

Sunshine Coast Waterways Authority Bill 2026

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* (HR Act), I, Brent Mickelberg MP, Minister for Transport and Main Roads, make this statement of compatibility with respect to the Sunshine Coast Waterways Authority Bill 2026.

In my opinion, the Sunshine Coast Waterways Authority Bill 2026 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 Bill

The Sunshine Coast Waterways Authority Bill 2026 (SCWA Bill) establishes the Sunshine Coast Waterways Authority (SCWA) and provides for its governance, functions and powers.

The SCWA is intended to better listen to the needs of the Sunshine Coast community and ensure there is cooperation and coordination, not duplication, between the State and local governments around waterways management.

The SCWA will be a statutory body controlled by a board appointed by the Governor in Council. The SCWA will require certain approvals from, and may be directed by, the Minister for Transport and Main Roads.

The board will comprise 7 appointed members, one of whom will be the Chair.

Human Rights Issues

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

The human rights relevant to the provisions of the Bill are as follows:

- Taking part in public life (section 23 of the HR Act).
- Privacy and reputation (section 25 of the HR 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 *Human Rights Act 2019*)

Taking part in public life

(a) the nature of the right

The right to take part in public life affirms the right of all persons to contribute to, and exercise their voice in relation to, the public life of the State. It ensures that all persons have the opportunity to contribute to the political process and public governance. A key aspect of the right to take part in public life is the right to vote and to be elected to public office. This right is restricted to ‘eligible persons’ in recognition that there are commonly accepted exceptions to universal suffrage such as children, non-Queensland residents, and certain prisoners.

The right to take part in public life is limited by provisions related to the appointment of board members and the chief executive officer (CEO) in several ways:

- Eligibility for board membership is dependent on a person’s knowledge and experience (clause 27).
- Certain classes of individuals will be disqualified from appointment to the board or as CEO (clauses 33 and 51).
- A board member with a conflict of interest in a matter is excluded from participating in the board’s consideration of the matter (clause 38).

(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 purpose of these limitations is to ensure competence and integrity among those entrusted with governing the SCWA, and to ensure decisions made by the SCWA, as an entity representing the State, are in the public interest. This is consistent with a free and democratic society based on human dignity, equality and freedom.

A further purpose of the limitations is to maintain a certain degree of independence of the board from government, providing for the community to be directly involved in decision-making on waterways management.

(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

Setting knowledge and experience criteria for board eligibility acts as a limitation on the right to take part in public life but achieves the purpose of ensuring the competency of board members. The eligibility criteria require a range of knowledge and experience among board members that is directly relevant to the task of governing a public entity dealing with a somewhat specialised subject matter.

Disqualification criteria for board and CEO appointments also serve this purpose by disqualifying unsuitable persons from appointment, including those with certain criminal convictions, or those who have been insolvent or disqualified from managing corporations. Holders of relevant contracts with the SCWA will be disqualified from appointment, as will members of the Legislative Assembly or the Commonwealth or other State parliaments. A person who does not consent to the Minister obtaining their criminal history is also disqualified from appointment to board or CEO positions. Local government councillors are also disqualified from becoming, or continuing in office as, the CEO. These criteria help achieve

the purpose of securing competent and suitable persons to key positions because they are based on factors which could feasibly adversely impact the capability of an individual to act in the best interests of the SCWA.

Excluding a board member with a conflict of interest in a matter from participation in the board's consideration of the matter, also helps to achieve the purpose by ensuring personal interests of board members do not influence decisions that should be made in the public interest.

Further, disqualifying members of the Legislative Assembly and other State and Commonwealth parliaments helps to maintain independent decision-making by the board on waterways management.

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

It is necessary to limit eligibility for board appointments to individuals with expertise in fields relevant to the task of managing a public waterways management authority, to ensure the SCWA board carries out its functions competently.

