public life (section 23)
- property rights (section 24)

- privacy and reputation (section 25)
- protection of families and children (section 26)
- cultural rights – generally (section 27)
- cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28)
- fair hearing (section 31)

The features of the Bill that are relevant to these rights are:

- *Clause 10* amends section 51 of the Planning Act to provide if a development application is for development requiring social impact assessment, the application must be accompanied by a social impact assessment report and each community benefit agreement, unless the application is accompanied by a notice given by the chief executive under section 106ZE(1) specifying otherwise. *Clause 19* amends section 79 of the Planning Act to provide similar requirements for a change application other than for a minor change to a development approval, where relating to development requiring social impact assessment.
- *Clause 11* inserts new section 52A of the Planning Act to provide variations to an application where changes requiring social impact assessment, change notice must be accompanied by a social impact assessment report and community benefit agreement.
- *Clause 15* inserts a new section 65AA in the Planning Act to identify conditions that may be imposed for development requiring social impact assessment.
- *Clause 21* inserts a new section 106T in the Planning Act to provide the Minister may recommend to the Governor in Council the making of a regulation identifying development requiring social impact assessment if the Minister is satisfied that the development is likely to impact the social environment of the community in the locality of the development.
- *Clause 21* inserts a new section 106U that permits a regulation to provide for the effect of a regulation declaring development to be development for which a social impact assessment is required, on any pre-existing development applications or change applications as at the date of the regulation.
- *Clause 21* inserts new section 106ZF to give the chief executive reserved power to direct the assessment manager to impose conditions on approved applications (where a notice is given under section 106ZE).
- *Clause 21* inserts a new section 106ZJ in the Planning Act limiting the appeal rights of a person other than the applicant with respect to a condition of a development approval imposed (or failed to be imposed) under section 65AA(2) or (3) or directed to be imposed under section 106ZF.
- *Clause 21* inserts a new section 106ZK in the Planning Act to provide that, for applications relating to development requiring social impact assessment, the application does not need to be accompanied by a social impact assessment report if a social impact assessment was undertaken under the *Strong and Sustainable Resource Communities Act 2017* or certain assessment of social impacts has been undertaken for a coordinated project under the *State Development and Public Works Organisation Act 1971*.

- *Clause 30* inserts a new section 12A in the *Planning and Environment Court Act 2016* to provide an eligible entity the right to start a proceeding in the P&E Court for a declaration about a matter stated in, to be stated in or that should have been stated in a social impact assessment report or a community benefit agreement, or about the imposition of, or a failure to impose a condition on a development approval under the Planning Act.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (Human Rights Act, s 13)

The Bill will potentially limit (or interfere with) the identified human rights:

- recognition and equality before the law (section 15)
- right to life (section 16)
- freedom of expression (section 21)
- taking part in public life (section 23)
- property rights (section 24)
- privacy and reputation (section 25)
- protection of families and children (section 26)
- cultural rights – generally (section 27)
- cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28)
- fair hearing (section 31)

Equal protection before the law

Section 15(3) of the Human Rights Act provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination.

Clause 10, 11, 12 and 14 of the Bill are relevant to the right.

Proponents for development requiring social impact assessment will need to undertake a social impact assessment and enter into a community benefit agreement before the application can be made. Such development may also be subject to additional development conditions in relation social impacts or community benefit. Therefore, proponents for development requiring social impact assessment will be treated differently from other development applicants.

Section 15 of the Human Rights Act is concerned with ‘discrimination’ (direct or indirect) based on a relevant attribute as defined in the *Anti-Discrimination Act 1991* (Anti-Discrimination Act), or an additional characteristic not covered by the Anti-Discrimination Act.

In this case, the proposed amendments to the Planning Act will apply equally to all applicants for development subject to social impact assessment. There is no direct or indirect discrimination in relation to applicants for development subject to social impact assessment, opposed to other development applicants, based on a protected attribute under the Anti-Discrimination Act (or any additional characteristic).

Therefore, the right is not limited.

Climate change

Climate change, and the contribution made to it by development, limits various rights, including the rights to life, privacy, children and families, and cultural rights of Aboriginal and Torres Strait Islander peoples in sections 16, 25, 26, and 28 of the Human Rights Act.

(a) the nature of the rights

The right to life (section 16 of the Human Rights Act) confers positive obligations to ensure the right is protected as well as an obligation to refrain from conduct that causes arbitrary deprivation of life.

Section 25(a) of the Human Rights Act provides that every person in Queensland has the right not to have the person's privacy, family, home, or correspondence unlawfully or arbitrarily interfered with. The scope of the right to privacy is very broad. It extends to a person's private life generally, so protects the individual against interference with, relevantly, their family and home.

Section 26 of the Human Rights Act protects families and children. Families take many forms, and the right accommodates the various social and cultural groups whose understanding of family may differ. Section 26(2) recognises that children have the same rights as adults, but with additional protections because they are children.

Section 28 of the Human Rights Act recognises the distinct cultural rights of Aboriginal and Torres Strait Islander peoples and explicitly protects the right to live life as an Aboriginal or Torres Strait Islander person who is free to practise their culture.

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

Clause 10, 11, 12 and 14 of the Bill are relevant to the rights.

Development has the potential to contribute to climate change through the generation of emissions. Climate change can have immediate impact on the right of life (through extreme weather events such as floods and cyclones) or a more gradual impact, through a deterioration in people's general health, food or water shortages or an increased exposure to disease (air and water born) caused by changes in temperature.

Climate change has intergenerational impacts, affecting future, as well as current, generations of families and children and their homes (sections 25 and 26 of the Human Rights Act).

Climate change may impact on the cultural rights of Aboriginal and Torres Strait Islander peoples by affecting the integrity of the land and waters with which Aboriginal peoples and Torres Strait Islander peoples have traditional or customary connection (section 28(2)(a), (d) and (e) of the Human Rights Act).

The proposed amendments to the Planning Act may also be relevant to matters that contribute to climate change if they ultimately disincentivise the renewable energy sector from undertaking or investing in projects in Queensland that will reduce carbon emissions, as there may be additional timeframe and costs implications for a development application. These implications may arise as a social impact assessment requires the proponent to consult with the local community and then

reach agreement with the local government, or other parties, regarding a community benefit agreement.

A longer timeframe to deliver renewable energy projects may mean reliance on non-renewable energy sources (such as coal), occurs for a longer period, increasing emissions, and contributing to climate change.

