

State Development and Public Works Organisation (Paradise Dam Improvement Project–Early Works) Amendment Regulation 2025

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, Jarrod Bleijie, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations provide this human rights certificate with respect to the *State Development and Public Works Organisation (Paradise Dam Improvement Project–Early Works) Amendment Regulation 2025* (Amendment Regulation) made under the *State Development and Public Works Organisation Act 1971* (SDPWO Act).

In my opinion, the Amendment Regulation, 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

Background

In December 2024, the Queensland Government reaffirmed support for the Paradise Dam Improvement Project (PDIP), which proposes to construct a new dam wall 90 metres downstream of the existing wall, returning the dam to its original full supply level to ensure a secure water supply for the Bundaberg and Burnett regions.

To support construction of the PDIP, Sunwater has identified a package of critical early works which is required to ensure timely delivery of this key piece of water infrastructure.

The early works are:

- construction and associated earthworks for the temporary project accommodation village (TPAV)
- construction, testing and commissioning of concrete batching plants
- establishing laydown areas for stockpiling and storage of plant, equipment and materials and similar activities during early works and main construction
- quarry investigations for a secure source of material on properties located nearby to the project site
- geotechnical investigations
- any and all works that are ancillary, necessarily required or incidental to the works described above.

Two concrete batching plants are needed before commencement of the main construction work to allow for testing and commissioning, including through the construction of a trial roller-compacted concrete embankment. This is required to ensure the concrete produced meets stringent strength and stability standards which will be tested through the construction of a trial embankment before the dam wall rebuild. The laydown area is required to support preparation and construction activities for the TPAV, batching plants and the new dam wall. Quarry investigations are necessary to help identify a potential local source of material for construction. Geotechnical investigations are required to inform engineering solutions of the new dam wall.

Purpose

The objective of the Amendment Regulation is to create a new division in the *State Development and Public Works Organisation Regulation 2020* that directs Sunwater to undertake all parts of the defined project works, that are not facilitation works, in accordance with sections 99 and 100 of the SDPWO Act and also directs the Coordinator-General to undertake facilitation works in accordance with sections 108 and 109 of the SDPWO Act.

Human Rights Issues

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

In my opinion the human rights under the HR Act relevant to the Amendment Regulation are:

- Section 19 – freedom of movement
- Section 21 – freedom of expression
- Section 23 – taking part in public life
- Section 24 – property rights
- Section 25 – privacy and reputation
- Section 28 – cultural rights – Aboriginal and Torres Strait Islander peoples
- Section 31 – fair hearing.

Human rights potentially limited by the Amendment Regulation

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

- Section 21 – freedom of expression
- Section 23 – taking part in public life
- Section 24 – property rights
- Section 28 – cultural rights – Aboriginal and Torres Strait Islander peoples
- Section 31 – fair hearing

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

Freedom of expression (section 21)

(a) the nature of the right

Section 21 of the HR Act provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information of all kinds. It protects the right of all persons to hold an opinion without interference and the right of all persons to seek, receive and express information and ideas (including verbal and non-verbal communication).

It may be argued that the right to freedom of expression may be restricted because a consequence of the Amendment Regulation is that third party consultation and appeal rights under the *Planning Act 2016* (Planning Act) would be removed for the development of the project works.

The Amendment Regulation is a direction to Sunwater and the Coordinator-General to undertake the particular works. Local categorising instruments will be prohibited from stating the project works are assessable development by operation of Schedule 6 of the *Planning Regulation 2017* (Planning Regulation).

The project works will therefore progress without a requirement for Sunwater, as the Local Body, to seek development approvals from Local Government, which may have otherwise been subject to public notification requirements.

The Amendment Regulation does not impact on the requirements for Sunwater to obtain other relevant State or Commonwealth approvals.

(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 removal of the requirement for a statutory public notification process is a consequence of the statutory framework under the Planning Act and Planning Regulation that enables significant projects to proceed on a streamlined and urgent basis. The Amendment Regulation enlivens this existing statutory pathway.

Given the Amendment Regulation is instrumental in the preparation for the main construction of the new Paradise Dam wall, its purpose is for the safety of all downstream residents and the continued water supply to the Bundaberg and Burnett regions. The purpose of the potential limitation is considered consistent with a democratic society based on human dignity, equality and freedom.

