

**Subordinate legislation tabled between  
6 May 2015 and 3 June 2015**

**Report No. 8, 55<sup>th</sup> Parliament  
Infrastructure, Planning and Natural Resources Committee  
September 2015**

## **Infrastructure, Planning and Natural Resources Committee**

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## 1. Introduction

### 1.1 Role of the Committee

The Infrastructure, Planning and Natural Resources Committee (the committee) is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 27 March 2015.<sup>1</sup> It consists of government and non-government members.

The committee's areas of portfolio responsibility are:

- Transport, Infrastructure, Local Government, Planning and Trade, and
- State Development, Natural Resources and Mines.<sup>2</sup>

### 1.2 Aim of this report

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio 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 to the legislation, and
- for subordinate legislation – its lawfulness.

This report contains a summary of the committee's examination of subordinate legislation tabled between 6 May 2015 and 3 June 2015 within its portfolio responsibilities. Unless highlighted in the table below, no issues have been identified.

### 1.3 Subordinate legislation examined

SL No	Subordinate Legislation	Tabled Date	Disallowance Date
23	Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015	19 May 2015	14 October 2015
24	Transport and Another Regulation Amendment Regulation (No. 1) 2015	19 May 2015	14 October 2015
26	Aboriginal Land Amendment Regulation (No. 1) 2015	19 May 2015	14 October 2015
31	Survey and Mapping Infrastructure (Survey Standards) Notice 2015	3 June 2015	29 October 2015

### 1.4 Summary of examination and recommendation

The committee did not identify any significant issues relating to policy, fundamental legislative principles or the lawfulness of the subordinate legislation examined. All explanatory notes tabled with the subordinate legislation complied with Part 4 of the *Legislative Standards Act 1992*, except the explanatory notes tabled with subordinate legislation nos. 23 and 31.

#### Recommendation

The committee recommends the Legislative Assembly notes the contents of this report.

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

<sup>2</sup> Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 17 July 2015).

## 2. Subordinate legislation examined

### 2.1 Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015 (SL No. 23)

The objectives of the Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015 (SL No. 23) are to:

- amend provisions to remove uncertainty about what is a liquefied petroleum gas delivery network operating plant and for determining gas safety and health fee liability
- change the reference to the prescribed generic safety management plan
- update the *AS3814 Industrial and commercial gas-fired appliances* reference to reflect the 2015 version, and
- make minor consequential and drafting amendments.<sup>3</sup>

#### Committee comment

The committee is satisfied the Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015 (SL No. 23) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness. The explanatory notes tabled with the regulation mostly comply with Part 4 of the *Legislative Standards Act 1992*. The notes do not contain an outline of the results of all the consultation as required by section 24(2)(ii).

### 2.2 Transport and Another Regulation Amendment Regulation (No. 1) 2015 (SL No. 24)

The objectives of the Transport and Another Regulation Amendment Regulation (No. 1) 2015 (SL No. 24) are to:

- introduce a direct debit payment scheme, to allow eligible customers to pay their annual or six monthly vehicle registration by direct debit
- introduce a new three monthly registration renewal term for eligible customers who pay their light vehicle registration fees by direct debit
- introduce new surcharges applying to the new three monthly direct debit option, and
- reduce existing surcharges for motorists who choose to renew their vehicle registration for less than one year.<sup>4</sup>

The explanatory notes advise that for operational reasons, the eligibility for the direct debit scheme is restricted to light vehicles that are registered in an individual name or names, and to vehicles with eligible purposes of use (eg. private, commercial, limousine). The notes further advise that once the initial rollout has been fully implemented, consideration would be given to extending the scheme to other registered operators and purposes of use.<sup>5</sup>

#### Committee comment

The committee is satisfied the Transport and Another Regulation Amendment Regulation (No. 1) 2015 (SL No. 24) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with Part 4 of the *Legislative Standards Act 1992*.

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<sup>3</sup> Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015, Explanatory notes, p 2.

<sup>4</sup> Transport and Another Regulation Amendment Regulation (No. 1) 2015, Explanatory notes, p 1.