The limitation on the various rights impacted by climate change furthers the purpose of making renewable energy projects impact assessable with approval processes that are more consistent with other land uses (such as mining). Ensuring that renewable energy projects are subject to a community benefit system, is compatible with a free and democratic society based on human dignity, equality, and freedom. This is because it allows the identification of social impacts, and the ability for community to derive tangible benefits from such development, ensuring that renewable energy projects are subject to consistent regulation across Queensland.

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

The proposed amendments to the Planning Act achieve the purpose of making renewable energy projects impact assessable with approval processes consistent with other land uses (such as mining), as well as requiring them to achieve the requirements of a community benefit system prior to lodgement of the development application. The *Strong and Sustainable Resource Communities Act 2017* imposes a similar obligation to identify social impacts and enable contributions for community benefit by the mining industry.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The legislative amendments to the Planning Act proposed by the Bill are the most effective way of achieving the purpose of renewable energy projects being subject to a consistent community benefit system. Legislative amendment is the only way to establish a mandatory minimum requirement to comply with an identified community benefit system for prescribed development.

I am therefore satisfied there are no less restrictive ways reasonably available to achieve the purposes.

(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

In my opinion, the proposed amendments strike a fair balance between the benefits gained by the public in making renewable energy projects impact assessable with approval processes consistent with other land uses (such as mining), and the limitation of various rights by climate change (rights to life, privacy, protection of children and families, and cultural rights of Aboriginal and Torres Strait Islander peoples).

The proposed amendments do not create a new form of development; rather, they impose requirements for identifying and addressing the social impacts of renewable energy projects that other forms of development are already subject to (such as mining). The emissions generated from

renewable energy projects are likely to make a less material contribution to climate change than emissions from non-renewable energy sources.

Similar social impact and community benefit frameworks are in place in other jurisdictions. Further, the renewable energy sector is voluntarily transitioning in this direction with the objective of building social licence with host communities prior to seeking relevant regulatory approvals for renewable energy projects. The disincentivising effects of the social impact and community benefit framework will be lessened by supporting the renewable energy sector through the transitional period. Therefore, the likelihood of a marked decrease in renewable energy projects undertaken in Queensland as a result of the proposed amendments is unlikely.

(f) any other relevant factors

None applicable.

Property rights and right to privacy

(a) the nature of the rights

Section 24(2) of the Human Rights Act provides that a person must not be arbitrarily deprived of the person's property. Limitations on section 24(2) property rights must not be 'arbitrary'; they must be proportionate and not capricious, unpredictable, unjust, or unreasonable.

Property includes real and personal property (for example, interests in land, chattels, and money), including contractual rights, leases, shares, patents, and debts. Property can also include statutory rights and non-traditional or informal rights and other economic interests. The term 'deprived' is not defined by the Human Rights Act. However, deprivation in this sense is considered to include the substantial reduction of a person's use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use their property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it, or deriving profits from it).

Section 25(a) of the Human Rights Act provides that every person in Queensland has the right not to have the person's privacy, family, home, or correspondence unlawfully or arbitrarily interfered with. The scope of the right to privacy is very broad. It extends to a person's private life generally, so protects the individual against interference with, relevantly, their family and home.

'Arbitrary' should be given the same meaning as it is in section 24(2) of the Human Rights Act.

The task of identifying a person's home is to be approached in a reasonable and practical way, requiring a person to demonstrating sufficient and continuous links with a place. The term 'family' recognises that families take many forms and accommodates the various social and cultural groups in Queensland whose understanding of family may differ.

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

Clause 10, 11, 12, 14 and 21 (inserting new section 106U) of the Bill are relevant to the rights to property and privacy.

Right to property – development proponents

To the extent that an individual (as opposed to a corporate entity) proponent for renewable energy development must carry out a social impact assessment and enter into a community benefit agreement before an application can be lodged, the proposed amendments may amount to a diminution of property rights.

However, it would not constitute an ‘arbitrary’ deprivation of their property.

As ‘arbitrariness’ involves a question of proportionality, it is necessary to consider the steps in section 13(2) of the Human Rights Act.

The nature of the right involves the use of property for development. The amendments to the Planning Act place pre-requisites on how proposals for renewable energy development must be progressed so that they align with the approval processes for other land uses (such as mining). This is consistent with a free and democratic society based on human dignity, equality, and freedom. The amendments to the Planning Act achieve the purpose of consistent regulation and there are no less restrictive or reasonably available ways to achieve the purpose. The importance of achieving a more consistent approach to social impact and community benefit across developments proposing energy generation outweighs the rights of a proponent for renewable energy development not to be subject to a community benefit system.

Further, the failure to have a community benefit agreement (or having a community benefit agreement that does not adequately manage, mitigate or counter-balance social impacts) for an application subject to social impact assessment, does not provide grounds for refusing the application.

The proposed amendments also allow for the imposition of development conditions on development requiring social impact assessment. However, *Swancom Pty Ltd v Yarra CC* [2009] VCAT 923 established that the imposition of reasonable restrictions on the use or development of land in accordance with relevant planning frameworks is not ‘arbitrary’ under the Victorian equivalent of section 24 of the Human Rights Act.

Clause 21 inserts section 106U of the Planning Act, permitting a regulation to provide for the effect of a regulation declaring development to be development for which a social impact assessment is required, on any pre-existing development applications or change applications as at the date of the regulation. The effect is that the regulation may identify certain development applications that may be in progress are to be subject to the community benefits system, including requirements for a social impact assessment report and community benefits agreement.

Any limitation on the property rights of proponents is the same as for proponents of proposed development requiring social impact assessment, although perhaps with a greater time and cost impost. However, the purpose of achieving community benefits is considered to outweigh any limitations on the right to property of the proponent, considering the long-term nature of the development and the potential social impacts. Furthermore, the making of the regulation will be subject to a human rights assessment for consideration of specific human rights associated with the terms of the regulation.

Right to property – other individuals

The rights of other individual landowners or occupants to enjoy their property and home may be impacted by development that is the subject of social impact assessment. However, it would not constitute an ‘arbitrary’ deprivation of their property or interference with their home.

As ‘arbitrariness’ involves a question of proportionality, it is necessary to consider the steps in section 13(2) of the Human Rights Act.

The nature of the rights involves the use and enjoyment of property and home by individuals free from interference. The amendments to the Planning Act contemplate the approval of renewable energy development, subject to social impact and community benefit requirements. Development of any kind has the potential to interfere with the proprietary rights of individuals in the locality of the development.

