

## State Development and Regional Industries Committee

Report No. 21, 57th Parliament

Subordinate legislation tabled between 17 November 2021 and 22 February 2022

### 1 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
173	Animal Care and Protection (Code of Practice about Rodeos) Amendment Regulation 2021	22 February 2022	26 May 2022
174	Biosecurity and Other Legislation Amendment Regulation 2021	22 February 2022	26 May 2022
175	Rural and Regional Adjustment (Variation of Work in Paradise Incentive Scheme) Amendment Regulation 2021	22 February 2022	26 May 2022
177	Local Government Amendment Regulation 2021	22 February 2022	26 May 2022
178	Planning (Development in Priority Port's Master Planned Area) Amendment Regulation 2021	22 February 2022	26 May 2022
6	Drugs Misuse (Fees for Commercial Production of Industrial Cannabis) Amendment Regulation 2022	22 February 2022	26 May 2022
7	Water (Desired Level of Service Objectives for SEQ Region) Amendment Regulation 2022	22 February 2022	26 May 2022
9	Planning (State Development Assessment Provisions) Amendment Regulation 2022	22 February 2022	26 May 2022

\*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

### 2 Summary of committee considerations

The committee examined subordinate legislation within its portfolio areas tabled between 17 November 2021 and 22 February 2022. The committee did not identify any issues regarding the policy to be given effect or the lawfulness of the subordinate legislation.

The committee considered several fundamental legislative principle issues within the legislation. In all cases, the committee was satisfied that any potential breaches were appropriate and sufficiently justified. The committee was satisfied that all explanatory notes provided complied with Part 4 of the *Legislative Standards Act 1992* (Legislative Standards Act).

The committee considered several possible human rights limitations resulting from the subordinate legislation. In all cases, the committee was satisfied that the limitations were reasonable and demonstrably justified. All human rights certificates tabled with the subordinate legislation provided a sufficient level of information to show the subordinate legislation's compatibility with human rights.

A summary of the committee's examination of each item of subordinate legislation is provided below.

### **3 Animal Care and Protection (Code of Practice about Rodeos) Amendment Regulation 2021 – SL 173**

#### **3.1 Policy overview**

Rodeos provide economic and community/social activity for rural and regional Queensland. However, the explanatory notes state that there is increasing public concern about the welfare of horses and cattle in rodeos, and Queensland is the only Australian jurisdiction without specific laws for rodeos.<sup>1</sup>

The policy objective of the regulation is to provide minimum animal welfare requirements for the care, handling and use of animals at rodeos.<sup>2</sup> It does this by inserting a new schedule into the *Animal Care and Protection Act 2001* (the Act) and making its requirements compulsory code requirements. The regulation – including the Code of practice for rodeos (the Code) commenced on 1 January 2022.

According to the explanatory notes, the Code provides clear minimum standards on persons responsible for the care, handling and use of horses and cattle in rodeo events.<sup>3</sup> The notes state that the Code achieves a reasonable balance between the welfare of animals and the interests of persons whose livelihood is dependent on animals; and that overall, a minor impact on stakeholders is expected from implementing the Code, as current practices generally align with the requirements.<sup>4</sup>

Consultation occurred through working groups established by the Department of Agriculture and Fisheries (DAF). The Rodeo Standards Advisory Group has representatives from the rodeo, veterinary and animal welfare sectors. According to the notes, ‘all parties were highly supportive of introducing laws to provide greater certainty to businesses and assurances to the community that appropriate animal welfare standards were being maintained by rodeos in Queensland’.<sup>5</sup> However, some animal welfare groups called for the banning of rodeos altogether in Queensland.<sup>6</sup>

The notes state that while there was widespread agreement among stakeholders on the adoption of appropriate standards for rodeos, the rope and tie event remained contentious. The regulation therefore provides that rope and tie event provisions be reviewed after 5 years to understand any welfare impacts and determine whether the provisions need to be re-examined.<sup>7</sup>

#### **3.2 Consistency with fundamental legislative principles**

Fundamental legislative principles are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law. The Legislative Standards Act requires legislation have sufficient regard to the rights and liberties of individuals and the institution of Parliament.