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

The potential limitation on freedom of expression, which may occur as a consequence of the Amendment Regulation, will ensure the timely establishment of the project works so that the main construction of the Paradise Dam Improvement Project may proceed.

The need to provide project works is in line with community expectations and broader government objectives regarding timely delivery of the new dam wall for water security and community safety.

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

There are no less restrictive ways to achieve the purpose of the Amendment Regulation. Sections 100 and 109 of the SDPWO Act require directions to be made by regulation. Administrative arrangements would not provide the streamlining benefits that can be provided through the Amendment Regulation or enlivening the Coordinator-General's powers.

(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 Amendment Regulation enlivens an existing statutory pathway in the Planning Regulation that enables significant projects to proceed on a streamlined and urgent basis.

The amendment will facilitate the project works required to progress the Paradise Dam Improvement Project.

When balancing the right to freedom of expression in relation to the development of the project works with the urgent need to facilitate the Paradise Dam Improvement Project, the Amendment Regulation is considered to be in line with community expectations.

(f) any other relevant factors

Not Applicable.

Taking part in public life (Section 23)

(a) the nature of the right

Section 23 of the HR Act provides that every person has the right to take part in public life. It protects the right of all persons to have the opportunity, without discrimination to participate in the conduct of public affairs.

It may be argued that the right to take part in public life may be restricted because a consequence of the Amendment Regulation is that third party consultation and appeal rights under the Planning Act would be removed for the development of the project works.

The Amendment Regulation is a direction to Sunwater and the Coordinator-General to undertake particular works. Local categorising instruments will be prohibited from stating the particular works are assessable development by operation of Schedule 6 of the Planning Regulation.

The project works will therefore progress without a requirement for Sunwater, as the Local Body, to seek development approvals from Local Government, which may have otherwise been subject to public notification requirements.

The Amendment Regulation does not impact on the requirements for Sunwater to obtain other relevant State or Commonwealth approvals.

(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 removal of the requirement for a statutory public notification process is a consequence of the statutory framework under the Planning Act and Planning Regulation that enables significant projects to proceed on a streamlined and urgent basis. The Amendment enlivens this existing statutory pathway.

Given the Amendment Regulation is instrumental in the preparation for the main construction of the new Paradise Dam wall, its purpose is for the safety of all downstream residents and the continued water supply to the Bundaberg and Burnett regions. The purpose of the potential limitation is considered consistent with a democratic society based on human dignity, equality and freedom.

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

The potential limitation on taking part in public life, which may be perceived as a consequence of the Amendment Regulation, will ensure the timely commencement of the project works.

The need to provide project works is in line with community expectations and broader government objectives regarding timely delivery of the new dam wall for water security and community safety.

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

There are no less restrictive ways to achieve the purpose of the Amendment Regulation. Sections 100 and 109 of the SDPWO Act require directions to be made by regulation. Administrative arrangements would not provide the streamlining benefits that can be provided through the Amendment Regulation or enlivening the Coordinator-General's powers.

(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 Amendment Regulation enlivens an existing statutory pathway in the Planning Regulation that enables significant projects to proceed on a streamlined and urgent basis. The amendment will facilitate the project works required to progress the Paradise Dam Improvement Project.

When balancing the right to taking part in public life in relation to the development of the project works with the urgent need to facilitate the Paradise Dam Improvement Project, the Amendment Regulation is considered to be in line with community expectations.

(f) any other relevant factors

Not Applicable.

Property Rights (section 24)

(a) the nature of the right

Section 24 of the HR Act protects the rights of all persons to own property alone or in association with others, and not to be arbitrarily deprived of property. The right includes protection from the deprivation of property. Deprivation includes the substantial restriction on a person's use or enjoyment of their property including under planning laws.

It may be argued that property rights may be restricted by the Amendment Regulation as it enlivens the Coordinator-General's powers including in relation to access to land, rearrangement of roads and temporary closure of roads.

(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 Amendment Regulation enlivens powers that may be utilised by the Coordinator-General under the SDPWO Act, limited to works to support the project works and does not extend to the Paradise Dam Improvement Project main works.

The project works pertaining to the temporary project accommodation village, concrete batching plants, laydown area and geotechnical investigations are located on land where Sunwater has tenure.

The Amendment Regulation enlivens the functions and powers of the Coordinator-General including, but not limited to the opening, closing or otherwise rearranging of roads as well as access to private land for the purpose of quarry investigations. It may be argued that property rights may be restricted by the Amendment Regulation as it enables the Coordinator-General to exercise compulsory access powers under the SDPWO Act that impact on property rights.