The purpose of the amendments to the Planning Act is to ensure that renewable energy development aligns with the approval processes for other land uses (such as mining). This is consistent with a free and democratic society based on human dignity, equality, and freedom. The amendments to the Planning Act achieve the purpose of consistent regulation, and there are no less restrictive or reasonably available ways to achieve the purpose.

The amendments to the Planning Act require proponents for renewable energy development to conduct a social impact assessment. This includes a consideration of the impacts of the development on residents, including impacts on the use and enjoyment of their property and home. The impacts of renewable energy projects will be managed and mitigated by the community benefit agreement and the imposition of permitted conditions on any development approval. This is consistent with, and in addition to, the general consideration of amenity impacts during the development assessment processes, being the ability of an individual to properly make a submission during the public notification phase of an impact assessable development under the Planning Act. Therefore, there is a fair balance struck between achieving the purpose of consistent regulation of renewable energy projects and protecting an individual’s right to property and home.

Right to a fair hearing

(a) the nature of the right

The right to a fair hearing in section 31 of the Human Rights Act entitles a 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. This includes a right of access to a court or tribunal.

The right to a fair hearing is relevant to restrictions imposed on a person’s ability to commence proceedings as well as restrictions on a person’s ability to continue or properly conduct proceedings already commenced.

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

The following parts of the Bill are relevant to the rights:

- Insertion of new Section 106ZJ limits the appeal rights of a person other than the applicant with respect to a condition of a development approval imposed (or failed to be imposed) under section 65AA(2) or (3), or directed to be imposed under section 106ZF.
- *Clause 30* inserts a new section 12A in the *Planning and Environment Court Act 2016* to provide an eligible entity the right to start a proceeding in the P&E Court for a declaration about a matter stated in, to be stated in or that should have been stated in a social impact assessment report or a community benefit agreement, or about the imposition of, or a failure to impose a condition on a development approval under the Planning Act.

Under the Bill, only the applicant will have the right to appeal a condition, or failure to impose a condition, for particular matters relating to development requiring social impact assessment. Further, only the applicant and the assessment manager (or responsible entity for the application) may seek a declaration about a matter stated (or that should have been stated) in a social impact assessment report or community development agreement. This limits the right to a fair hearing of all other individuals.

The limitation on the rights to a fair hearing achieves the purpose of limiting the extent to which matters the subject of a social impact assessment and community benefit agreement are subject to development assessment and appeal processes. This is compatible with a free and democratic society based on human dignity, equality, and freedom because:

- it is desirable that only the parties to an agreement (in this case, a community benefit agreement, being an agreement between parties) should be afforded declaratory relief in relation to its content and operation;
- a social impact assessment will involve public consultation and community engagement, which will allow the views of the community to be considered through the social impact assessment report and then appropriately responded to through the community benefit agreement between the applicant and the local government.

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

The proposed amendments to the Planning Act and the *Planning and Environment Court Act 2016* achieve the purpose of reserving appeal and declaratory rights to the applicant and the applicant/assessment manager.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

I am satisfied there are no less restrictive ways reasonably available to achieve the purpose other than through the proposed amendments to the Planning Act and the *Planning and Environment Court Act 2016*.

(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

In my opinion, the proposed amendments strike a fair balance between the benefits gained by reserving appeal and declaratory rights to the applicant and applicant/assessment manager with respect to the new community benefit system under the Planning Act and the limitation of the right to a fair hearing. The community benefit system is concerned with the social impacts of renewable energy development, including those arising indirectly and cumulatively. Direct impacts (such as amenity) are considered under the current approval process which provides submitter appeal rights. Development that requires social impact assessment requires individuals in the local community be consulted and be given an opportunity to express their views. This is an appropriate avenue for community members to have their say, rather than through a court process, and is consistent with social impact and community benefit approaches under other legislation in Queensland.

(f) any other relevant factors

None applicable.

Freedom of expression and taking part in public life

(a) the nature of the rights

Section 21 of the Human Rights Act recognises the right of individuals to hold an opinion without interference and to seek, receive and impart information and ideas of all kinds.

Section 23(1) of the Human Rights Act recognises 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.

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

The Bill engages and promotes (rather than limits) the right to freedom of expression and participation in public life. This is because the proposed amendments to the Planning Act will require renewable energy projects to undergo social impact assessment prior to a development application being made. The social impact assessment process will require consultation with community members in the locality of the development, allowing individuals to express their views about proposed renewable energy projects and how social impacts should be managed, mitigated or counter-balanced through a future community benefit agreement.

Cultural rights

(a) the nature of the rights

Section 27 of the Human Rights Act recognises that all persons with a particular cultural, religious, racial, or linguistic background must not be denied the right, in community with other persons of that background, to enjoy their culture, declare and practise their religion and use their language.

Section 28 of the Human Rights Act recognises the distinct cultural rights of Aboriginal and Torres Strait Islander peoples and explicitly protects the right to live life as an Aboriginal or Torres Strait Islander person who is free to practise their culture.

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

Clause 10, 11, 12 and 14 of the Bill are relevant to cultural rights – generally and the cultural rights of Aboriginal peoples and Torres Strait Islander peoples.

It is possible that the amendments to the Planning Act to regulate renewable energy development may engage and limit cultural rights – generally. The development may impact on the local community in ways that affects the ability of individuals to enjoy either culture, practice their religion, or use their language (for example, by affecting the physical or mental health of individuals).

The amendments to the Planning Act potentially engage the cultural rights of Aboriginal peoples and Torres Strait Islander peoples in two ways.

First, as discussed above, climate change may impact on the cultural rights of Aboriginal peoples and Torres Strait Islander.

Second, the amendments to the Planning Act may impact on the cultural rights of Aboriginal peoples and Torres Strait Islander peoples if the renewable energy development interferes with the ability of Aboriginal peoples to maintain their traditional connection to the land (for example, hunting or fishing and access to sacred sites).

The purpose of the amendments to the Planning Act is to ensure that renewable energy development aligns with the approval processes for other land uses (such as mining). This is consistent with a free and democratic society based on human dignity, equality, and freedom.

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

and

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The amendments to the Planning Act achieve the purpose of a more consistent regulation across renewable and non-renewable energy developments and there are no less restrictive or reasonably available ways to achieve the purpose.

- (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

The amendments to the Planning Act require proponents for renewable energy development to conduct social impact assessment. This includes a consideration of the impacts of the development on culture, including the rights of individuals to practice their culture. The potential impacts of renewable energy projects can be managed, mitigated or counterbalanced

by the community benefit agreement and the imposition of reasonable and relevant conditions on any development approval.