##### **3.2.1 Rights and liberties of individuals**

The reasonableness and fairness of the treatment of individuals is relevant in deciding whether legislation has sufficient regard to the rights and liberties of individuals.<sup>8</sup> The concept of liberty requires that an activity (including a business activity) should be lawful unless there is a sufficient reason to declare it unlawful by an appropriate authority.<sup>9</sup>

The explanatory notes acknowledge that the regulation potentially breaches this principle because the Code restricts the right to conduct business without interference.<sup>10</sup> For example, rodeo animal

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<sup>1</sup> SL No. 173, explanatory notes, p 1.

<sup>2</sup> SL No. 173, explanatory notes, p 1.

<sup>3</sup> SL No. 173, explanatory notes, p 1.

<sup>4</sup> SL No. 173, explanatory notes, pp 2 and 3.

<sup>5</sup> SL No. 173, explanatory notes, p 4.

<sup>6</sup> SL No. 173, explanatory notes, p 4.

<sup>7</sup> SL No. 173, explanatory notes, p 4.

<sup>8</sup> LSA, s 4(2)(a).

<sup>9</sup> OQPC, *Fundamental Legislative Principles: the OQPC Notebook*, p 118.

<sup>10</sup> SL No. 173, explanatory notes, p 3.

suppliers, rodeo welfare officers, judges, protection clowns, competitors and veterinary surgeons all have responsibilities under the Code.<sup>11</sup>

The explanatory notes justify the potential breach of fundamental legislative principle on the basis that the Act 'already prescribes a duty of care on persons in charge of an animal to provide for the needs of the animal including food, water, accommodation and veterinary care.'<sup>12</sup> Further:

The Code of Practice provides minimal standards to demonstrate how those requirements may be met which are justified on the basis that they reflect community values and expectations about how rodeo animals should be cared for and handled.<sup>13</sup>

#### Committee comment

The committee is satisfied that any breach of fundamental legislative principle is justified, having regard to the public concern about the welfare of rodeo animals, and the fact that the Animal Care and Protection Act already imposes a duty of care on persons in charge of rodeo animals to provide for their needs.

### **3.2.2 Explanatory notes**

The explanatory notes comply with Part 4 of the Legislative Standards Act.

### **3.3 Compatibility with human rights**

The committee considered two potential limitations resulting from the subordinate legislation – the right to property, and the right to privacy.

#### **3.3.1 Right to property**

A person must not be arbitrarily deprived of their property.<sup>14</sup> Section 20 of the Code may limit this right because it provides for the humane killing of a rodeo animal in certain circumstances, thereby impacting the owner's right to property.<sup>15</sup>

In assessing the balance between limiting and preserving the right to property, the Minister states:

Section 20 strikes a fair balance between preventing the unjustifiable suffering of a rodeo animal and the impost on a person's right to own property. Allowing killing of an animal only when it is necessary to prevent the animal from suffering and it would be inhumane to delay killing the animal avoids the indiscriminate or arbitrary killing of a rodeo animal.<sup>16</sup>

##### 3.3.1.1 Committee comment

The committee is satisfied that the potential limitation on a person's right to property is reasonable and demonstrably justified.

#### **3.3.2 Right to privacy**

A person has the right not to have their privacy unlawfully or arbitrarily interfered with.<sup>17</sup>

Section 21 of the Code provides that a rodeo organiser must make a written incident record if an animal becomes, sick, injured or is killed at a rodeo. The organiser must include the names of persons involved or with knowledge of the incident. The record must be kept for at least two years.<sup>18</sup> The collection and storage of personal details may impact a person's right to privacy.

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<sup>11</sup> See SL No. 173, s 6 (Parts 4 and 5 of the Code of Practice).

<sup>12</sup> SL No. 173, explanatory notes, p 3.

<sup>13</sup> SL No. 173, explanatory notes, p 3.

<sup>14</sup> HRA, s 24.

<sup>15</sup> SL No. 173, s 6 (Section 20 of the Code of Practice).

