

Explanatory Statement

Copyright Act 1968

Copyright Legislation Amendment (Technological Protection Measures) Regulations 2017

Issued by the Authority of the Minister for Communications

Purpose

The *Copyright Act 1968* (Act) regulates and determines the scope of copyright in Australia.

The purpose of the *Copyright Legislation Amendment (Technological Protection Measures) Regulations 2017* (TPM Regulations) is to repeal the *Copyright Tribunal (Procedure) Regulations 1969* (Tribunal Regulations) in their entirety, and all the provisions of the *Copyright Regulations 1969* (1969 Regulations) except those relating to technological protection measures. The 1969 Regulations will be renamed the *Copyright Legislation Amendment (Technological Protection Measures) Regulations 2017*.

Technological protection measures (TPMs) are technical locks copyright owners use to stop their material being accessed or copied. In broad terms, the Act defines TPM to mean an access control TPM or a device, product, technology or component that prevents, inhibits or restricts the doing of an act comprised in the copyright in a work or other subject-matter. An access control TPM is a TPM that controls access to a copyrighted work (for instance, by requiring the application of information or a process before access is granted).

The Act includes civil action and criminal offence provisions in relation to:

- the manufacture of and importation and dealings in devices and services designed to circumvent any TPM; and
- the circumvention of access control TPMs.

Subsection 249(1) of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 249(2) of the Act allows for regulations to be made prescribing the doing of an act by a person for the purposes of subsections 116AN(9) and 132APC(9) of the Act. Subsections 116AN(9) and 132APC(9) provide for additional TPM access control circumvention acts to be prescribed by the regulations that would be exceptions (to civil actions) or a defence (to an offence). Subsection 249(3) of the Act states that the Governor-General may not make such regulations unless the Minister makes a recommendation to prescribe the doing of the act by the person, and subsection 249(4) sets out the conditions for the Minister making such a recommendation.

Provisions relating to TPMs in the 1969 Regulations will not be repealed prior to sunset on 1 April 2018 due to restrictions on making regulations varying or revoking such regulations in subsections 249(6) to (9) of the Act. Provisions in the *Copyright Regulations 2017* (2017 Regulations) relating to TPMs will commence later on 1 April 2018.

Consultation

An exposure draft of the TPM Regulations were released for public consultation on 11 September 2017.

The following stakeholders made submissions on the exposure draft:

Australian Copyright Council
Australian Film & TV Bodies
Australian Home Entertainment Distributors Association (AHEDA)
Australian Libraries Copyright Committee (ALCC) and Australian Digital Alliance (ADA) Joint Submission
Australasian Music Publishers Association Limited (AMPAL)
APRA AMCOS
Australian Publishers Association (various committees)
Copyright Advisory Group COAG Education Council
Copyright Agency
Communications Alliance
Commercial Radio Australia
Foxtel
Free TV
Interactive Games & Entertainment Association (IGEA)
Music Rights Australia
National Association for the Visual Arts (NAVA)
News Corp Australia
Pirate Party Australia
PPCA
Screenrights
Universities Australia
Nicolas Suzor, Associate Professor, Queensland University of Technology (QUT), Faculty of Law

There was significant disagreement between stakeholders as to whether new TPM exceptions added by Part 1 of Schedule 1 of the TPM Regulations met the requirements in subsection 249(4) of the Act. Some amendments were made to address creator and rights holder concerns, particularly in relation to whether the exceptions in section 40 met the requirements in subsection 249(4) of the Act that the doing of the act that is the subject of the exception, be in relation to a particular class of work or other subject matter; before the Minister can make a recommendation to the Governor-General for additional TPM exceptions to be prescribed by regulations.

Regulation Impact Statement

The Office of Best Practice Regulation has assessed that remaking these instruments without substantial changes is not likely to have more than a minor and/or machinery regulatory impact on business, community organisations and individuals. As such, a RIS is not required.

Statement of Compatibility with Human Rights

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at Attachment 2.

Attachment 1: Notes on Sections

Section 1—Name

Section 1 provides for this instrument to be cited as the *Copyright Legislation Amendment (Technological Protection Measures) Regulations 2017*.