Less restrictive and reasonably available ways to achieve the purpose have not been identified. However, as a safeguard, the Bill provides the ability for the Governor in Council to approve the appointments of individuals with qualifications, skills or experience in other areas the Minister considers appropriate for appointment to the board. While the criteria identify the most obviously relevant areas of knowledge and expertise, there is scope for the Minister to recommend appointment of other individuals who can bring other expertise and perspectives to the SCWA board.

Disqualification of individuals from becoming, or continuing to be, a member of the board or the CEO of the SCWA, based on relevant individual circumstances such as their criminal history (or refusal to consent to the Minister obtaining their criminal history), their financial insolvency status, and their eligibility to manage a corporation, is necessary to ensure the integrity of appointments to the board and to the position of CEO. Disqualifying individuals who are party to relevant contracts is also necessary to avoid frequent conflicts of interest. Disqualifying members of the Legislative Assembly and other State and Commonwealth parliaments is necessary to maintain the independence of the board. Less restrictive and reasonably available ways to achieve the purpose have not been identified.

Similar provisions in relation to the disqualification of a person from membership of a statutory body are common across Queensland legislation. For similar examples see: *Gold Coast Waterways Authority Act 2012*; *Cross River Rail Delivery Authority Act 2016*; *Brisbane Olympics and Paralympic Games Arrangements Act 2021*; and the *Queensland Academy of Sport Act 2025*.

(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

Members of statutory bodies are in positions of trust and have responsibilities to ensure the effective and efficient performance of the body. There is a strong public interest in ensuring

there is appropriate oversight and accountability imposed on people who seek appointment, or are appointed, to public office.

The limitation on the right to take part in public life through membership of the board or employment as CEO is justified and proportional in that it is based on clearly defined criteria that are directly relevant to achieving the purpose of ensuring competence and integrity among those entrusted with governing the SCWA, and ensuring decisions made by the SCWA, as an entity representing the State, are in the public interest.

(f) any other relevant factors

Nil.

Privacy

(a) the nature of the right

The right to privacy protects the individual from unlawful or arbitrary interferences and attacks upon their privacy, family, home, correspondence (written and verbal) and reputation.

The scope of the right to privacy is very broad. It protects privacy in the sense of personal information, data collection, and correspondence, and extends to an individual's private life more generally.

Only lawful and non-arbitrary intrusions may occur upon privacy, family, home, correspondence and reputation. The protection against attack on reputation is limited to unlawful attacks – that is, it prohibits attacks on a person's reputation that are unlawful and intentional, based on untrue allegations.

The right to privacy is impacted by several provisions of the Bill:

- In relation to a prospective appointee to the board or as the CEO, clause 61 permits the Minister, with the consent of the prospective appointee, to ask the police commissioner for a criminal history report and a brief description of the circumstances of any conviction mentioned in the report.
- The Bill requires board members and the CEO to disclose an interest that conflicts or may conflict with the proper performance of the member's functions (clauses 38 and 48). Such a disclosure could involve personal information and information about relationships or business dealings of the member or their close relatives. The right to privacy is also impacted by the requirement to disclose a matter that would disqualify a person from appointment (clauses 30 and 49). Such matters include previous convictions, insolvency, and disqualification from managing corporations.
- Clause 58 provides for exchange of information under an information sharing agreement between the SCWA and a relevant agency.

(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 purpose of allowing the Minister to obtain a criminal history for a prospective board or CEO appointee and requiring board members and the CEO to disclose disqualifying matters, is to ensure the integrity and competency of board members and to ensure that the board's decisions are made in the public interest. This is consistent with a free and democratic society based on human dignity, equality, and freedom.