<sup>16</sup> SL No. 173, human rights certificate, p 2.

<sup>17</sup> HRA, s 25.

<sup>18</sup> SL No. 173, s 6 (Section 21 of the Code of Practice).

Sections 41 and 46 of the Code may also impact a person's right to privacy as these sections require a person responsible for a rodeo animal to enquire about the weight of a person or child who is intending to ride the rodeo animal to ensure that they meet any weight requirements.

The Minister provides the following justifications for any limitations on the right to privacy in these circumstances:

The limitation on the right to privacy under section 21 is justified when balanced against the importance of enabling investigations to ensure compliance with the Code of Practice and hence achieve a reasonable balance between the welfare of animals and the interests of persons whose livelihood is dependent on animals. In addition, the investigations may also identify when procedures involving animals at rodeos need to be reviewed and/or changed to ensure acceptable animal welfare standards are maintained.

The limitation on the right to privacy under sections 41 and 46 is justified when balanced against the importance of determining the suitability of an animal to be used for a particular rodeo event, and hence that it is not subjected to undue stress and potential injury by carrying excessive weight.<sup>19</sup>

#### **3.3.2.1 Committee comment**

The committee is satisfied that the potential limitation on a person's right to privacy is reasonable and demonstrably justified.

#### **3.3.3 Human rights certificate**

The human rights certificate tabled with the regulation provides a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

## **4 Biosecurity and Other Legislation Amendment Regulation 2021 – SL 174**

### **4.1 Policy overview**

The regulation amends various items of legislation for several distinct purposes.

#### **Distinctive collars for regulated dogs**

Under the *Animal Management (Cats and Dogs) Act 2008*, regulated dogs (dogs that are declared dangerous, menacing or restricted) are required to wear a distinctive collar at all times for the purpose of public safety. The regulation prescribes the following requirements:

...all regulated dogs must have a distinctive collar made of durable material and have a buckle or other fastener to securely attach the collar to the dog. The collar must have diagonal stripes of alternating red and yellow colours at least 25mm wide at an angle of 45 degrees. At least one of the colours must be reflective and visible in low light conditions.<sup>20</sup>

The explanatory notes state that the Department of Agriculture and Fisheries conducted a survey of local governments regarding the proposal to introduce distinctive collars for regulated dogs, in partnership with the Local Government Association of Queensland and the South-East Queensland Regional Animal Management Group. All 52 respondents supported the introduction of requirements in regulation.<sup>21</sup>

#### **Prohibited feed for pigs and poultry**

The feeding or supplying of prohibited feed for pigs and poultry is regulated under the *Biosecurity Act 2014* (Biosecurity Act) and provides specific offences for persons feeding, dealing with or supplying prohibited feed for pigs and poultry. Feeding of food waste, particularly animal products, to livestock poses a risk of transmitting disease to the livestock.<sup>22</sup>

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<sup>19</sup> SL No. 173, human rights certificate, p 4.

<sup>20</sup> SL No. 174, explanatory notes, p 1.

<sup>21</sup> SL No. 174, explanatory notes, p 5.

<sup>22</sup> SL No. 174, explanatory notes, p 2.

In May 2020, the Animal Health Committee (AHC)<sup>23</sup> agreed to an amended national definition of prohibited pig feed which included treatment requirements to inactivate the African swine fever virus. Accordingly, the *Biosecurity Regulation 2016* (Biosecurity Regulation) is amended to provide that material which has undergone an AHC-approved treatment process, under a compliance agreement, will not be prohibited feed for pigs and poultry.<sup>24</sup>

The amendment also enables the waste food recycling industry to heat treat human food waste and then safely supply it as pig and poultry feed.<sup>25</sup>

The explanatory notes advise that consultation on the amendment to the national definition was undertaken with all Australian Chief Veterinary Officers and the Commonwealth Scientific and Industrial Research Organisation (CSIRO), as members of the AHC. Animal Health Australia, Wildlife Health Australia, and the New Zealand Ministry for Primary Industries were also consulted. The AHC agreed on the revised definition of prohibited pig feed in May 2020.<sup>26</sup>

The notes confirm that the Stock Feed Manufacturers' Council of Australia, the Australian Renderers Association and SAFEMEAT were also consulted. All agreed with the amendment to the national definition of prohibited pig feed, including an approved cooking process with a time/temperature requirement.<sup>27</sup>

#### Penalty Infringement Notices

The regulation amends the *State Penalties Enforcement Act 1999* to create new Penalty Infringement Notice offences (PINs) for offences that already exist under the Biosecurity Act and the Biosecurity Regulation.