Section 2—Commencement

Section 2 provides for the commencement of the TPM Regulations.

The TPM Regulations commence at the same time as Part 2 of the *Copyright Regulations 2017* commences, being the same time as Schedule 1 to the *Copyright Amendment (Disability Access and Other Measures) Act 2017* (Disability Access Act) commences. Schedule 1 to the Disability Access Act commences on a day to be fixed by proclamation or the day after the period of six months from Royal Assent (whichever is the earlier).

Section 3—Authority

Section 3 provides that the TPM Regulations are made under the authority of the *Copyright Act 1968* (the Act).

Subsection 249(1) of the Act contains a general regulation making power. Subsection 249(2) provides specifically, and without limiting subsection (1), for regulations to be made in relation to technological protection measures.

Section 4—Schedules

Section 4 provides that each instrument that is specified in a Schedule to the TPM Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments and repeals

Schedule 1 prescribes the amendments and repeals to be made to the 1969 Regulations and the Tribunal Regulations.

Part 1—Amendments

Copyright Regulations 1969

Part 1 prescribes the amendments to be made to the 1969 Regulations.

Item 1—Regulation 1

Item 1 inserts '*Technological Protection Measures*' after '*Copyright*' in the 1969 Regulations for the instrument to be cited as the *Copyright (Technological Protection Measures) Regulations 1969*.

Item 2—Regulation 2

Item 2 repeals Regulation 2 of the 1969 Regulations, which deals with commencement.

Part 1 of the 1969 Regulations sets out preliminary considerations. Regulation 2 provides that the 1969 Regulations shall come into operation on the date fixed by Proclamation under section 2 of the Act.

Item 3—Subregulation 3(1)

Item 3 omits (1) from subregulation 3(1) of the 1969 Regulations.

Part 1 of the 1969 Regulations sets out preliminary considerations. Regulation 3 relates to the interpretation of the regulations.

Item 4—Subregulation 3(1)

Item 4 repeals the definitions of '*address for service in Australia*' and '*the previous act*' contained in subregulation 3(1) of the 1969 Regulations. These definitions are no longer required in the TPM regulations, as the definition of *the previous act* is spent, while the definition of *address for service in Australia* will be moved to the 2017 Regulations, with minor amendments as outlined below.

Part 1 of the 1969 Regulations sets out preliminary considerations. Regulation 3 relates to the interpretation of the regulations. Subregulation 3(1) prescribes that in the 1969 Regulations, unless the contrary intention appears:

- *address for service in Australia* means an address at which service may be effected in accordance with regulation 27 of these Regulations,
- *the Act* means the *Copyright Act 1968*, and
- *the previous Act* means the *Copyright Act, 1911*.

Regulation 27 relates to the service of documents in Australia.

Item 5—Subregulations 3(2), (3) and (4)

Item 5 repeals subregulations 3(2), 3(3) and 3(4) of the 1969 Regulations.

Part 1 of the 1969 Regulations sets out preliminary considerations. Regulation 3 relates to the interpretation of the regulations.

Subregulation 3(2) prescribes that, for the purposes of the 1969 Regulations, a corporation shall be taken to reside in Australia if the corporation has a registered office in Australia under a law of a State or Territory of the Commonwealth and any such office shall be deemed to constitute a place of residence of the corporation.

Subregulation 3(3) provides that a reference in the 1969 Regulations to a record having been sold shall be read as including a reference to a record having been disposed of gratuitously in circumstances where, by virtue of section 60 of the Act, Division 6 of Part III of the Act applies as if that disposal were a sale of the record by retail.

Part III of the Act refers to copyright in original literary, dramatic, musical and artistic works. Division 6 applies to the recording of musical works. Section 60 relates to records made partly for retail sale and partly for gratuitous disposal.

Subregulation 3(4) prescribes that expressions used in the Act have the same meaning as in the 1969 Regulations in accordance with subsection 13(1) of the *Legislation Act 2003*.