Sunwater has indicated it has, or is continuing negotiations for, established tenure agreements with landholders and rights to access properties on which all components of the quarry investigation works are located.

Any potential land access would require further consultation with, and consideration by, the Coordinator-General, as well consultation with affected landowners. The exercise of powers is subject to the process under the SDPWO Act and / or the *Acquisition of Land Act 1967* (ALA) and payment of compensation. The process and compensation provisions are outlined within the SDPWO Act and ALA and provide a framework for the implementation of compulsory access. The compulsory access powers are therefore limited by the statute's provisions, which provide a safeguard to limit impacts on a person's human rights.

The need for timely provision of the project works is in line with community expectations and broader government objectives regarding timely delivery of the Paradise Dam Improvement Project. The purpose of the limitation is considered consistent with a democratic society based on human dignity, equality and freedom.

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

The purposes for which the Coordinator-General may exercise its powers are limited. The potential limitation of property rights is only to the extent on which the SDPWO Act allows.

The need for the project works is in line with community expectations and broader government objectives regarding timely delivery of the new dam wall for water security and community safety.

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

There are no less restrictive ways to achieve the purpose of the Amendment Regulation. Sections 100 and 109 of the SDPWO Act require directions to be made by regulation. Administrative arrangements would not provide the streamlining benefits that can be provided through the Amendment Regulation or enlivening the Coordinator-General's powers.

- (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 Amendment Regulation enlivens an existing statutory pathway in the SDPWO Act that enables significant projects to proceed on a streamlined and urgent basis. The amendment will facilitate the project works for the purpose of quarry investigations to inform the main construction work for the Paradise Dam Improvement Project.

When balancing property rights in relation to construction of the project works with the urgent need to facilitate the Paradise Dam Improvement Project, the Amendment Regulation is considered to be in line with community expectations.

- (f) any other relevant factors

Not Applicable.

Cultural rights – Aboriginal and Torres Strait Islander peoples (section 28)

- (a) the nature of the right

Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights and must not be denied the right, with other members of their community, to maintain their distinctive spiritual practices, material or economic relationship with the land or water which they have a connection.

- (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

In Queensland, the rights of Aboriginal peoples and Torres Strait Islander peoples are lawfully established through a range of legislative mechanisms. In the context of planning and development, these rights are primarily achieved through the *Native Title Act 1993* (Cth), *Native Title (Queensland) Act 1993*, *Aboriginal Cultural Heritage Act 2003*, and the *Torres Strait Islander Cultural Heritage Act 2003*, but also enabled via other legislative and statutory mechanisms.

There are two native title determinations within the vicinity of the project works area. A non-exclusive native title determination for the Bailai, Gurang, Gooreng Gooreng and Taribelang Bunda (BGGGTB) People (QUD6026/2001) was made in November 2017. A non-exclusive native title determination for the Wakka Wakka People (QUD277/2019) was made in April 2022.

A Cultural Heritage Management Agreement (CHMA) has been entered into between the BGGGTB People and Sunwater. A CHMA is currently being negotiated with the Wakka Wakka People. Notwithstanding, Sunwater must comply with the existing legal and regulatory framework governing the Aboriginal people's and Torres Strait Islander people's rights to land. Project works must not be inconsistent with the *Native Title Act 1993*. Where native title exists in the area of the project works, it is expected that the parties may continue to exercise and enjoy native title rights, except during construction works, for health and safety reasons. The relevant native title party will be notified prior to the commencement of construction activities.

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

The purposes for which the Coordinator-General may exercise powers under the SDPWO Act and impact the right under the Amendment Regulation are limited to project works and does not extend to Sunwater's wider program of works.

The potential limitation of the right allows the Coordinator-General to facilitate this significant infrastructure project to benefit the region, state and residents within.

In Queensland, the rights of Aboriginal peoples and Torres Strait Islander peoples are lawfully established through a range of legislative mechanisms. In the context of planning and development, these rights are primarily achieved through the *Native Title Act 1993* (Cth), *Native Title (Queensland) Act 1993*, *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*, but also enabled via other legislative and statutory mechanisms. The Amendment Regulation does not impact this legislation.

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

There are no less restrictive ways to achieve the purpose of the Amendment Regulation. Sections 100 and 109 of the SDPWO Act require directions to be made by regulation. Administrative arrangements would not provide the streamlining benefits that can be provided through the Amendment Regulation or enlivening the Coordinator-General's powers.

