



# QUEENSLAND PARLIAMENT COMMITTEES

## Housing, Big Build and Manufacturing Committee

### Report No. 21, 57th Parliament

#### Subordinate legislation tabled between 1 May 2024 and 21 May 2024

#### 1. Aim of this report

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled between 1 May 2024 and 21 May 2024. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).<sup>1</sup>

The report also notes any issues identified by the committee in its consideration of compliance with the *Human Rights Act 2019* (HRA) and the human rights certificates tabled with the subordinate legislation.<sup>2</sup>

#### 2. Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
47	Water Plan (Mary Basin) 2024	21 May 2024	To be advised
50	Proclamation - Work Health and Safety and Other Legislation Amendment Act 2024	21 May 2024	To be advised

\* The disallowance date is 14 sitting days after the tabling date. Disallowance dates are based on proposed sitting dates as advised by the Leader of the House at the time the committee adopts its report. At the time this report was adopted, future sitting dates were unknown.

#### 3. Committee consideration of the subordinate legislation

The committee did not identify any significant issues regarding the policies to be given effect, consistency with fundamental legislative principles, the lawfulness of the subordinate legislation or non-compliance with the *Human Rights Act 2019*.

The committee considers that the explanatory notes tabled with the subordinate legislation examined in this report comply with the requirements of section 24 of the *Legislative Standards Act 1992*.

The committee is satisfied that the human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the *Human Rights Act 2019*.

<sup>1</sup> *Legislative Standards Act 1992*, Part 4.

<sup>2</sup> *Human Rights Act 2019*, s 41.

## 4. Water Plan (Mary Basin) 2024 (SL No. 47)

### 4.1 Overview

The Water Plan (Mary Basin) 2024 (SL No. 47) repeals and replaces the Water Plan (Mary Basin) 2006.<sup>3</sup> The objective of SL No. 47 is to ‘sustainably manage surface water and underground water resources in the Mary Basin water plan area’.<sup>4</sup>

The expiry of the 2006 Water Plan was postponed in 2021 by the responsible Minister until 28 May 2024. As stated in the explanatory notes, the postponement provided opportunity for consultation with traditional owners and other key stakeholders, technical assessments, and review of feedback on a draft future plan.<sup>5</sup>

### 4.2 Consultation

The explanatory notes and the website of the Department of Regional Development, Manufacturing and Water (department) indicate that that comprehensive consultation process occurred in line with legislative requirements.

Consultation activities included a preliminary consultation process in 2021 which announced the replacement of the existing water plan. A total of 95 submissions were received and these, as well as targeted consultation activities, reportedly informed the development of the draft water plan and supporting documents.<sup>6</sup>

In 2023, the draft water plan was published for consultation. A total of 110 submissions were received. According to the department’s website, submissions were generally supportive of the updated outcomes, measures and objectives. The department’s website also states ‘that feedback received, including stakeholder submissions, have been considered in finalising the new water plan, water management protocol and the Water Entitlement Notice for the area’.<sup>7</sup>

### 4.3 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. These principles include requiring that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament as contained in the LSA, s 4.

#### ***Rights and liberties of individuals – administrative power***

Legislation should allow the delegation of administrative power only in appropriate cases and to appropriate persons.<sup>8</sup>

SL No. 47 vests power in the chief executive to make decisions about the allocation of water to strategic reserves, in accordance with the process set out in the *Water Regulation 2016*, which is also decided by the chief executive at the time of release.<sup>9</sup> SL No. 47 also enables the chief executive to make decisions about applications for water licences and daily volumetric limits for certain existing authorisations.<sup>10</sup> SL No. 47 also prescribes certain matters which the chief executive must consider in determining the outcome of applications and allocations.<sup>11</sup>

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<sup>3</sup> SL No. 47, s 55.

<sup>4</sup> SL No. 47, explanatory notes, p 1.

<sup>5</sup> Explanatory notes, p 1.

<sup>6</sup> Queensland Government, Department of Regional Development, Manufacturing and Water, *Mary Basin water plan consultation*, [www.rdmw.qld.gov.au/water/consultations-initiatives/mary-basin-water-plan](http://www.rdmw.qld.gov.au/water/consultations-initiatives/mary-basin-water-plan).

<sup>7</sup> *Ibid.*

<sup>8</sup> *Legislative Standards Act 1992*, s 4(3)(c).

<sup>9</sup> SL No. 47, human rights certificate, p 2.

<sup>10</sup> SL No. 47, explanatory notes, pp 11, 16-19.

<sup>11</sup> SL No. 47, explanatory notes, pp 12-14.

**Committee comment**

The committee is satisfied that SL No. 47 has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

**4.3.1 Explanatory notes**

Although the explanatory notes do not address the rights and liberties of individuals – administrative power in the context of fundamental legislative principles, the explanatory notes for SL No. 47 comply with part 4 of the LSA.

**4.4 Compatibility with human rights**

The committee considered the subordinate legislation's compatibility with human rights, including property rights.

