

## Economics and Governance Committee

### Subordinate legislation tabled between 5 September 2017 and 10 October 2017

#### Report No. 1

#### Introduction

##### *Role of the committee*

The Economics and Governance Committee (the committee) is a portfolio committee of the Legislative Assembly.<sup>1</sup> The committee's primary areas of responsibility include:

- Premier and Cabinet, and Trade
- Treasury, and Aboriginal and Torres Strait Islander Partnerships
- Local Government, Racing and Multicultural Affairs.

The committee is responsible for examining each item of subordinate legislation in its portfolio area to consider the policy to be given effect by the legislation, the application of fundamental legislative principles, and the lawfulness of the legislation.<sup>2</sup>

##### *Aim of this report*

This report summarises the committee's examination of subordinate legislation tabled between 5 September 2017 and 10 October 2017. It reports on any identified fundamental legislative principle issues and the explanatory notes' compliance with the *Legislative Standards Act 1992*.

#### Subordinate legislation considered

The committee considered the following subordinate legislation.

SL No.	Subordinate legislation	Tabled date	Disallowance date
177 of 2017	Superannuation (State Public Sector) Regulation 2017	5 September 2017	8 March 2018
188 of 2017	Aboriginal Land (Thayanaku) Amendment Regulation 2017	10 October 2017	22 March 2018
193 of 2017	Proclamation made under the State Penalties Enforcement Amendment Act 2017	10 October 2017	22 March 2018
194 of 2017	State Penalties Enforcement (Transitional) Regulation 2017	10 October 2017	22 March 2018

<sup>1</sup> Parliament of Queensland Act 2001, s 88 and Standing Order 194.

<sup>2</sup> Parliament of Queensland Act 2001, s 93.

### ***SL 177 of 2017 - Superannuation (State Public Sector) Regulation 2017***

The objective of the Superannuation (State Public Sector) Regulation 2017 (the 2017 Regulation) is to replace the expiring Superannuation (State Public Sector) Regulation 2006 (the 2006 Regulation). In accordance with the standard rules for the life cycle of subordinate legislation, the 2006 Regulation was due to automatically expire on 1 September 2016, however the expiry date was extended to 31 August 2017 to allow replacement subordinate legislation to be made.<sup>3</sup>

The 2006 Regulation, and the replacement 2017 Regulation, primarily sets out the rules for the operation of the QSuper Board. The explanatory notes state that the 2017 Regulation is in substantially similar form to the 2006 Regulation and makes no policy change. The 2017 Regulation renumbers provisions and updates the wording of provisions in line with current drafting practice.<sup>4</sup>

#### *Committee comment*

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the Superannuation (State Public Sector) Regulation 2017.

The committee notes that the explanatory notes tabled with the regulation comply with the requirements of the *Legislative Standards Act 1992*.

### ***SL 188 of 2017 - Aboriginal Land (Thayanaku) Amendment Regulation 2017***

The *Aboriginal Land Act 1991* facilitates the transfer of land to Aboriginal people to enable the management of the land according to their tradition or custom.<sup>5</sup>

The objective of the Aboriginal Land (Thayanaku) Amendment Regulation 2017 is to declare an area of state land as transferable land, to 'allow for the grant of inalienable freehold to Aboriginal people under the Act [*Aboriginal Land Act 1991*]'.<sup>6</sup> The lands transferred as Aboriginal freehold land are referred to as the 'Thayanaku land dealing', situated about 180 kilometres north east of Weipa. The land has an area of approximately 384, 000 hectares consisting of two National Parks (Jardine River National Park and Denham Group National Park) and two Resource Reserves (Jardine River Resources Reserve and Heathlands Resources Reserve).<sup>7</sup>

#### *Committee comment*

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the Aboriginal Land (Thayanaku) Amendment Regulation 2017.

The committee notes that the explanatory notes tabled with the regulation comply with the requirements of the *Legislative Standards Act 1992*.

### ***SL 193 of 2017 - Proclamation - State Penalties Enforcement Amendment Act 2017***

The proclamation commenced certain provisions of the *State Penalties Enforcement Amendment Act 2017* on 4 December 2017 to 'enable the introduction of work and development orders'.<sup>8</sup>

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<sup>3</sup> Under the *Statutory Instruments Act 1992* subordinate legislation automatically expires on 1 September, first occurring after the tenth anniversary of the day of its making, unless it is sooner repealed or expires, or a regulation is made exempting it from expiry (*Statutory Instruments Act 1992*, s 54).

<sup>4</sup> Explanatory notes, Superannuation (State Public Sector) Regulation 2017, p 1.

<sup>5</sup> Queensland Government, *Environment, land use and native title: Land transfers* <[www.qld.gov.au/atsi/environment-land-use-native-title/land-transfers](http://www.qld.gov.au/atsi/environment-land-use-native-title/land-transfers)>.

<sup>6</sup> Explanatory notes, Aboriginal Land (Thayanaku) Amendment Regulation 2017, p 3.

<sup>7</sup> Explanatory notes, Aboriginal Land (Thayanaku) Amendment Regulation 2017, p 1.

<sup>8</sup> Explanatory notes, Proclamation – State Penalties Enforcement Amendment Act 2017, p 1.

#### *Committee comment*

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the Proclamation - *State Penalties Enforcement Amendment Act 2017*.

The committee notes that the explanatory notes tabled with the regulation comply with the requirements of the *Legislative Standards Act 1992*.

#### ***SL 194 of 2017 - State Penalties Enforcement (Transitional) Regulation 2017***

The objective of the State Penalties Enforcement (Transitional) Regulation 2017 is to facilitate the effective operation of the *State Penalties Enforcement Act 1999* during a transitional period until all relevant provisions of the *State Penalties Enforcement Amendment Act 2017* have commenced. The transitional regulation is necessary to preserve the operation of existing terms in the *State Penalties Enforcement Act 1999* until the commencement of other provisions on a future date.

#### *Committee comment*

The committee identified no issues regarding consistency with fundamental legislative principles or the lawfulness of the State Penalties Enforcement (Transitional) Regulation 2017.

The committee notes that while the explanatory notes tabled with the regulation were reasonably detailed, they do not contain information about whether consultation took place, and therefore do not strictly comply with the requirements of the *Legislative Standards Act 1992*. The committee acknowledges that given the technical nature of the amendments, consultation was likely deemed to be unwarranted, however in accordance with the *Legislative Standards Act 1992* 'a statement of the reason for no consultation' should be included in the explanatory notes.

### **Recommendation**

The committee recommends that the Legislative Assembly note this report.



Linus Power MP  
**Chair**

#### **Economic and Governance Committee**

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