The PINs concern offences for distribution and disposal of category 3 restricted matter; the inclusion of penalties for corporations where individual penalties already apply; offences relating to biosecurity instrument permits; and renewal of registered biosecurity entities. The regulation also removes an obsolete PIN.<sup>28</sup>

The explanatory notes state that 'PINs can be a cost-effective enforcement tool that avoids the need for court cases while achieving greater awareness of, and compliance with, legislative requirements. The service of PINs also serves an educational purpose to the general community.' Further, PINs are generally no more than one-tenth of the penalty prescribed in the Biosecurity Act, the Biosecurity Regulation or any other statute to which the infringement notice offence relates.<sup>29</sup>

The explanatory notes state that 'Local government was consulted on some of the PINs and is supportive of their introduction'. It is not clear from the explanatory notes which PINs were consulted upon. The notes also state that 'External stakeholder engagement was not undertaken as the PINs relate to existing offence provisions'.<sup>30</sup>

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<sup>23</sup> The Animal Health Committee comprises the chief veterinary officers of the Commonwealth, states and territories, along with representatives from the CSIRO Australian Centre for Disease Preparedness, the Department of Agriculture, Water and the Environment.

<sup>24</sup> SL no. 174, Statement of compatibility with human rights, p 1.

<sup>25</sup> SL no. 174, Statement of compatibility with human rights, p 1.

<sup>26</sup> SL No. 174, explanatory notes, p 6.

<sup>27</sup> SL No. 174, explanatory notes, p 6.

<sup>28</sup> SL No. 174, explanatory notes, pp 1-2.

<sup>29</sup> SL No. 174, explanatory notes, p 2.

<sup>30</sup> SL No. 174, explanatory notes, p 6.

## **4.2 Consistency with fundamental legislative principles**

The creation of new offences and penalties affects the rights and liberties of individuals.<sup>31</sup>

In determining whether legislation has sufficient regard to the rights and liberties of individuals, it is necessary to consider whether the penalties are proportionate and relevant to the actions to which the consequences are applied by the legislation. Although the explanatory notes are silent as to this issue of fundamental legislative principle, they do provide the following justification for the creation of or changes to the PINs:

- creation of a PIN offence for corporations that distribute or dispose of a thing infested with category 3 restricted matter – the explanatory notes state that this is ‘consistent with the compliance approach for individuals’.<sup>32</sup> Similarly, in relation to the PIN offences for corporations for failure to carry a biosecurity instrument permit, the explanatory notes state that this is ‘consistent with the compliance approach for individuals’.<sup>33</sup>
- PIN offences for distribution and disposal of category 3 restricted matter – the explanatory notes state that the rationale for this change was the ‘[increasing involvement of] persons selling a range of invasive cacti species online and at markets’.<sup>34</sup>
- creation of a PIN offence for registered biosecurity entities failing to pay the fee for renewal of their registration – the explanatory notes state that this will ensure the department’s database is accurate and owners of animals the subject of a biosecurity incident can be contacted.<sup>35</sup>

### **4.2.1.1 *Committee comment***

The committee is satisfied that the penalties are proportionate, appropriate and justified in the circumstances, noting the justifications provided by the explanatory notes.

## **4.2.2 Explanatory notes**

The explanatory notes comply with Part 4 of the Legislative Standards Act.