Subsection 13(1) of the *Legislation Act 2003* provides that if enabling legislation confers on a person the power to make a legislative instrument or notifiable instrument, then, unless the contrary intention appears, the *Acts Interpretation Act 1901* applies to any instrument so made as if it were an Act and as if each provision of the instrument were a section of an Act, expressions used in any instrument so made have the same meaning as in the enabling legislation as in force from time to time, and any instrument so made is to be read and construed subject to the enabling legislation as in force from time to time, and so as not to exceed the power of the person to make the instrument.

Item 6— Parts 2, 3, 3A, 4, 5, 5A, 6, 6A, 7 and 8

Item 6 repeals parts 2, 3, 3A, 4, 5, 5A, 6, 6A, 7 and 8 of the 1969 Regulations. These Parts will be replaced by provisions in the 2017 Regulations, as outlined below, or are otherwise no longer required.

Part 2 of the 1969 Regulations sets out provisions in relation to copyright in original works. Part 2 of the 2017 Regulations replaces Part 2 of the 1969 Regulations.

Part 3 applies to copyright in subject-matter other than works. Part 3 of the 2017 Regulations replaces Part 3 of the 1969 Regulations.

Part 3A sets out limitations on remedies available against carriage service providers. Part 6 of the 2017 Regulations replaces Part 3A of the 1969 Regulations.

Part 4 provides remedies for infringements of copyright. Part 9 of the 2017 Regulations replaces Part 4 of the 1969 Regulations.

Part 5 relates to copying and communication of broadcasts by educational and other institutions as provided for under Part VA of the Act. Part 5 of the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form given that Part VA of the Act was repealed by the Disability Access Act.

Part 5A applies to the reproduction and communication of works etc by educational and other institutions as provided for under Part VB of the Act. Part 5A of the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form, given that Part VB of the Act was repealed by the Disability Access Act.

Part 6 refers to the retransmission of free-to-air broadcasts. Regulation 55 of the 2017 Regulations replaces regulation 23K of the 1969 Regulations. Regulation 17 of the 2017 Regulations replaces regulation 23L of the 1969 Regulations in substantively the same form.

Part 6A sets out procedures in relation to infringement notices and forfeiture of infringing copies and devices. Part 8 of the 2017 Regulations replaces Part 6A of the 1969 Regulations.

Part 7 includes miscellaneous provisions. Part 12, Part 13, Part 14 and Part 15 of the 2017 Regulations replace Part 7 of the 1969 Regulations.

Item 7—Schedules 3, 3A, 3B, 4, 5, 8, 9 and 10

Item 7 repeals schedules 3, 3A, 3B, 4, 5, 8, 9 and 10 to the 1969 Regulations. These Schedules will be replaced by provisions in the 2017 Regulations, as outlined below, or are otherwise no longer required.

Schedule 3 to the 1969 Regulations prescribes the form of notice to be displayed with machines installed in libraries and archives about the reproduction of works and the copying of published editions. Schedule 1 to the 2017 Regulations replaces Schedule 3 to the 1969 Regulations.

Schedule 3A prescribes the form of record which must be made, by or on behalf of the holder of a print disability radio licence, where a sound broadcast has been made of an article in a periodical publication (such as in the form of a book reading). Schedule 3A to the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form given that s 47A of the Act, which provides for the making of sound broadcasts of published literary or dramatic works by the holders of a print disability radio licence, was repealed by the Disability Access Act.

Schedule 3B prescribes the form of record required where a broadcast has been made of a work not in a periodical publication. Schedule 3B to the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form, given that s 47A of the Act was repealed by the Disability Access Act.

Schedule 4 prescribes the form of notice to be given to library users who have made a request under s 49(1) of the Act to be supplied with an electronic reproduction of the whole or part of an article in a periodical publication, or the whole or part of a published work, for research and study purposes. Schedule 4 to the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form as the form of notice has been removed altogether in order to provide libraries with greater flexibility in the manner by which they carry out their obligations to inform users that any further dealings with the copy other than for the purpose of research and study may infringe copyright.

