

Implementation of The Spit Master Plan Bill 2019

Statement of Compatibility

FOR

Amendment during consideration in detail moved by the Honourable Cameron Dick MP

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, the Honourable Cameron Dick MP, Minister for State Development, Manufacturing, Infrastructure and Planning make this statement of compatibility with respect to the amendment to be moved in consideration of detail (ACiD) for the Implementation of The Spit Master Plan Bill 2019 (the Bill).

In my opinion, ACiD for the Bill 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 amendment

The Bill is to facilitate the implementation of the Spit master plan which was released in May 2019 by the State Government. It also contains additional amendments to the *Gold Coast Waterways Authority Act 2012* (GCWA Act) and the *Planning Act 2016*.

This Statement of Compatibility relates to the proposed ACiD. The purpose of clause 25 of the Bill is to amend section 45(2)(aa) of the GCWA Act to expand the areas of knowledge and expertise that would qualify a person to be appointed to the Gold Coast Waterways Authority (GCWA) Board to include knowledge of, and experience in, the design and aesthetics of public open spaces, parks and natural environments, and built forms.

Human Rights Issues

Amendment of Clause 25 (Amendment of s 45 (Appointed Members))

The amendment to Clause 25 amends section 45(2)(aa) of the GCWA Act to include an additional skill set that would qualify a person to be appointed to the GCWA Board.

The objective of the amendment to clause 25 is to ensure that one or more members of the GCWA Board has the necessary skills and expertise in design and aesthetics of public open spaces, parks and natural environments, and built forms.

The ACiD achieves its policy objective by amending clause 25 to improve The Spit as a renowned destination on the Gold Coast. The quality of public space design and built forms is of fundamental importance. The government is progressing works on various fronts to ensure the design elements of public works on The Spit are consistent and of high quality.

The GCWA is leading the delivery of capital works to improve the public realm on The Spit. The ACiD will provide for a person with skills in design and aesthetics of public open spaces, parks and natural environments, and built forms to be able to be nominated to the Authority's Board.

The specific amendment amends clause 25 by inserting the words "design and aesthetics of public open spaces, parks and natural environments, and build forms" after section 45(2)(aa)(iii).

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

In my opinion, the human right under the HR Act that is relevant to this amendment is:

- Privacy and reputation (section 25 of the HR Act).

The ACiD inserts an additional necessary skill for a GCWA Board member to undertake the development and delivery of a Spit works program.

The amendment ensures that when appointing members, that one or more have the requisite knowledge of, and experience in, the design and aesthetics of public open spaces, parks and natural environments, and built forms to the GCWA Board. This will support the proper operation of the GCWA Board in relation to the development and delivery of a Spit works program.

The amendment potentially limits the right to privacy and reputation as it limits the ability for an individual to protect their privacy (such as name and address and relevant skills and expertise).

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*)

Requirement to provide certain information

Privacy and reputation (section 25 of the HR Act)

- (a) the nature of the right

Section 25 of the HR Act protects individuals from all interferences and attacks upon their privacy, family, home, correspondence (written and verbal) and reputation. The scope of the right to privacy is broad. It protects the privacy in the sense of personal information, data collection and correspondence, but also extends to an individual's private life more generally.

The Bill contains a provision (clause 21 of the Bill) which permits The Spit Development Minister to access information or documentation relating to the development or delivery of a Spit works program. This provision of the Bill operates to enable the disclosure of personal information as part of membership eligibility for the GCWA Board, such as names and addresses and relevant skills and expertise, therefore limiting the right to privacy.

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

The purpose of requiring the disclosure of personal information and making certain information available to The Spit Development Minister is to assist the Minister in appointing members with the requisite knowledge of, and experience in, the design and aesthetics of public open spaces, parks and natural environments, and built forms to the GCWA Board. This will support the proper operation of the GCWA Board in relation to the development and delivery of a Spit works program.

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

Ensuring that relevant, personal information is disclosed to The Spit Development Minister ensures that a person with the knowledge and expertise in design and aesthetics of public open spaces, parks and natural environments and built forms adds to the development and delivery of a Spit works program. The information that is disclosed is only of relevance to appointments made by the Minister to the GCWA Board and goes to ensuring the proper operation of the GCWA Board in a way that delivers a Spit works program.

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

It is considered that the limitation imposed by this provision of the Bill to a person's privacy and reputation is the least restrictive reasonably available way of achieving the purpose of ensuring that people with the requisite knowledge of, and experience in, the design and aesthetics of public open spaces, parks and natural environments, and built form are considered for appointment to the GCWA Board.

- (e) the balance between the importance of the purpose of the provisions, 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 balance, it is considered that the importance of ensuring the GCWA Board develops and delivers The Spit works program outweighs the negative impact on the right to privacy and reputation (to the extent that it is limited).

- (f) any other relevant factors

N/A

Conclusion

Amendment to the *Gold Coast Waterways Authority Act 2012*

In my opinion, the amendment to be moved to the Implementation of The Spit Master Plan Bill 2019 is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

THE HONOURABLE CAMERON DICK MP
MINISTER FOR STATE DEVELOPMENT, MANUFACTURING, INFRASTRUCTURE
AND PLANNING

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