## **4.3 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.<sup>36</sup>

### **4.3.1 Human rights certificate**

The human rights certificate provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **5 Rural and Regional Adjustment (Variation of Work in Paradise Incentive Scheme) Amendment Regulation 2021 – SL 175**

### **5.1 Policy overview**

The regulation amends the Work in Paradise Incentive Scheme (the Scheme), which is an initiative to attract Australian jobseekers to the Queensland tourism industry, with the objective of stimulating

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<sup>31</sup> *Legislative Standards Act 1992* (LSA), s 4(2)(a).

<sup>32</sup> SL No. 174, explanatory notes, p 3.

<sup>33</sup> SL No. 174, explanatory notes, p 3.

<sup>34</sup> SL No. 174, explanatory notes, p 3.

<sup>35</sup> SL No. 174, explanatory notes, p 3.

<sup>36</sup> Section 8 of the *Human Rights Act 2019* (HRA) relevantly provides that a statutory provision is compatible with human rights if the provision does not limit a human right or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HRA. Section 13 of the HRA provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

regional economies and helping rebuild Queensland tourism businesses in a COVID-safe environment.<sup>37</sup>

The regulation aims to achieve this by expanding eligibility through:

- creating a new category of 'eligible employment' which applies only to applicants who are applying for their second or third instalment under the Scheme, and enables these applicants to remain eligible by working for up to 2 eligible businesses, if their original Scheme employer was unable to reasonably continue to engage them in eligible employment
- expanding the definition of 'eligible business' to include additional Australian and New Zealand Standard Industrial Classification (ANZSIC) codes for tourism-related industries such as aviation, performing arts operation and transport rental and hire
- creating a new definition of 'continuous periods of eligible employment' to acknowledge workplace closures or a reduction in employment hours of a workplace caused by COVID-19
- providing an extension of the application closing date from 31 March 2022 to 30 June 2022 or until funds are exhausted, whichever comes earlier
- allowing incentive instalments to be paid in relation to a continuous period of employment completed up to 31 March 2023.<sup>38</sup>

The explanatory notes advise that the Department of Agriculture and Fisheries consulted the Office of the Best Practice Regulation (OBPR) and that proposed changes were unlikely to result in significant adverse impacts and no further regulatory impact analysis was required under the guidelines.<sup>39</sup> No further information on consultation was provided in the explanatory notes.

## 5.2 Consistency with fundamental legislative principles

If subordinate legislation refers to a document that is not reproduced in full in the subordinate legislation, and changes can be made to that document without it being brought to the attention of the Legislative Assembly, the relevant subordinate legislation may be considered to have insufficient regard to the institution of Parliament.<sup>40</sup>

Here, some of the provisions in the regulation refer to the ANZSIC, a document published by the Australian Bureau of Statistics to establish which businesses are eligible under the Scheme.

In determining whether it is appropriate for matters to be dealt with by an instrument that is not subordinate legislation, committees have taken into account the importance of the subject dealt with and matters such as the practicality or otherwise of including those matters in subordinate legislation.<sup>41</sup>

The explanatory notes justify the references to ANZSIC as follows -

It is desirable to refer to this document because applicants already identify their activities by reference to the ANZSIC codes in their dealings with government about various matters. The classifications are well understood and their use will assist businesses and organisations to more readily determine if they are eligible.<sup>42</sup>

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<sup>37</sup> SL No. 175, explanatory notes, p 1.

<sup>38</sup> SL No. 175, explanatory notes, pp 2-3.

<sup>39</sup> SL No. 175, explanatory notes, p 3.

<sup>40</sup> See LSA, ss 4(2)(b), 4(5)(e).

<sup>41</sup> Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental legislative principles: the OQPC notebook*, p 170.

<sup>42</sup> SL No. 175, explanatory notes, p 3.

### Committee comment

The committee is satisfied that the incorporation of an external document by the subordinate legislation is justified, noting the wide usage of ANZSIC and that it is freely available online.

#### **5.2.1 Explanatory notes**

The explanatory notes comply with Part 4 of the Legislative Standards Act.

