

# South Bank Corporation By-law 2014

Explanatory notes for Subordinate Legislation 2014 No. 176

made under the

*South Bank Corporation Act 1989*

## General Outline

### Short title

*South Bank Corporation By-law 2014.*

### Authorising law

*South Bank Corporation Act 1989* (the Act).

The Act also gives the Corporation the power to make By-laws pursuant to section 115 (1), which must be approved by the Governor in Council under section 115 (6).

## Policy objectives and the reasons for them

The *South Bank Corporation By-law 2014* (the By-law) is a remaking of the *South Bank Corporation By-law 2004* (the original By-law) which will expire on 1 September 2014 by operation of the *Statutory Instruments Act 1992* (SIA) Part 7, section 54.

The By-law establishes the 'site' area in respect of which the Corporation can exercise its powers. Also, following amendments to the *South Bank Corporation Act 1989* (the Act) made via the *Economic Development Act 2012* (EDA), the By-law also establishes the site area in respect of which the Council can exercise its powers. The By-law authorises persons to exercise powers to undertake traffic control, manage parking authorisation, manage unrecovered vehicles, site access, site notices and temporary site closure. The By-law also recognises certain police powers in relation to traffic control.

The government is currently still considering the future of the Corporation and its activities. In the meantime the By-law is necessary to be remade to ensure that site operations support public amenity and public and commercial activity.

## **Achievement of policy objectives**

The Corporation is obliged to carry out its objects and functions which include *inter alia* achieving an appropriate balance between the Corporation's commercial and non-commercial functions; providing for a diverse range of recreational, cultural and educational pursuits; accommodating public events and entertainment that benefit the general community; achieving excellence and innovation in the management of open space and park areas.

The By-law ensures there is orderly traffic and parking management within the site, allows controlled access to areas and allows the conduct of visitors to be controlled in a way that is compatible with the objectives of the Corporation.

Some amendments to the original By-law have been made to meet current drafting practices of the Office of the Queensland Parliamentary Counsel (OQPC) including simplifying the By-law by relying on a new definition of *appropriately qualified* as defined in the *Acts Interpretation Act 1954*. Also some references to the limits of power and appointment conditions of security officers have been removed as they inappropriately repeat matters dealt with in the Act.

In relation to Part 3 of the By-law relating to controlling traffic and persons on the site, this provision has been amended by adding a clause to clarify that *inter alia*, where a site notice (as opposed to an 'official traffic sign') does not explicitly state that the contravention of it is an offence against the Act, additional site notices must be erected and be clearly visible from the roadway, stating that a failure to comply with such notices is an offence and the penalty for the offence. This mirrors other Queensland legislation relating to traffic control, for example, section 176 of the *Hospitals and Health Boards Act 2011*. It is not a change of policy as such, but rather a mechanism to clarify the law for the public.

## **Consistency with policy objectives of authorising law**

The By-law is consistent with the permitted functions and objects of the Corporation under the Act.

## **Inconsistency with policy objectives of other legislation**

The By-law is consistent with the policy objectives of other legislation. The powers given to the police under the By-law are consistent with police powers under other legislation including sections 59 and 791 of the *Police Powers and Responsibilities Act 2000*.

## **Alternative ways of achieving policy objectives**

It is inappropriate to undertake a full review and assessment of the subordinate legislation in the circumstances of the government's consideration of the Corporation's future. Similarly it is inappropriate to allow the subordinate legislation to lapse as it will make operations for the Corporation impossible and negatively impact the public amenity of, and commercial operations on, the site.

## **Benefits and costs of implementation**

The By-law enhances the orderly operations of the site area. All costs are a continuation of the status quo and do not put new imposts on the government or the public.

## **Consistency with fundamental legislative principles**

The remaking of the By-law is consistent with fundamental legislative principles.

## **Consultation**

Consultation was undertaken with the Office of Best Practice Regulation (OBPR) and the Public Safety Business Agency (the PSBA), representing the strategic interests of the Queensland Police. PSBA was consulted in relation to the provisions relating to police powers (Part 3 Control of traffic or persons on the site).

OBPR has confirmed that the remade By-law is unlikely to have any significant regulatory impact.

Both agencies support the remaking of the By-law.