

State Financial Institutions and Metway Merger Amendment Bill 2024

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*, I, the Honourable Cameron Dick, Deputy Premier, Treasurer and Minister for Trade and Investment make this statement of compatibility with respect to the *State Financial Institutions and Metway Merger Amendment Bill 2024* (Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019* (HR Act). I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The objective of the Bill is to ensure certain conditions under part 6 of the *State Financial Institutions and Metway Merger Act 1996* (Act) continue to apply to Suncorp Group Limited (Suncorp) once Suncorp Bank is removed from the application of part 6.

On 18 July 2022, Suncorp announced the proposed acquisition of its banking business (Suncorp Bank) by the Australia and New Zealand Banking Group Limited (ANZ) (Transaction). The Transaction will enable Suncorp to be a dedicated insurance business, focusing on providing competitive market insurance offerings to Australian individuals and businesses. It will also allow ANZ to further participate in the economic growth of Queensland.

In 1996, the Act facilitated the merger of Suncorp, Queensland Industry Development Corporation and Metway Bank. The policy intent of the Act when it was enacted was to allow for a major Queensland-based financial institution. The Act applied to all companies in the Metway group, including the banking business and the insurance business.

The Suncorp group was restructured in 2010. The practical effect of the restructure was that the Act only applied to the banking operations (carried out by the entity Suncorp-Metway Limited) (that is, Suncorp Bank) and its wholly owned subsidiaries and Suncorp.

Suncorp and ANZ have agreed to three conditions precedent for the Transaction:

- obtaining a merger authorisation from the Australian Competition and Consumer Commission (ACCC) under the *Competition and Consumer Act 2010* (Cth) (section 50);
- obtaining the approval of the Federal Treasurer under the *Financial Sector (Shareholdings) Act 1998* (Cth) for ANZ to acquire ownership of 100% of the shares; and
- amending the Act so that it does not apply to Suncorp Bank or ANZ.

Since the announcement of the Transaction, Suncorp has made public statements reinforcing its commitment to maintain a Queensland headquartered business. Queensland Treasury has

negotiated with Suncorp and ANZ to ensure the Act is amended to continue to apply to Suncorp, despite the sale of Suncorp Bank.

The amendments are needed to ensure the mandatory articles (now constitution) conditions continue to apply to Suncorp under the Act once Suncorp Bank is removed from the application of part 6 the Act.

Human Rights Issues

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

In my opinion, the human right that is relevant to the Bill is the right to freedom of movement, section 19 of the HR Act.

Freedom of movement

(a) the nature of the right

Section 19 of the HR Act provides for the right of every person to move freely within Queensland, enter or leave Queensland and choose where they live. The right only applies to persons who are ‘lawfully within Queensland’. The right places an obligation on the State not to act in a way that unduly restricts the freedom of movement. The United Nations Human Rights Committee has stated that laws authorising limits to the right should use precise criteria, not give unfettered discretion, be necessary to protect the purpose, be the least intrusive option, and be proportionate to the right protected.¹ The right to choose where to live within Queensland will be engaged when someone is directed where to live.

Clause 7 of the Bill proposes to introduce a mandatory requirement under section 64 that the constitution of Suncorp must at all times require at least one board member be ordinarily resident in Queensland. The effect of this is that, to comply with its constitution, Suncorp will be required to ensure at least one member of its board is a person who is ordinarily resident in Queensland. The provision would, therefore, limit that person’s right to freedom of movement by affecting their place of residence.

(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 the limitation on human rights is to ensure the current mandatory constitution conditions that apply to Suncorp Bank will continue to apply to Suncorp under the Act once Suncorp Bank is removed from the application of part 6 the Act. Section 64 currently specifies that the articles of each Metway group company must, at all times, require the managing director to be ordinarily resident in Queensland.

(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

A key objective of the Bill is to ensure Suncorp continues to be Queensland-based, promoting board opportunities, and delivering employment and economic activity in Queensland. Having

¹ *Human Rights, Respect protect promote Guide: Nature and scope of human rights protected in the Human Rights At 2019, Version 2, May 2022, p.41.*

a ‘locally-based’ director is also considered important in the context of an insurance company providing insurance protection for Queenslanders in respect of natural disasters. The limitation of the freedom of movement is necessary to ensure the key objective of the Bill is achieved.

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

As noted above, the policy objective of the Bill is to ensure Suncorp continues to be Queensland-based, with a ‘locally-based’ director for its insurance business. This policy objective cannot be achieved through any other reasonably available and less restrictive means.

(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 limitation on human rights is considered to be reasonable and justified to ensure Queensland continues to benefit from having a Queensland-based insurer, thereby promoting board opportunities, and delivering employment and economic activity in the State. The benefits of driving skilled employment and a strong insurance sector in Queensland are considered to outweigh the limitation on the right to free movement of an affected board member.

(f) any other relevant factors

Not relevant.

Conclusion

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

THE HONOURABLE CAMERON DICK MP
DEPUTY PREMIER
TREASURER
MINISTER FOR TRADE AND INVESTMENT

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