#### **5.3 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

##### **5.3.1 Human rights certificate**

The human rights certificate tabled provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **6 Local Government Amendment Regulation 2021 – SL 177**

### **6.1 Policy overview**

The Local Government Regulation 2012 contains provisions relating to a levy on the railway between Cairns and Kuranda (the Kuranda rail line) and imposes a tourist infrastructure levy (at the rate of \$1 for each passenger journey to or from Kuranda) on each Kuranda rail operator until 31 December 2021. Queensland Rail is the current Kuranda Scenic Railway operator.<sup>43</sup>

The current Kuranda Infrastructure Agreement 2021 (Kuranda Agreement) between the State and the Mareeba Shire Council (the Council) provides that the State shall pay the council monies collected from the levies and that these funds must be used to provide and maintain amenities which will enhance visitors' experience, enjoyment and environmental understanding of the Kuranda area while supporting the wellbeing of the Kuranda community.<sup>44</sup> The regulation amends the Local Government Regulation 2012 to extend the end date for the levy on each Kuranda rail operator for a further 10 years in line with recently renewed Kuranda Agreement.

The explanatory notes advise Mareeba Shire Council was consulted in relation to the 2021 Kuranda Infrastructure Agreement and had no objections.<sup>45</sup>

### **6.2 Consistency with fundamental legislative principles**

The committee identified no issues of fundamental legislative principle.

#### **6.2.1 Explanatory notes**

The explanatory notes comply with Part 4 of the LSA.

#### **6.3 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

##### **6.3.1 Human rights certificate**

The human rights certificate tabled with the regulation provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **7 Planning (Development in Priority Port's Master Planned Area) Amendment Regulation 2021 – SL 178**

### **7.1 Policy overview**

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<sup>43</sup> SL No. 177, explanatory notes, p 1.

<sup>44</sup> SL No. 177, explanatory notes, pp 1 and 2.

<sup>45</sup> SL No. 177, explanatory notes, p 3.

The objective of the regulation is to provide that a relevant port authority is the assessment manager for development that is completely on strategic port land made assessable by a port overlay for a priority port's master planned area.

Explanatory notes for the *Sustainable Ports Development Act 2015* (Ports Act) expresses an intention that the port authority is to have autonomy of decision-making under its port land use plan. However, the effect of provisions in the *Planning Regulation 2017* (Planning Regulation) is that the local government is the assessment manager, rather than the port authority, for development made assessable by a port overlay in a priority port master planned area and on strategic port land.

The regulation amends the Planning Regulation to address this inconsistency to enable the port authority to perform its intended role as assessment manager.<sup>46</sup>

The explanatory notes state the Department of Transport and Main Roads consulted with the Port of Townsville Limited and the Gladstone Ports Corporation and that both port authorities support amending the regulation.<sup>47</sup>

## **7.2 Consistency with fundamental legislative principles**

The committee identified no issues of fundamental legislative principle.

### **7.2.1 Explanatory notes**

The explanatory notes comply with Part 4 of the Legislative Standards Act.

## **7.3 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

### **7.3.1 Human rights certificate**

The human rights certificate provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **8 Drugs Misuse (Fees for Commercial Production of Industrial Cannabis) Amendment Regulation 2022 – SL 6**

### **8.1 Policy overview**

The main objective of the regulation is to prescribe a revised and restructured fee schedule for the licensing of commercial production of industrial cannabis to achieve full cost recovery.<sup>48</sup> According to the explanatory notes, the new fee structure for licensing and monitoring has been developed following significant regulatory impact analysis and consultation.<sup>49</sup>

The current fee structure consists of a generic application fee and generic licence renewal fee. It does not include a fee for licence amendments. Under the new fee structure, separate licence fees will be charged for growers, researchers, and seed handlers; and for new licence applications, licence renewal applications and licence amendment applications.<sup>50</sup>

The regulation also introduces new monitoring fees to 'recover the costs of an inspector monitoring an activity performed under a relevant authority and, where applicable, to recover the costs to the Department of Agriculture and Fisheries for analysing samples taken by inspectors'. The new monitoring fees replace previous statutory licence conditions requiring a licensee to pay the 'reasonable costs' of monitoring activities.<sup>51</sup>

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<sup>46</sup> SL No. 178, explanatory notes, p 2.