Further, in relation to the cultural rights of Aboriginal people and Torres Strait Islander peoples, the protections afforded under the *Aboriginal Cultural Heritage Act 2003* continue to apply. Therefore, there is a fair balance struck between achieving the purpose of consistent regulation and protecting cultural rights.

(g) any other relevant factors

None applicable.

Amendments to the Economic Development Act 2012

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

The amendments to the ED Act relating to the removal of an appointed officer or board member would engage and may limit the following rights under the Human Rights Act:

- taking part in public life (section 23); and
- privacy and reputation (section 25).

Right to take part in public life

The right to take part in public life 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 and through freely chosen representatives. Participation in the conduct of public affairs is a broad concept and covers all aspects of public administration. Citizens participate directly in the conduct of public affairs when they exercise powers as members of statutory boards or by holding executive office.

The right protected by section 23 of the Human Rights Act has been interpreted by the United National Human Rights Committee as providing a right of access, on general terms of equality, to positions in public office.

The amendments to the ED Act effectively remove the previously specified grounds on which the CEO and Acting CEO of MEDQ or appointed board members of Economic Development Queensland can be removed.

However, the amendments do not discriminate, as the CEO, Acting CEO and any member of the board of Economic Development Queensland are subject to the same conditions relating to their removal.

Therefore, whether the right to participate in public life is engaged by the amendments to the ED Act, it is not limited.

Right to privacy and reputation

Section 25 of the Human Rights Act provides that a person has the right:

1. not to have the person's privacy, family, home and correspondence unlawfully or arbitrarily interfered with; and
2. not to have their reputation unlawfully attacked.

The right in section 25(a) has been interpreted as including the right to work, which can support a person's ability to provide for their family and home. The amendments to ED Act will authorise the Governor in Council to remove the CEO, Acting CEO or a member of the Economic Development Board.

A decision to remove the CEO or Acting CEO of MEDQ or a board member is clearly a decision that would require a human rights assessment, which would be undertaken at the time of any such decision.

A person's right not to have a person's reputation unlawfully attacked in section 25(b) of the Human Rights Act could be engaged by the removal of a person from an executive office or a statutory board.

However, the amendments to the ED Act authorise the Governor in Council to remove the CEO or Acting CEO of MEDQ, or an appointed member of the board of Economic Development Queensland without specifying the grounds of removal. Accordingly, the amendments do not limit this right.

Amendments contained in Chapter 4 of the Bill – Brisbane Olympic and Paralympic Games Arrangements Act 2021

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

Human Rights principles informed the development of the Bill. Human rights under the *Human Rights Act 2019* (Human Rights Act) engaged by the Bill include:

- the right to recognition and equality before the law (s 15(3)-(4));
- the right to take part in public life (s 23(1));
- the right of equal access to public office (s 23(2)(b));
- the right to property (s 24); and
- the right to privacy and reputation (s 25).

The right to recognition and equality before the law

The rights to equal protection of the law without discrimination and to equal and effective protection against discrimination (ss 15(3) and (4)) embody the notion that all laws and policies should be applied equally and must not result in discriminatory treatment or effects. The definition of discrimination under the Human Rights Act includes discrimination as defined under the *Anti-Discrimination Act 1991* (AD Act). Sex and race are protected attributes under the AD Act.

Section 15(5) recognises that sometimes people must be treated differently in order to progress towards equality. Section 15(5) provides that measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination.

The Bill will amend the Act so that the Minister must have regard to gender equity, while removing the provision that at least one of the nominated board directors be an Aboriginal or Torres Strait Islander person. Those requirements are likely special measures for the purposes of s 15(5). Existing provisions requiring nominating entities to consider both the diversity of the board's directors and the Queensland Government's policy about gender equity on boards will remain.

The removal of a special measure does not, of itself, amount to discrimination.

The right to recognition and equality before the law is therefore engaged by the amendments, but not limited.

The right to take part in public life

Section 23(1)(a) 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.

Reducing the number of board directors of the corporation will limit the ability of those members removed from the board to directly participate in the conduct of public affairs with respect to the functions of the board. The removal of the Lord Mayor and the Mayor of the Gold Coast City Council from the board will limit their ability to personally participate in the conduct of public affairs. However, the Bill still provides that the Lord Mayor and mayors of Gold Coast City Council and Sunshine Coast Regional Council can nominate a representative of their local governments.

Removing the consultation requirements for the appointment of directors to the board, and the appointment of the president, will also limit the ability of those persons who were entitled to be consulted, to participate in the conduct of public affairs.

The right is therefore engaged and may be limited.

The right of equal access to public office

Section 23(2)(b) protects a right to have access, on general terms of equality, to the public service and public office. Allowing elected officials, public service employees, local government employees and APS employees to be appointed as a nominated director will promote the right of equal access to office. However, removing a director from the public office they currently hold will engage, and may limit this right.

The right to property

Section 24(2) provides that a person must not be arbitrarily deprived of their property. Property is a broad concept and would include remuneration and other payments that board directors have a legitimate expectation of receiving. Board directors will not be entitled to any compensation with respect to their termination from office.

Whether that property is deprived arbitrarily will depend on whether the entitlements are removed in a way that is capricious, unjust or unreasonable in the sense of being disproportionate to a legitimate aim sought. If an interference is proportionate under s 13 of the Human Rights Act, it will not be arbitrary. Accordingly, whether any deprivation of property is arbitrary will be addressed below when considering the factors in s 13.

The right to privacy and reputation

Section 25(a) protects unlawful or arbitrary interference with a person's privacy. In the context of human rights, a person's private life extends to a sphere of autonomy which can include aspects of a person's work. However, this right will only be limited if the interference is unlawful or arbitrary, in the sense of being disproportionate to a legitimate aim sought. Again, that question will be considered below in the context of s 13 of the Human Rights Act.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 of the *Human Rights Act 2019*)

The amendments engage but do not limit the right to recognition and equality before the law (s 15). The amendments may limit the right to take part in public life (s 23(1)(a)) and the right of equal access to public office (s 23(2)(b)). Subject to whether the interference is arbitrary, the amendments may also limit the right to property (s 24) and privacy (s 25).

Any limits on these human rights are considered reasonable and justified under s 13 of the Human Rights Act as follows.