Schedule 5 sets out the bodies prescribed for the purposes of s 113L(b) of the Act as administering “key cultural institutions”. This is relevant for the purpose of determining whether a library or archives administered by such a body can avail themselves of the preservation copying provisions available under Subdivision B of Division 3 of Part IVA of the Act. The bodies listed at Schedule 5 are the Australian Broadcasting Corporation, the Australian National University Archives Program and the Special Broadcasting Service Corporation. This list is reproduced in substantially the same form in regulation 16 of the 2017 Regulations.

Schedule 8 refers to countries to which Division 6 of Part III of the Act applies. Part III of the Act applies to copyright in original literary, dramatic, musical and artistic works. Division 6 applies to the recording of musical works. Schedule 8 is no longer included as part of the 2017 Regulations as section 8 of those Regulations now prescribes that Division 6 of Part III of the Act applies to countries which are currently a party to one of the major international copyright treaties or are a member of the World Trade Organization (WTO), rather than listing countries individually.

Schedule 9 prescribes the form of notice to be displayed for copying of audio-visual items. Parts 1 to 3 of Schedule 1 to the 2017 Regulations replaces Schedule 9 to the 1969 Regulations.

Schedule 10 prescribes the forms to be used for Part 3A of the 1969 Regulations, which sets out the limitation on remedies against carriage service providers. Schedule 2 of the 2017 Regulations replaces Schedule 10 to the 1969 Regulations.

Item 8—Schedule 10A (before table item 3)

Under section 116AN of the Act, an owner or exclusive licensee of the copyright in a work or other subject-matter may bring an action against a person who does an act that results in circumvention of an access control TPM measure if certain requirements are met (subsection 116AN(1)) unless the doing of the act is specifically exempted in section 116AN, such as for law enforcement, or the doing of the act is prescribed in the regulations (subsection 116AN(9)).

Similarly, a person commits an offence under section 132APC of the Act if they engage in conduct that results in circumvention of an access control TPM with the intention of obtaining a commercial advantage or profit, unless certain exceptions in section 132APC apply or the doing of the act is prescribed by the regulations (subsection 132APC(9)).

Regulation 20Z of the 1969 Regulations provides that for paragraphs 116AN(9)(c) and 132APC(9)(c) of the Act, the doing of the acts mentioned in Schedule 10A is prescribed.

Schedule 10A contains a table of prescribed acts. Table item 2 of the table is ‘Educational institutions’.

Item 8 inserts a description of prescribed acts in relation to table item 2 (Educational institutions) of the table of prescribed acts at Schedule 10A to the 1969 Regulations.

Item 8 inserts a second prescribed act in relation to table item 2 of the table at 2.2: An act by a person that does not infringe copyright because of Division 4 of Part IVA of the Act.

Part IVA was inserted into the Act by the Disability Access Act and refers to uses that do not infringe copyright, including the making of accessible copies of books and other copyright material by or for persons with a disability. Division 4 relates to educational institutions and statutory licences.

Item 8 inserts a third prescribed act in relation to table item 2 of the table at 2.3: Use by a person of a work (other than a computer game) or other subject matter that is not an infringement of copyright in the work or other subject matter because of subsection 200AB(1) of the Act because the use is covered by subsection 200AB(3) (use by body administering an educational institution) of the Act.

Subsection 200AB(1) of the Act provides that the copyright in a work or other subject-matter is not infringed by a use of the work or other subject-matter if all the following conditions exist:

- the circumstances of the use (including those described in paragraphs (b), (c) and (d)) amount to a special case,
- the use is covered by subsection (2), (3) or (4),
- the use does not conflict with a normal exploitation of the work or other subject-matter,
- the use does not unreasonably prejudice the legitimate interests of the owner of the copyright.

Subsection 200AB(3) refers to use by a body administering an educational institution and provides that this subsection covers a use that is made by or on behalf of a body administering an educational institution, and is made for the purpose of giving educational instruction, and is not made partly for the purpose of the body obtaining a commercial advantage or profit.