<sup>47</sup> SL No. 178, explanatory notes, p 3.

<sup>48</sup> SL No. 6, human rights certificate, p 5.

<sup>49</sup> SL No. 6, s 4; explanatory notes, p 1.

<sup>50</sup> SL No. 6, s 4; explanatory notes, p 1.

<sup>51</sup> SL No. 6, explanatory notes, p 2; human rights certificate, p 1.

The explanatory notes advise that a consultation regulatory impact statement (RIS) was released to seek views on whether to maintain the status quo of fees or revise to achieve full cost recovery.<sup>52</sup> The consultation RIS received 13 submissions, with 62% of respondents supporting the status quo.<sup>53</sup>

This may have been because some fees were proposed to be increased substantially. For example, the initial fee to apply for a grower or researcher was \$486.85. The consultation RIS proposed increasing this licence application fee to \$1,231.50 for growers and \$1,833.58 for researchers.<sup>54</sup>

The decision RIS outlined that revising and restructuring fees was the preferred approach, as doing so would 'end subsidisation of the industry, is more equitable and will provide a sustainable basis for regulation of the industry including monitoring and enforcement'.<sup>55</sup>

## **8.2 Consistency with fundamental legislative principles**

The committee identified no issues of fundamental legislative principle.

### **8.2.1 Explanatory notes**

The explanatory notes comply with Part 4 of the LSA.

## **8.3 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

### **8.3.1 Human rights certificate**

The human rights certificate provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **9 Water (Desired Level of Service Objectives for SEQ Region) Amendment Regulation 2022 – SL 7**

### **9.1 Policy overview**

The objective of the regulation is to provide greater flexibility for water restrictions when required, and to provide a clearer idea of what water restrictions might be imposed during drought.<sup>56</sup>

The regulation amends the water restriction criteria, specifically the Level of Service (LOS) objectives for South-East Queensland (SEQ), in the Water Regulation 2016 (Water Regulation).<sup>57</sup> The LOS objectives outline the minimum performance expected from the SEQ Water Grid in ensuring the region's long-term water needs are met.<sup>58</sup>

The regulation changes the expression of duration of water restrictions in section 80(3) of the Water Regulation. The change is from 'medium level water restrictions to not be in place longer than 1 year on average' to 'the total duration of medium level water restrictions, and water restrictions of a greater severity, will not last longer than 5 per cent of the modelled time'.<sup>59</sup>

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<sup>52</sup> SL No. 6, explanatory notes, p 3.

<sup>53</sup> Queensland Department of Agriculture and Fisheries, *Amendment of industrial cannabis legislation*, Decision regulatory impact statement, October 2019, p 6.

<sup>54</sup> Queensland Department of Agriculture and Fisheries, *Amendment of industrial cannabis legislation*, Consultation regulatory impact statement, May 2019, p 11.

<sup>55</sup> Queensland Department of Agriculture and Fisheries, *Amendment of industrial cannabis legislation*, Decision regulatory impact statement, October 2019, p 18.

<sup>56</sup> SL No. 7, explanatory notes, p 1.

<sup>57</sup> SL No. 7, explanatory notes, p 2.

<sup>58</sup> SL No. 7, human rights certificate, p 1.

<sup>59</sup> SL No. 7, s 4; SL No. 7, explanatory notes, p 1.

The modelling refers to the Regional Stochastic Model, which was recently updated to incorporate learnings of water storage behaviour from the Millennium Drought and to account for climate change impacts.<sup>60</sup>

According to the explanatory notes:

The amended Level of Service (LOS) objective articulates greater flexibility to impose water restrictions to be part of a drought response, when SEQ water grid levels drop to critical levels. This amendment incorporates updated hydrological modelling results from Seqwater's Regional Stochastic Model, which is used to model long-term water security in SEQ.