(a) The nature of the right (section 13(a))

For each of the relevant rights, the nature and underlying values are as follows:

- The right to take part in public life, including equal access to public office, in s 23 facilitates and protects both individual and collective participation in democratic processes.
- The right to property in s 24 of the Human Rights Act protects the dignity of having the essentials of life and is necessary for the fulfilment of other rights.
- The right to privacy in s 25 of the Human Rights Act is about having control over one's own life, including one's professional life, and being left alone.

(b) The nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom (s13(b))

The purpose of reducing the number of directors and making other changes to the composition of the board of the corporation is to ensure that the board is capable of efficient and effective decision-making.

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

The amendments will achieve the purpose by reducing the number of board directors (and decision makers) in the corporation and simplifying the appointment process for directors and the president.

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

There are no less restrictive and reasonably available ways to achieve the purpose of the Bill.

The 100 Day Review Report found that current cross partner governance arrangements do not sufficiently support efficient and effective decision-making, and that decision-making is, and will continue to be, slowed down by the size of governance groups. The Report recommended reducing membership of the board of the corporation, as the current 24 director membership is considered too large for efficient decision making.

The host contract mandates a minimum of nine members. The Bill will reduce the total number of board directors to 15. The additional members have been selected to ensure that the board remains capable of efficient decision making, while also representing key stakeholders in the delivery of the Games.

Any impacts on human rights are narrowed by the following measures:

- requiring the diversity of the board to be considered as part of the nomination process for directors (new s 18(4)(d));
 - maintaining the existing requirement to consider the Queensland Government's policy about gender equity on boards as part of the nomination process for directors;
 - the inclusion on the board of representatives nominated by the Prime Minister, Lord Mayor, and the mayors of Gold City Council and Sunshine Coast Regional Council;
- (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

On the one hand, changing the composition of the board, and removing up to 16 current directors from office, may have substantial impacts on affected directors' livelihoods.

On the other hand, ensuring the board is capable of efficient and effective decision-making to facilitate the organisation of the Games is of great importance to the community. On balance, any limits on the rights of board directors are outweighed by the need to ensure the board is capable of efficiently organising the Games.

Because any interference with property and privacy would be proportionate, it would not be arbitrary. That means that the rights to property and privacy in ss 24 and 25 of the Human Rights Act would be engaged but not limited. Any limits on the rights in s 23 are justified.

Accordingly, the changes to the composition of the board of the corporation are compatible with human rights.

(f) Any other relevant factors

Nil.

The Bill introduces amendments to facilitate the timely delivery of Games venues and villages and Games-related transport infrastructure. This will achieve two purposes. First, ensuring that Queensland is ready to host the games. Second, to facilitate legacy uses of venues and villages after the Games. While the Bill will place some limitations on human rights, I am of the view it will also have the effect of enhancing a number of rights. The provision of high-quality sporting facilities leading up to and following the Games will contribute to building stronger, healthier, and more connected communities, promoting the rights to equality, life, and freedom or assembly and association (sections 15, 16 and 22 of the Human Rights Act).

Delivery of venues, villages and Games-related transport infrastructure

Clause 66 of the Bill inserts new Chapter 3A into the Act (new sections 53DA to 53EG). The new Chapter 3A comprises:

Part 1 – Preliminary (new sections 53DA and 53DB)

Part 2 – Lawfulness of development and use etc. (new sections 53DC to 53DF)

Part 3 – Provision for cultural heritage management plans (new sections 53DG to 53DX)

Part 4 – Use of necessary games infrastructure (new sections 53EA to 53EB)

Part 5 – Village infrastructure charges (new sections 53EC to 53EE)

Part 6 – Other provisions (sections 53EF to 53EG)

Under section 53DD(1) development, use or activity is taken to be lawful despite the Acts listed in the section. That list includes the *Planning Act 2016*. ‘Development’ is development for the construction an authority venue, other venue, or village for Games-related use and development for the construction of Games-related transport infrastructure; ‘use’ is a Games-related use or legacy use of an authority venue, other venue, or village; ‘activity’ is an activity done for the purpose of development or use (section 53DC).

Section 53DD(2)(a) exempts development, use or activity from a requirement under the listed Acts that would otherwise need to be complied with (for example, obtaining an approval). There are specific provisions about the requirements for building work as specified in sections 53DE and 53DF and address Aboriginal and Torres Strait Islander cultural heritage in sections 53DG to 53DX.

A provision of an Act listed in section 53DD(1) that would otherwise prohibit, restrict, or limit the carrying out the development, use or activity does not apply (section 53DD(2)(b)).

Chapter 3A, part 3 (sections 53DG to 53DX) modifies the application of the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* by establishing a specific regime for the management and protection of Aboriginal and Torres Strait Islander cultural heritage in the context of development, use or activities for venues, villages and Games-related transport infrastructure.

The entity undertaking the development of a venue, village or Games-related transport infrastructure must give a notice to the chief executive and a negotiation proposal to the Aboriginal parties and Torres Strait Islander parties for a relevant area, with a view to negotiating an agreement with the Aboriginal parties or Torres Strait Islander parties to manage and protect Aboriginal cultural heritage or Torres Strait Islander cultural heritage in the area. The process incorporates significant elements of the cultural heritage management plan process under part 7 of the *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003*.

However, unlike Part 7, if the parties are unable to reach agreement within the stated timeframe, the matter is not referred to the Land Court for recommendation. Instead, a management plan incorporating standard terms will automatically apply to the area. The standard terms, however, require proponents to consult Aboriginal parties and Torres Strait Islander parties for the area before making final decisions about infrastructure design and about the procedures for managing Aboriginal cultural heritage and Torres Strait Islander cultural heritage that may be located in the area when construction activities are carried out.

Section 53ED provides that a regulation may be made setting out how village infrastructure charges may be imposed on the owners of land on which villages are located. The Minister may impose a village infrastructure charge on the owner of land on which villages are located in accordance with the regulation (section 53EE).

Section 53EG provides that relevant decisions are not able to be challenged, appealed against, reviewed, set aside, or called into question other than for jurisdictional error under the *Judicial Review Act 1991*. ‘Relevant decision’ is a decision that is related to the delivery of an authority venue, other venue, or village, the construction of Games-related transport infrastructure or the making of a cultural heritage management plan under chapter 3A and is made under the Act or a non-statutory scheme or program relating to the payment of money for delivery of a venue or village.

Schedules 1 to 3 list the authority venues, other venues, and villages. Games-related transport infrastructure is transport infrastructure required to ensure the State is ready to host the Games and will be listed in Schedule 4.

