

State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020

Human Rights Certificate

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

In accordance with section 41 of the *Human Rights Act 2019*, I, Cameron Dick MP, Minister for State Development, Manufacturing, Infrastructure and Planning provide this human rights certificate with respect to the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020* made under the *State Development and Public Works Organisation Act 1971* (SDPWO Act).

In my opinion, the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The objective of the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020* is to create a new section that directs the Coordinator-General to undertake certain works, in accordance with sections 108 and 109 of the SDPWO Act. The intent is that the Coordinator-General will be able to exercise functions and powers to undertake works for the purpose of facilitating the New Performing Arts Venue (NPAV) project. Those functions and powers are expected to include access to land and the rearrangement and closure of roads, specifically the volumetric closure of Grey Street, South Brisbane (Grey Street).

Human Rights Issues

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

Section 15 Recognition and equality before the law

Through regulating access to infrastructure and public facilities including building, roads, transport, schools, housing and hospitals.

Section 19 Freedom of Movement

By limiting the ability of a person to move freely within Queensland.

The subordinate legislation will provide the Coordinator-General with the power to permanently close a volumetric portion of road within the Grey Street road reserve. The volumetric road closure will involve a portion of airspace above Grey Street and will have no impact upon the road reserve or footpath contained within Grey Street. The exercise of this power has been formally requested by the proponent.

Approval of the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020* will also allow the Coordinator-General to undertake other functions and powers as necessary, which could include access to land and the rearrangement and closure of roads for the purpose of facilitating the NPAV project. The proponent has indicated that a temporary road closure is currently being negotiated with the Brisbane City Council to allow construction to be undertaken. Although not likely, if negotiations are not successful, the Coordinator-General may be asked to assist with this temporary road closure. A temporary road closure would place a temporary limitation upon a person's ability to access the Grey Street footpath, however this will be mitigated through the implementation of a construction traffic management plan which will provide all pedestrians and traffic with sufficient detours for the duration of construction and associated activities. It should be noted that this right would also be restricted under the *Work Health and Safety Act 2011* anyway to protect all person's safety during construction. While the temporary road closure powers have not been requested to be exercised, it is necessary to consider that the Coordinator-General may consider such requests in the future should the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020* be approved.

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

(a) the nature of the right

Section 15 – Right to recognition and equality before the law.

Every person has the right to recognition as a person before the law and the right to enjoy their human rights without discrimination. Every person is equal before the law and is entitled to equal protection of the law without discrimination. Every person is entitled to equal and effective protection against discrimination.

Section 19 – Right to freedom of movement

Every person lawfully within Queensland has the right to move freely within Queensland, enter or leave Queensland, and choose where they live.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020* is to provide the Coordinator-General with the functions and powers to undertake works for the purpose of facilitating the NPAV which will deliver a new 1500 capacity theatre to meet existing and projected demand, support continued growth of performing arts in Queensland and provide the Brisbane community with access to new employment opportunities.

The works will include the permanent volumetric closure of Grey Street, South Brisbane however the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020* will also permit access to land, and the opening or closing of other roads if requested, which could result in a limitation on a person's ability to access existing infrastructure under section 15. Irrespective, the limitation is consistent with a free

and democratic society as it seeks to support the growth, development and accessibility to a broader range of performing arts experiences in Brisbane to all persons.

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

The limitation to human rights achieves the purpose of the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020* as it will support the development of the NPAV which will provide the Brisbane community with access to improved performing arts infrastructure and services, which will also contribute to a greater economic return to benefit Queensland.

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

The development of the NPAV requires the volumetric closure of roads in order to secure the tenure required for the building. Additional temporary road closures may be required; however, these will not be undertaken by the Coordinator-General at this stage. The use of the Coordinator-General's functions and powers does not provide any further limitations to Human Rights than any other method of road closure and is therefore considered to be a practical avenue to achieving the purpose of constructing the NPAV within the desired construction timeframes.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The delivery of the NPAV to the Brisbane and greater Queensland community will accommodate the projected population growth and tourism demand and will strengthen Brisbane's cultural tourism offering for continued growth.

The permanent volumetric road closure over the Grey Street road reserve will have no impact and place no limitations on human rights as the closure will occur within the airspace above Grey Street. The potential limitation to Human Rights, being the access to the Grey Street footpath during construction of the NPAV is a possible temporary limitation if the power is exercised in the future, however this will be mitigated through the provision of detours which provide pedestrians and traffic with alternative methods of reaching their destination.

It is therefore considered that delivering infrastructure that will meet the needs of the growing performing arts demand in Brisbane which consequently attracts tourism and expenditure in Queensland to contribute to building Queensland's economy outweighs the possible temporary limitation placed on Human rights in relation to accessing of the road infrastructure.

(f) any other relevant factors

The *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation 2020* is not replacing any previous legislation and does not provide any changes to existing safeguards that protect Human Rights.

Conclusion

I consider that the *State Development and Public Works Organisation (New Performing Arts Venue) Amendment Regulation* is compatible with the *Human Rights Act 2019* because while it does limit, restrict or interfere with a human right, the limitation is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

Cameron Dick MP
Minister for State Development, Manufacturing,
Infrastructure and Planning

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