(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 Amendment Regulation enlivens an existing statutory pathway in the SDPWO Act that enables significant projects to proceed on a streamlined and urgent basis. The amendment will facilitate the project works required to progress the Paradise Dam Improvement Project.

A CHMA has been entered into between the BGGGTB People and Sunwater, covering the bed and banks of the relevant portions of the Burnett River and left bank of the Paradise Dam site. A CHMA is currently being negotiated with the Wakka Wakka People.

When balancing cultural rights for Aboriginal peoples and Torres Strait Islander peoples in relation to the development of the project works with the urgent need to facilitate the commencement of project works for the Paradise Dam Improvement Project, the Amendment Regulation is considered to be in line with community expectations.

(f) any other relevant factors

Not Applicable.

Fair Hearing (section 31)

(a) the nature of the right

Section 31 of the HR Act is directed at the procedure of trials for criminal offences and civil proceedings. It protects the right to a fair and public hearing by an impartial decision maker. Section 31 provides that a person has the right to have criminal charges or civil proceedings decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

It may be argued that the right to a fair hearing may be restricted by the Amendment Regulation as the potential for third party consultation and appeal rights would be removed for the project works.

The Amendment Regulation is a direction to Sunwater and the Coordinator-General to undertake particular works. Local categorising instruments will be prohibited from stating the project works are assessable development by operation of Schedule 6 of the Planning Regulation.

The project works will therefore progress without a requirement for Sunwater, as the Local Body, to seek development approvals from Local Government, which may have otherwise been subject to public notification requirements. The Amendment Regulation would also enliven certain Coordinator-General powers and functions to facilitate the project works.

(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 removal of the requirement for a statutory public notification process and the ability to make a submission that then enlivens appeal rights is a consequence of the statutory framework under the Planning Regulation that enables significant projects to proceed on a streamlined and urgent basis. The Amendment Regulation employs this existing statutory pathway.

Given the Amendment Regulation is instrumental in the preparation for the main construction of the new Paradise Dam wall, its purpose is for the safety of all downstream residents and the continued water supply to the Bundaberg and Burnett regions. The purpose of the potential limitation is considered consistent with a democratic society based on human dignity, equality and freedom.

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

The purposes for which the Coordinator-General may exercise powers under the SDPWO Act and impact the right under the Amendment Regulation are limited to project works and does not extend to the wider Paradise Dam Improvement Project. The potential limitation of the right allows the Coordinator-General to facilitate the project which provides a benefit to the safety and water security of the region.

The need for the project works is in line with community expectations and broader government objectives regarding timely delivery of the new dam wall for water security and community safety.

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

There are no less restrictive ways to achieve the purpose of the Amendment Regulation. Sections 100 and 109 of the SDPWO Act require directions to be made by regulation. Administrative arrangements would not provide the streamlining benefits that can be provided through the Amendment Regulation or enlivening the Coordinator-General's powers.

(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 Amendment Regulation utilises an existing statutory pathway in the Planning Regulation that enables significant projects to proceed on a streamlined and urgent basis.

When balancing the rights of a fair hearing in relation to the project works with the urgent need to facilitate the project works for Paradise Dam Improvement Project, the Amendment Regulation is considered to be in line with community expectations.

(f) any other relevant factors

Not Applicable.

Human rights potentially relevant to the Amendment Regulation but not limited

The Amendment Regulation is relevant to, but will not potentially limit (or interfere with), the identified human rights in the sections outlined below:

- section 19 – freedom of movement

Section 19 of the HR Act provides that every person has the right to move freely within Queensland and the freedom to choose where to live. The Amendment Regulation enlivens the Coordinator-General's powers under the SDPWO Act. Where any access may be temporarily changed, Sunwater will consult and negotiate with the relevant parties.

- section 25 – privacy and reputation

Section 25 of the HR Act provides that a person has the right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have the person's reputation unlawfully attacked. The Amendment Regulation itself does not limit these rights and any future decisions made by the Coordinator-General in the exercise of any powers under the SDPWO Act to facilitate the project works will consider any limitations to these rights.

Conclusion

I consider that the *State Development and Public Works Organisation (Paradise Dam Improvement Project–Early Works) Amendment Regulation 2025* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

JARROD BLEIJIE MP

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

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