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

Removing the requirements for compliance with Acts that would normally apply to the development and use of venues, villages and Games-related transport infrastructure, including restricting review rights, would engage and may limit the following rights under the Human Rights Act:

- recognition and equality before the law (section 15)
- right to life (section 16)
- freedom of movement (section 19)
- freedom of expression (section 21)
- peaceful assembly and freedom of association (section 22)
- taking part in public life (section 23)
- property rights (section 24)
- privacy and reputation (section 25)
- protection of families and children (section 26)
- cultural rights – generally (section 27)
- cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28)
- fair hearing (section 31)
- right to education (section 36)
- right to health services (section 37)

I acknowledge that the proposal to remove the requirements for compliance with Acts that would normally apply to the development of this kind has the potential to have impacts on the human rights of a number of people over a period of time. I also acknowledge that the extent of the impacts on human rights is difficult to precisely identify given the differing localities in which development will take place, the make-up of local communities and the widely varying circumstances of individuals.

The delivery of venues, villages and Games-related transport infrastructure in the manner proposed in the Bill engage human rights in the following ways:

Right to recognition and equality before the law (section 15)

Under this right everyone has the right to equal enjoyment of human rights and equal and effective protection against discrimination. The construction of venues and villages may result in temporary access issues for people with a disability. The development of a venue or village on a particular site may also have impact on First Nations people who have a connection to the site.

Freedom of movement and freedom of association (sections 19 and 21)

The right to freedom of movement protects the right to move freely within Queensland, as well as to enter and leave the State and choose where to live. Freedom of association protects the ability to associate with whomever one wishes. The development of venues, villages and Games-related transport infrastructure may result in a loss of open space (during construction or permanently) for use by the public to move about and assemble. The construction and use of the venues, villages and Games-related transport infrastructure may also impede the free flow of traffic and availability of public transport.

Freedom of expression and the right to take part in public life (sections 21 and 23(1))

The right to freedom of expression protects a person's right to hold an opinion and to express themselves by seeking, receiving, and imparting information and ideas. The right to take part in public life 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. The proposed process for development bypasses public consultation requirements prescribed by specified Acts (for example, public consultation under the *Planning Act 2016*) depriving people of the opportunity to have a say in relation to the venues, villages and Games-related transport infrastructure. Likewise, the limitation of review rights precludes people from expressing their opinion by challenging decisions made in relation to the development and use of venues and villages and the construction of Games-related transport infrastructure.

The right to property and to non-interference with privacy, family, and home (sections 24(2) and 25(a))

The right to property includes the protection from the arbitrary deprivation of property. The term 'deprived' is not defined by the *Human Rights Act*. However, deprivation in this sense is considered to include the substantial restriction on a person's use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use their property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it, or deriving profits from it).

Section 25(a) protects against unlawful or arbitrary interferences with a person's privacy, family, home or correspondence. Privacy captures personal information but extends to a person's private life more generally, including their mental and bodily integrity. The development and use of venues and villages impacts on the right to property and privacy because:

- construction or use of a venue, village or games-related transport infrastructure may have impacts of the amenity of residences nearby that may result in physical or mental effects on residents;
- people's property may be compulsorily acquired (although any compulsory acquisition of property would occur under other legislation and the human rights implications of any decision to compulsorily acquire land will be addressed at the time of that decision);
- people will lose certain appeal rights in relation to the impact development for a venue, village or Games-related transport infrastructure has on their property;

- requirement on landowners on which villages are constructed to pay infrastructure charges, as prescribed by regulation; or
- the ability of people to access their property may be impacted during the construction phase.

The right to privacy will only be limited if the interference with privacy is unlawful or arbitrary. The interference with privacy will be authorised by the Act and will therefore be lawful. Arbitrary means capricious, unpredictable, unjust, or unreasonable in the sense of not being proportionate to the legitimate aim sought. If an interference is proportionate under section 13 of the Human Rights Act, it will not be arbitrary. Accordingly, whether the interference with privacy is arbitrary will be addressed below when considering the factors in section 13.

The right to property will only be limited if the deprivation is arbitrary. Arbitrary means capricious, unpredictable, unjust, or unreasonable in the sense of not being proportionate to the legitimate aim sought. If an interference is proportionate under section 13 of the *Human Rights Act*, it will not be arbitrary. Accordingly, whether the interference with privacy is arbitrary will be addressed below when considering the factors in section 13.

Cultural rights, especially the rights of Aboriginal peoples and Torres Strait Islander peoples (sections 27 and 28)

Cultural rights are directed towards ensuring the survival and continued development of the cultural, religious, and social identity of minorities. All persons have the right to enjoy their culture, to practise or declare their religion and to use their language, either alone or with others who share their background.

The construction of the venues, villages and Games-related transport infrastructure may interfere with the ability of persons to practice their cultural rights, for example, by limiting access to places of worship or the ability of persons to congregate together to practice their culture.

Section 28 of the Human Rights Act recognises that Aboriginal peoples and Torres Strait Islander peoples have a rich and diverse culture. There are many hundreds of distinct Aboriginal groups and Torres Strait Islander groups in Australia, each with geographical boundaries and an intimate association with those areas. Many of these groups have their own languages, customs, laws, and cultural practices. Section 28 explicitly protects the right to live life as an Aboriginal person or Torres Strait Islander person who is free to practise their culture and gives rights to individuals as part of a cultural group.

The development of the venues, villages and Games-related transport infrastructure may impact on the cultural heritage of Aboriginal peoples and Torres Strait Islander peoples. They have a right to enjoy, maintain and control their cultural heritage, and to maintain and strengthen their distinctive relationship with the land with which they have a connection under their tradition. The development of the venues, villages and Games-related transport infrastructure may interfere with the ability of Aboriginal peoples and Torres Strait Islander peoples to maintain their traditional connection to the land by limiting their access and their ability to conserve and protect the environment and productive capacity of their traditional lands and waters.

Right to a fair hearing (section 31)

The right to a fair hearing in section 31 of the Human Rights Act entitles a 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. This includes a right of access to a court or tribunal. The right to a fair hearing is relevant to restrictions imposed on a person's ability to commence proceedings as well as restrictions on a person's ability to continue or properly conduct proceedings already commenced. The Bill restricts review rights for decisions taken under the Act in relation to the delivery of the venues and villages, the construction of Games-related transport infrastructure and cultural heritage management plans under chapter 3A other than for jurisdictional error.