***Property rights***

The human rights certificate acknowledges that provisions relating to content and conditions of water licences may limit the right to own, and not to be arbitrarily deprived of, property.<sup>12</sup>

Part 9 Division 6 includes a methodology for converting the conditions of existing water licences to new mandatory requirements. For example, an existing water licence would need to be amended to include a volumetric limit on the taking of water rather than specifying an area to be irrigated.<sup>13</sup>

The human rights certificate states:

Part 9, Division 6 of the *Water Plan (Mary Basin) 2024* may engage a person's right not to be arbitrarily deprived of their property on the basis that despite the rigour underpinning the methodology to work out a conversion to a nominal entitlement (volumetric limit) as a part of the content of a water licence, it may not be sufficient for the purpose for which the water is required by the existing water licence holder.<sup>14</sup>

The human rights certificate states that it is in the best interests of the community that water licences have volumetric limits to action the sustainable management of the resource. The certificate concludes that there are no other less restrictive and reasonable ways to modernise and standardise the management of water licences.<sup>15</sup>

The human rights certificate notes that safeguards have been introduced into Part 9, Division 6 as the chief executive has the power to make a different decision than the conversion methodology provided for under the water plan. Further, affected licence holders can provide a submission on proposed changes to their water licence, through the draft water entitlement notice process.<sup>16</sup> The chief executive has the discretion to change or alter their decision on the basis of that submission.<sup>17</sup>

**Committee comment**

The committee is satisfied that any limitations to property rights are reasonable and demonstrably justified in the circumstances that that SL No. 47 of 2024 is compatible with human rights.

**4.4.1 Human rights certificate**

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

<sup>12</sup> SL No. 47, human rights certificate, p 8.

<sup>13</sup> SL No. 47, human rights certificate, p 8.

<sup>14</sup> SL No. 47, human rights certificate, p 8.

<sup>15</sup> SL No. 47, human rights certificate, p 9.

<sup>16</sup> SL No. 47, human rights certificate, p 9.

<sup>17</sup> SL No. 47, human rights certificate, p 10.

## **5. Proclamation – *Work Health and Safety and Other Legislation Amendment Act 2024* (SL No. 50)**

### **5.1 Overview**

The Proclamation made under the Work Health and Safety and Other Legislation Amendment Act 2024 (Act) fixes a commencement date of 20 May 2024 for certain provisions of the Act that amend the *Work Health and Safety Act 2011* (WHS Act) and the *Safety in Recreational Water Activities Act 2011* (SRWA Act).<sup>18</sup>

The explanatory notes advise that these provisions give effect to recommendations of the Review of the *Work Health and Safety Act 2011 - Final Report 2022* (WHS Act Review) and recommendations of the national 2018 Review of the Model Work Health and Safety Laws (Boland Review).<sup>19</sup>

The provisions commenced by Proclamation for the WHS Act include:

- clarifying the suitable entities which may represent and assist workers and health and safety representatives
- clarifying WHS entry permit holder rights that may be exercised
- enabling the Work Health and Safety Prosecutor to authorise an appropriately qualified member of staff to bring proceedings
- providing for reviews of approved codes of practice at least every five years
- providing a new method for the establishment of industry sector standing committees under the WHS Act
- re-naming the Work-related Fatalities and Serious Incidents Consultative Committee to become the Consultative Committee for Work-related Fatalities and Serious Incidents
- extending the 12-month deadline, to 18 months, for a person to request the Work Health and Safety Prosecutor bring a prosecution for a Category 1 or 2 offence
- making minor technical amendments to enhance operation and administration of the WHS Act.<sup>20</sup>

The provision commenced by Proclamation for the SRWA Act include:

- making a minor amendment to section 41 (Confidentiality of information) to enhance the operation and administration of the SRWA Act.<sup>21</sup>

Other provisions in the *Work Health and Safety and Other Legislation Amendment Act 2024* will commence by Proclamation at a later date.<sup>22</sup>

### **5.2 Consultation**

The explanatory notes state that the Proclamation is not subject to regulatory impact assessment requirements as it is a regulatory proposal that is machinery in nature, commencing particular provisions of the WHSOLA Act.<sup>23</sup>

### **5.3 Consistency with fundamental legislative principles**

No issues of fundamental legislative principle were identified with SL No. 50.

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<sup>18</sup> Explanatory notes, p 1.

<sup>19</sup> Explanatory notes, p 1.

<sup>20</sup> Explanatory notes, pp 1-2.

<sup>21</sup> Explanatory notes, p 2.

<sup>22</sup> Explanatory notes, p 2.

<sup>23</sup> Explanatory notes, p 2.

### 5.3.1 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

### 5.4 Compatibility with human rights

The human rights certificate states the Minister's view that the Proclamation does not engage or limit human rights, and that a full assessment of the amendments was undertaken in the Human Rights Statement of Compatibility for the WHSOLA Act.

#### **Committee comment**

The committee is satisfied that SL No. 50 is compatible with human rights.

### 5.4.1 Human rights certificate

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

## 6. Recommendation

The committee recommends that the House notes this report.



Chris Whiting MP

**Chair**

**August 2024**

### **Housing, Big Build and Manufacturing 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 Don Brown MP, Member for Capalaba
	Mr Michael Hart MP, Member for Burleigh
	Mr Robbie Katter MP, Member for Traeger
	Mr Tom Smith MP, Member for Bundaberg