The amendment is also beneficial because it reduces the risk of prematurely investing in infrastructure. Seqwater's updated modelling shows that implementing the amended LOS objective would reduce the risk of constructing drought response infrastructure that could be idle for much of the time (i.e., generally only used during drought until the population grows and increases the water demand).<sup>61</sup>

The explanatory notes state 'The department has met the consultation and assessment requirements under the Act'.<sup>62</sup> The actions taken to meet these requirements were:

- issuing a public notice describing the proposed amendment to the desired LOS objectives for SEQ, and engaging Seqwater and the SEQ water service providers
- publishing a public notice of the proposed change to the LOS objectives online, and inviting comments on the notice for the required 28 business days. This was accompanied by an information paper about the proposed change, providing background on the LOS objective and water security planning for SEQ. A consultation report outlining the chief executive's considerations was also published on the Business Queensland website.
- the department lodged a proposal with OBPR, submitting that the LOS objective in the Water Regulation 2016 be amended.<sup>63</sup>

The explanatory notes advise that 9 submissions were made in response to the public notice. Over half of the submissions supported the amendment. Of the remaining submissions, most raised no objection to the amendment itself but rather raised concerns about causes of water security issues in general, such as population growth.<sup>64</sup>

Seqwater and the SEQ water service providers expressed general support for the amendment. The OBPR advised that the proposal will not add regulatory burden, and as such no RIS is required.<sup>65</sup>

## **9.2 Consistency with fundamental legislative principles**

The committee identified no issues of fundamental legislative principle.

### **9.2.1 Explanatory notes**

The explanatory notes comply with Part 4 of the LSA.

## **9.3 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

### **9.3.1 Human rights certificate**

The human rights certificate tabled with the regulation provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

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<sup>60</sup> SL No. 7, explanatory notes, p 1.

<sup>61</sup> SL No. 7, explanatory notes, p 3.

<sup>62</sup> SL No. 7, explanatory notes, p 4.

<sup>63</sup> SL No. 7, explanatory notes, pp 3-4.

<sup>64</sup> SL No. 7, explanatory notes, p 4.

<sup>65</sup> SL No. 7, explanatory notes, p 4.

## **10 Planning (State Development Assessment Provisions) Amendment Regulation 2022 – SL 9**

### **10.1 Overview**

The Planning (State Development Assessment Provisions) Amendment Regulation 2022 amends the Planning Regulation 2017 to:

- reflect the State Development Assessment Provisions (SDAP) as approved by the Planning Minister on 29 December 2021
- align the definition of ‘food and drink outlet’ with the provisions of the *Liquor Act 1992* to allow for the sale of takeaway liquor from a restaurant or café
- remove references to living arrangements from the definitions of ‘rural workers’ accommodation’ and ‘non-resident workforce accommodation’, and
- clarify ‘government supported transport infrastructure’ is not limited to being for public use.

The explanatory notes advise that the Department of State Development Infrastructure, Local Government and Planning (DSDILGP) consulted the Local Government Association of Queensland, the Central Highlands Regional Council and the Tablelands Regional Council in relation to the proposed amendments to ‘rural workers’ accommodation’ and ‘non-resident workforce accommodation’. The explanatory notes advise that all 3 organisations support the policy intent to remove the regulation of living arrangements from the definitions of ‘rural workers’ accommodation’ and ‘non-resident workforce accommodation’.<sup>66</sup>

### **10.2 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified by the committee.

#### **10.2.1 Explanatory notes**

The explanatory notes comply with part 4 of the LSA.

### **10.3 Compatibility with human rights**

The committee is satisfied that the subordinate legislation is compatible with human rights.

#### **10.3.1 Human rights certificate**

The human rights certificate tabled with the regulation provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **11 Recommendation**

The committee recommends that the House notes this report.



Chris Whiting MP

**Chair**

**May 2022**

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<sup>66</sup> SL No. 9, explanatory notes, p 3.

**State Development and Regional Industries Committee**

<b>Chair</b>	Mr Chris Whiting MP, Member for Bancroft
<b>Deputy Chair</b>	Mr Jim McDonald MP, Member for Lockyer
<b>Members</b>	Mr Michael Hart MP, Member for Burleigh
	Mr Robbie Katter MP, Member for Traeger
	Mr Jim Madden MP, Member for Ipswich West
	Mr Tom Smith MP, Member for Bundaberg