Climate change

Climate change, and the contribution made to it by the development and use of the venues and villages and the construction of Games-related transport infrastructure limits various rights, including the rights to life, privacy, children and families, and cultural rights of Aboriginal peoples and Torres Strait Islander peoples in sections 16, 25, 26, and 28 of the Human Rights Act.

Development has the potential to contribute to climate change through the generation of emissions. Climate change can have immediate impact on the right of life (through extreme weather events such as floods and cyclones) or a more gradual impact, through a deterioration in people's general health, food or water shortages or an increased exposure to disease (air and water born) caused by changes in temperature.

Climate change has intergenerational impacts, affecting future, as well as current, generations of families and children and their homes (sections 25 and 26).

Climate change may impact on the cultural rights of Aboriginal and Torres Strait Islander peoples by affecting the integrity of the land and waters with which Aboriginal peoples and Torres Strait Islander peoples have traditional or customary connection (section 28(2)(a), (d) and (e)).

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 of the Human Rights Act)

Any limits on these human rights are considered reasonable and justified under section 13 of the Human Rights Act as follows.

(a) nature of the right (section 13(a))

For each of the relevant rights, the nature and underlying values are as follows:

- Recognition and equality before the law in section 15 of the Human Rights Act recognises that everyone has the right to enjoy their human rights equally and is entitled to the equal protection of the law without discrimination. It is about human dignity.
- Right to life in section 16 of the Human Rights Act protects the right to life and not to be deprived of life (including the right to be protected against threats to life).
- Freedom of movement in section 19 of the Human Rights Act protects against restrictions on movement falling short of physical detention. It is about freedom.

- Freedom of expression in section 21 of the Human Rights Act protects the right to hold an opinion and express oneself freely as a person. It is about freedom.
- Freedom of association in section 22 of the Human Rights Act protects the ability of a person to maintain personal connections with others and associate with other people whenever and for whatever reason they wish.
- Taking part in public life is concerned with providing the opportunity for people to participate in public affairs. It is about political participation.
- The right to property in section 24 of the Human Rights Act protects the right to own property and not be deprived of property.
- The right to privacy in section 25 of the Human Rights Act protects personal information but also extends to an individual's private life more generally, including protection from interference with a person's physical and mental integrity. Privacy is about having control over one's own life and being let alone.
- The protection of children and families in section 26 of the Human Rights Act is concerned with the protection of children and families by the State.
- Cultural rights in sections 27 and 28 of the Human Rights Act preserve the ability of people of a particular background to enjoy their culture in community with others, including their ability to maintain kinship ties.
- Right to a fair hearing in section 31(1) of the Human Rights Act protects the rights of parties in criminal or civil proceedings to a fair hearing by a competent court or tribunal. This includes the right to access the court or tribunal. It is about procedural fairness.
- Right to education in section 36(1) of the Human Rights Act protects the rights of children to access primary and secondary education appropriate to their needs.
- Right to health services in section 37(1) of the Human Rights Act protects the right of people to access health services without discrimination.

(b) The nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom (s 13(b))

The purpose of the amendments is to ensure delivery of Games venues, villages and Games-related transport infrastructure in a timely and efficient manner in accordance with the State's obligations under the relevant Games' agreements, and to maximise the legacy benefits of the Games. This is a proper purpose as there is a public interest in the State meeting its obligations under the relevant Games' agreements and ensuring a continuing return on investment for Queenslanders from the significant amounts of public monies spent on the Games venues and villages and Games-related transport infrastructure.

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

The amendments will help to achieve the purposes of delivering Games venues and villages and Games-related transport infrastructure in a timely and effective manner and maximising the legacy benefits of the Games. By removing the requirement to comply with Acts relevant to the development of the venues, villages and Games-related transport infrastructure

(including obtaining consents or approvals and undertaking consultation), the timeframes for delivery will be considerably shortened. The limitation of review rights will also ensure there are no delays to the delivery of the venues, villages and Games-related transport infrastructure through legal challenges.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

Despite the removal of the requirements for compliance with relevant Acts in relation to the development and use of venues and villages and the development of Games-related transport infrastructure and the removal of review rights for decisions taken under the Act in relation to the delivery of the venues and villages, the construction of Games-related transport infrastructure and cultural heritage management plans, a number of important protections have been retained.

Building work for venues must comply with the relevant provisions for building work under the *Building Act 1975* and building work for villages requires a development permit. This ensures compliance with relevant safety requirements and appropriate consideration of matters such as disability access.

In addition, specific arrangements have been made to ensure that Aboriginal parties and Torres Strait Islander parties for relevant areas will be involved in the management and protection of cultural heritage. Although the Bill modifies the application of the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*, the regime in chapter 3A, part 3 incorporates many of the features under those Acts. It is true that the regime provides for a default cultural heritage protection/management plan if the chief executive cannot reach agreement with Aboriginal parties and Torres Strait Islander parties within the timeframes needed to meet delivery schedules. However, the default protections still require proponents to engage and consult with Aboriginal parties and Torres Strait Islander parties for relevant areas, ensuring their continued ability to manage and protect their cultural heritage.

The Authority is established under the Act and will be responsible for the delivery of authority venues under the Act. Therefore, the Authority is a ‘public entity’¹ for the purpose of the Human Rights Act and will need to consider human rights when making acts or decisions in relation to the delivery of the authority venues.

Consideration was given to whether there are alternative ways to achieve the purpose of new chapter 3A that would further minimise the limitations on human rights. The following alternatives were considered:

- allowing the processes for approvals required under relevant Acts in relation to the delivery of venues and villages and the construction of Games-related transport infrastructure to apply; and
- allowing for process for approvals required under relevant Acts in relation to the venues, villages and Games-related transport infrastructure that expedited delivery yet retained public consultation requirements and review rights (but in a modified form).

However, these alternatives are not reasonably available. Given the extensive nature of the development associated with the delivery of venues and villages and the construction of

¹ Section 9(f) of the *Human Rights Act*.

Games-related transport infrastructure, and the number of Acts that apply to development, the timeframes do not permit for even a modified approval process. Further, the time taken to draft amending legislation would be prohibitive.

As there is no less restrictive way to deliver the venues and villages and construct Games-related transport infrastructure in a timely way, the limits imposed on human rights are necessary to achieve that purpose.

(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

As I acknowledged above, the limits on human rights that will flow from the amendments are likely to be broad and are, to some extent, uncertain.