Item 9— Schedule 10A (before table item 4)

Under section 116AN of the Act, an owner or exclusive licensee of the copyright in a work or other subject-matter may bring an action against a person who does an act that results in circumvention of an access control TPM measure if certain requirements are met (subsection 116AN(1)) unless the doing of the act is specifically exempted in section 116AN, such as for law enforcement, or the doing of the act is prescribed in the regulations (subsection 116AN(9)).

Similarly, a person commits an offence under section 132APC of the Act if they engage in conduct that results in circumvention of an access control TPM with the intention of obtaining a commercial advantage or profit, unless certain exceptions in section 132APC apply or the doing of the act is prescribed by the regulations (subsection 132APC(9)).

Schedule 10A contains a table of prescribed acts for the purposes of paragraphs 116A(9)(c) and 132APC(9)(c).

Item 9 inserts new table item 3A into the table of prescribed acts at Schedule 10A to the 1969 Regulations. The topic of the new table item is ‘Access by or for persons with a disability’. The description of the prescribed act states that it extends to a fair dealing with, or use of, copyright material other than a computer game by a person that is not an infringement of copyright because of Division 2 (access by or for persons with a disability) of Part IVA of the Act.

Part IVA was inserted into the Act by the Disability Access Act and refers to uses that do not infringe copyright. Division 2 relates to access by or for persons with a disability.

Item 10— Schedule 10A (before table item 5)

Under section 116AN of the Act, an owner or exclusive licensee of the copyright in a work or other subject-matter may bring an action against a person who does an act that results in circumvention of an access control TPM measure if certain requirements are met (subsection 116AN(1)) unless the doing of the act is specifically exempted in section 116AN, such as for law enforcement, or the doing of the act is prescribed in the regulations (subsection 116AN(9)).

Similarly, a person commits an offence under section 132APC of the Act if they engage in conduct that results in circumvention of an access control TPM with the intention of obtaining a commercial advantage or profit, unless certain exceptions in section 132APC apply or the doing of the act is prescribed by the regulations (subsection 132APC(9)).

Schedule 10A contains a table of prescribed acts for the purposes of paragraphs 116A(9)(c) and 132APC(9)(c).

Item 10 inserts an additional prescribed act in relation to table item 4 (Libraries or archives) of the table of prescribed acts at Schedule 10A to the 1969 Regulations. The description of the prescribed act states that an act by a person that does not infringe copyright because of Division 3 of Part IVA of the Act.

Part IVA was inserted into the Act by the Disability Access Act and refers to uses that do not infringe copyright. Division 3 relates to use of copyright materials by libraries and archives for a range of purposes, such as preservation, research and administration purposes related to the care or control of the collection.

Item 11— Schedules 11, 11AA, 11AB, 11AC, 11A, 11B, 11C and 12

Item 11 repeals schedules 11, 11AA, 11AB, 11AC, 11A, 11B, 11C and 12 of the 1969 Regulations. These Schedules will be replaced by provisions in the 2017 Regulations, as outlined below, or are otherwise no longer required.

Schedule 11 to the 1969 Regulations prescribes the form of notice to the Collector of Customs of Norfolk Island. Regulation 129 of the 2017 Regulations refers to notice requirements in relation to Norfolk Island.

Schedule 11AA prescribes the form of record for copying of a broadcast. Schedule 11AA to the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form.

Schedule 11AB prescribes the form of record for communication of a copy of a broadcast. Schedule 11AB to the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form.

Schedule 11AC prescribes the form of notice for communication by an administering body. Schedule 11AC to the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form.

Schedule 11A prescribes the form of record making a licensed copy. Schedule 11A to the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form.

Schedule 11B prescribes the form of notice for electronic use notices. Schedule 11B to the 1969 Regulations does not appear in the 2017 Regulations in substantively the same form.

Schedule 11C provides the form of infringement notice. Regulation 44 of the 2017 Regulations covers information specified in Schedule 11C.

Schedule 12 lists the international organisations to which the Act applies. Regulation 125 of the 2017 Regulations replaces Schedule 12.

Part 2—Repeals

Part 2 prescribes the repeals to be made to the Tribunal Regulations.

Item 12—The whole of the instrument

Item 12 repeals the whole of the Tribunal Regulations.