The purpose of providing for the exchange of information under an information sharing agreement between the SCWA and a relevant agency is to facilitate efficient sharing of information and intelligence, including personal information otherwise protected by the *Information Privacy Act 2009* (IP Act), between government agencies involved in the administration of waterways and associated 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 limitations on the right to privacy will achieve the purpose of ensuring the integrity of board members and the CEO. Allowing the Minister to obtain a criminal history for a board or CEO appointee enables the Minister to decide if a person is disqualified. Requiring appointees to disclose matters that would disqualify them from appointment, or which create a conflict of interest in relation to matters under consideration by the board, provides a transparency mechanism to identify issues that could jeopardise integrity.

Provisions about information sharing agreements will allow the use or disclosure of personal information under Queensland Privacy Principle 6, on the basis that it is authorised by law (IP Act, Schedule 3 section 6).

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

It is necessary to require disclosure of matters that would disqualify a person from appointment, or which create a conflict of interest. While matters of disqualification can be vetted in advance of a person's appointment, they may also arise during a person's term on the board. Similarly, conflicts of interest can arise at any time during a person's appointment as their personal and business interests and the matters under board consideration change. While the Minister may obtain a criminal history to determine whether any convictions exist that disqualify a person from appointment, self-disclosure of changes in criminal history and other disqualifying matters is necessary, because that information is within, perhaps solely, the knowledge of the board member.

Similar provisions requiring the disclosure of disqualifying information and disclosure of conflicts of interest are common across Queensland legislation. For similar examples see: *Gold Coast Waterways Authority Act 2012*; *Cross River Rail Delivery Authority Act 2016*; *Brisbane Olympics and Paralympic Games Arrangements Act 2021*; and the *Queensland Academy of Sport Act 2025*.

The limitation on the right to privacy is minimised by restricting the parties to whom information must be disclosed. Information is shared only between the person disclosing the information, the Minister, the CEO and the board. The IP Act reduces the potential impact on the right to privacy by protecting that information once disclosed.

No less restrictive and reasonably available ways to achieve the purpose served by information sharing agreements have been identified. While the IP Act provides for disclosure of personal information for enforcement-related activities covered and conducted by a law enforcement agency, it is foreseeable that information exchange may be necessary in other contexts. This could include, for example, managing the Mooloolaba State Boat Harbour and other public marine facilities, stakeholder engagement, and tidal works development assessment. Information sharing agreements provide a safeguard in that they generally put parameters around what information is shared, with whom, and under what circumstances, and provide for defined contact points and channels for information exchange. The ability to make an agreement is restricted to certain entities by subsection (4) of clause 58 – generally the heads of relevant agencies or their delegates.

(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 requirement for a person to disclose certain matters that would disqualify them from being a member of the board, or undertaking the position of CEO, is important for ensuring the integrity of the board and the SCWA more broadly. The matters that lead to disqualification, including previous convictions or insolvency, and commercial and professional relationships, are matters that could put the integrity of the board at risk and/or create conflicts of interest. As convictions are potentially a serious indicator of a person who may not be entrusted with management of a public entity, providing the Minister with the ability to obtain this information directly from the police commissioner, and providing an offence for failing to self-disclose a conviction during one's appointment, is necessary.

The requirement to disclose conflicts of interest (with subsequent exclusion from board discussions of a matter) ensures proper and transparent decision making in the public interest. Such provisions are common in Queensland legislation and strike a fair balance between the importance of ensuring an individual's right to privacy and the integrity of membership and appointments to Queensland Government statutory bodies. Self-disclosure as required by clauses 30, 38, 48 and 49 is the most practicable means by which knowledge of potentially disqualifying conduct can be obtained.

The efficient sharing of information and intelligence between government agencies involved in the administration of waterways and associated infrastructure is necessary to achieve the overall aim in establishing the SCWA of ensuring that there is cooperation and coordination, not duplication, between the State and local governments around waterways management.

(f) any other relevant factors

Nil.

Conclusion

In my opinion, the Sunshine Coast Waterways Authority Bill 2026 is compatible with human rights under the HR Act, because it limits a human right only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

Brent Mickelberg MP
Minister for Transport and Main Roads

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