Property and privacy rights in particular may be subject to limitation, due to the removal of public consultation and review rights in relation to the development of a venue, or village or Games-related transport infrastructure. A person's use and enjoyment of their property may be curtailed by amenity issues such as light and noise, occurring first during the construction and then later from the use of the venues, villages and Games-related transport infrastructure. However, there is still a requirement to comply with the *Building Act 1975* in relation to the construction of the venues and to obtain development permits for building work for the construction of the villages. Amenity, environmental and traffic issues will also be addressed through appropriate management plans developed by the construction contractors.

Landowners on whose land villages are constructed may be required to pay village infrastructure contributions, without the ability to challenge the imposition of the levy. However, landowners subject to infrastructure contributions will be specified by regulation and therefore subject to human rights consideration. Further, the development of villages if the Bill is not enacted would also trigger a requirement for relevant government entities to levy infrastructure charges for that development.

In some instances, a person may be deprived of their property entirely through compulsory acquisition to facilitate the development of a venue or village. However, the rights and protections under the legislation by which land could be acquired, such as the *Acquisition of Land Act 1967* and the *State Development and Public Works Organisation Act 1971*, including the right to compensation, remain in place. Further, the human rights implications of any decision to compulsorily acquire land would be considered in the making of such a decision.

The requirement for development of venues and villages to comply with the *Building Act 1975* will ensure that venues meet appropriate design and safety standards and provide appropriate access for people with disabilities.

The removal of public consultation requirements prescribed by an Act in relation to the development of the venues, villages and Games-related transport infrastructure impacts significantly on the right to freedom of expression and participation in public life. The development of the venues, villages and Games-related transport infrastructure is of significant public interest, having long-term impacts on the communities in which they are constructed. People have an expectation of being able to formally comment in relation to significant public development under relevant statutory frameworks as part of a free and democratic society. The restriction of review rights precludes people from challenging decisions made in relation to the

development and use of venues and villages and the construction of Games-related transport infrastructure under the Act in a court or tribunal, limiting both freedom of expression and the right to fair hearing.

In relation to the impacts on human rights caused by climate changes, it is expected that the contribution of the emissions to climate change from the development of the venues, villages and Games-related transport infrastructure will be minimal and mitigation strategies can be put in place during the design, construction and operation of the venues, villages and Games-related transport infrastructure.

There will be impacts on freedom of movement and assembly during the construction of the venues, villages and Games-related transport infrastructure, but this is temporary and can be subject to mitigation measures.

On the other side of the scales, the amendments pursue the significant public purpose of the State meeting its obligations under the relevant games' agreements by ensuring the timely delivery of the Games venues and villages and the construction of Games-related transport infrastructure. The hosting of the Games provides Queensland and Australia with an opportunity to leverage significant economic and social benefits for future generations. The legacy benefits of the venues and villages include the ability to host large-scale sporting and entertainment events, increasing local and international tourism and boosting the economy. Communities will also have access to high class sporting facilities that cater for everyone, including those with disabilities, through the legacy use of Games venues.

On balance, I am satisfied that the importance of delivering the Games venues, villages and Games-related transport infrastructure in a timely manner and fulfilling the State's obligations under the relevant games agreements outweigh the impacts on people by removing the requirement to comply with Acts relevant to the development and use of venues or villages and the construction of Games-related transport infrastructure and the limitation of review rights for decisions taken under the Act in relation to the delivery of the venues and villages, the construction of Games-related transport infrastructure and cultural heritage management plans.

As any impacts on the rights to privacy and property are proportionate, and thus are not arbitrary, those rights are not limited. To the extent that a person's right to life, freedom of movement, freedom of expression, freedom of association, taking part in public life, cultural rights, fair hearing and right to education and health services may be limited by the amendments, the limitation is reasonable and justified.

(f) any other relevant factors

Not applicable.

Appointment of the board members and chief executive officer of the Authority

The Bill make amendments to the Act in relation to the eligibility criteria for board members of the Authority and the appointment process for the chief executive officer of the Authority.

Clause 58 amends section 53BF of the Act to remove the prohibitions, including on an elected office holder or a public service employee being nominated as a director to the board of the Authority.

Clause 59 replaces section 53BJ to provide that a director who is an elected office holder or public service employee is not entitled to remuneration or allowances. The Governor in Council decides the terms and conditions on which a director holds office where not provided for in the Act.

Clause 62 amends section 53CD to make the Minister responsible for appointing the chief executive officer of the Authority after consultation with the board. The board must conduct a recruitment process for the chief executive officer and provide a list of recommended nominees to the Minister from which the Minister must appoint. The chief executive officer is not a public sector employee under the *Public Sector Act 2022*. The Minister decided the terms and conditions on which the chief executive holds office (where not provided in the Act) and chief executive officers remuneration and allowances (*Clause 64* amending section 53CF(1) and (2)). *Clause 63* amends 53CE to remove stipulation that the chief executive officer's term must not be more than four years.

Clause 70 inserts a new Part 3 into Chapter 5 of the Act dealing with transitional provisions for the Act. New section 68 provides that a chief executive officer appointed under the old section 53CD is taken to be appointed under the new section 53CD.

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

The amendments to the Act regarding the appointment of board members and the chief executive officer of the Authority engage the right to take part in public life (section 23).

The right to take part in public life 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. Participation in the conduct of public affairs is a broad concept and covers all aspects of public administration. Citizens participate directly in the conduct of public affairs when they exercise power as members of legislative bodies or by holding executive office.

The right protected by section 23 of the Human Rights Act has been interpreted by the United Nations Human Rights Committee as providing a right of access, on general terms of equality, to positions in public office. The right in section 23 of the Human Rights Act is limited to 'eligible persons'. This internal limitation provides for the prescribing of matters such as eligibility for membership to a body.

The amendments expand the eligibility criteria of persons who can be board members of the Authority to include public service employees and elective office holders (for example, a Minister). Those persons must still be appropriately qualified (53BF(3) of the Act). It does not limit or remove eligibility from board membership that would result in a person currently appointed becoming ineligible.

The position is the same regarding the new appointment process for the chief executive officer of the Authority. Anyone may apply for the position under the new process. The transitional arrangements provide protection for the current incumbent of the position by allowing their tenure to continue as if they had been appointed under the new process.

Therefore, while the right to participate in public life is engaged by the amendments, it is not limited.

Conclusion

In my opinion, the Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 is compatible with human rights under the Human Rights Act because, to the extent that it limits any human right, it does so only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

JARROD BLEIJIE
Deputy Premier
Minister for State Development, Infrastructure and Planning
Minister for Industrial Relations

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