The Copyright Tribunal is a specialist body which principally arbitrates disputes between copyright collecting societies and their licensees over copyright licence fees. The Tribunal Regulations include general provisions related to the operation of the Copyright Tribunal.

Part 11 of the 2017 Regulations is made in relation to the Copyright Tribunal's role in and under the Act, including Part VI of the Act. It replaces the Tribunal Regulations.

Attachment 2: Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Copyright Legislation Amendment (Technological Protection Measures) Regulations 2017

This Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Instrument

The general purpose of this Instrument is to repeal the *Copyright Tribunal (Procedure) Regulations 1969* in their entirety, and all the provisions of the *Copyright Regulations* except those relating to technological protection measures. Those provisions relating to technological protection measures will not be repealed prior to sunseting on 1 April 2018 due to restrictions on making such regulations in section 249 of the Act. Accordingly, the provisions in the *Copyright Regulations 2017* relating to technological protection measures commence later on 1 April 2018. The TPM Regulations also rename the 1969 Regulations as the *Copyright (Technological Protection Measures) Regulations 1969*.

Human rights implications

Having considered the likely impact of the Instrument and the nature of the applicable rights and freedoms, it has been determined that the Instrument engages:

- the right to education under Article 13 of the *International Covenant on Economic, Social and Cultural Rights*,
- the right to take part in cultural life under Article 15(1)(a) of the *International Covenant on Economic, Social and Cultural Rights*,
- the right to freedom of expression under Article 19(2) of the *International Covenant on Civil and Political Rights*, and
- the rights of people with a disability under the *Convention on the Rights of Persons with Disabilities*.

Subsection 116AN(1) of the *Copyright Act 1968* prescribes that an owner or exclusive licensee of copyright in a work or other subject-matter may bring an action against a person if the work or other subject-matter is protected by an access control technological protection measure, and the person does an act that results in the circumvention of the access control technological protection measure, and the person knows, or ought reasonably to know, that the act would have that result. An exception to subsection 116AN(1) is set out in paragraph 116AN(9)(c), which provides that subsection 116AN(1) does not apply to a person if the doing of the act by the person is prescribed in the regulations.

Subsection 132APC(1) of the *Copyright Act 1968* prescribes that a person commits an offence if the person engages in conduct, and the conduct results in the circumvention of a technological protection measure, and the technological protection measure is an access control technological protection measure, and the person engages in the conduct with the intention of obtaining a commercial advantage or profit. A defence to subsection 132APC(1) is set out in paragraph 132APC(9)(c), which provides that subsection 132APC(1) does not apply to the person if the doing of the act by the person is prescribed in the regulations.

Item 8 of the Instrument promotes the right to education, the right to take part in cultural life, and the right to freedom of expression by inserting prescribed acts into the regulations, which broadens the

exception under paragraph 116AN(9)(c) and the defence under paragraph 132APC(9)(c) and provides:

- an act by a person that does not infringe copyright because of Division 4 of Part IVA of the *Copyright Act 1968*. Part IVA of the Act sets out uses that do not infringe copyright and Division 4 relates to educational institutions;

Items 9 and 10 of the Instrument would promote the right to take part in cultural life, the right to freedom of expression, and the rights of people with a disability by inserting prescribed acts into the regulations, which broadens the exception under paragraph 116AN(9)(c) and the defence under paragraph 132APC(9)(c) and provides an act by a person that does not infringe copyright because of Division 2 of Part IVA of the *Copyright Act 1968*. Part IVA of the Act sets out uses that do not infringe copyright and Division 2 relates to access by or for persons with a disability.

The remaining provisions of the Instrument will have a minimal likely impact on the rights engaged. The regulations repealed from the *Copyright Regulations 1969* and the *Copyright Tribunal (Procedure) Regulations 1969* will be replaced in substantially the same form in the *Copyright Regulations 2017*.

Conclusion

This Instrument would be compatible with human rights because it promotes the right to education, the right to take part in cultural life, the right to freedom of expression, and the rights of people with a disability. To the extent that it limits any human rights, those impacts are reasonable, necessary and proportionate.