<sup>5</sup> Ibid, p 3.

### 2.3 Aboriginal Land Amendment Regulation (No. 1) 2015 (SL No. 26)

The objective of the Aboriginal Land Amendment Regulation (No.1) 2015 (SL No. 26) is to amend the Aboriginal Land Regulation 2011 to declare an area of tidal land as available State land and areas of available State land to be transferable land. The transfer of land will allow for the eventual grant of inalienable freehold title under *the Aboriginal Land Act 1991* to Aboriginal people.

In December 2007, the Eastern Yalanji, Queensland and the WTMA (Freehold Grants) Indigenous Land Use Agreement Q12006/007 was registered as an 'Area Agreement' in accordance with the *Native Title Act 1993*.<sup>6</sup>

To date, approximately 63 000 hectares have been transferred to the Jabalbina Yalanji Land Trust. The State is now in a position to transfer the remaining 24 parcels of land negotiated in the Eastern Yalanji, Queensland and the WTMA (Freehold Grants) Indigenous Land Use Agreement.

The subject parcels are located approximately 50 to 100 kilometres south of Cooktown and contain a total area of 97.1944 hectares. One of the parcels contains tidal land and must be declared to be available State land prior to being declared transferable land.

The Department of Natural Resources and Mines carried out an evaluation of the land under section 16 of the *Land Act 1994* to determine the land's most appropriate use and tenure. The evaluation recommended that the land's most appropriate use is for transfer under the *Aboriginal Land Act 1991*.

Stakeholders including the Wet Tropics Management Authority, Cairns Regional Council, the former Douglas and Cook Shire Councils, Telstra, Ergon and the Eastern Kuku Yalanji people were consulted. The submissions received were primarily supportive or raised no objections to dealing with the land under the Act.<sup>7</sup>

#### Committee comment

The committee is satisfied the Aboriginal Land Amendment Regulation (No. 1) 2015 (SL No. 26) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes comply with Part 4 of the *Legislative Standards Act 1992*.

### 2.4 Survey and Mapping Infrastructure (Survey Standards) Notice 2015 (SL No. 31)

The objective of the Survey and Mapping Infrastructure (Survey Standards) Notice 2015 (SL No. 31) is to amend and update the Cadastral Survey Requirements (survey requirements) to Version 7.

The survey requirements set out a range of standards that surveyors must meet and provide guidelines to assist the conduct of cadastral surveys. The survey standards are important for maintaining the integrity and accuracy of the cadastre and provide certainty with regard to property boundaries.

A review of the survey requirements took into account the changing technology associated with surveying and the regulatory burden on surveyors.

The changes to the survey requirements address the following:

- ease of use of coordinate-based methods
- ease of use and improved reliability of Global Navigation Satellite Systems, including via Continually Operating Reference Stations
- accuracy of measurement equipment

<sup>6</sup> Aboriginal Land Amendment Regulation (No.1) 2015, Explanatory notes, p 2.

<sup>7</sup> Ibid, p 3.

- increased opportunity for electronic exchange of survey information (ie. Electronic Access to Registry Lodgement)
- approval of a new and significantly different version of the Intergovernmental Committee on Surveying and Mapping Special Publication 1
- publication of survey control information in the Queensland globe.<sup>8</sup>

During 2014, a consultation draft of the Cadastral Survey Requirements was available for industry and public comment. Surveyors were provided the opportunity to comment during workshops held by the Department of Natural Resources and Mines where a number of issues were raised.

The main rationales for change were:

- the standards were becoming out of date due to changes in standards, technology, Ministerial policy and the legislative framework, eg. the *Sustainable Planning Act 2009* has replaced the *Integrated Planning Act 1997*, as well as the related machinery of government changes
- incorrect interpretation on the part of industry members, and
- consultation with industry stakeholders.<sup>9</sup>

### ***Application of fundamental legislative principles***

Section 4(5)(e) of the *Legislative Standards Act 1992* provides that whether subordinate legislation has sufficient regard to the institution of Parliament depends on whether the subordinate legislation allows the sub-delegation of a power delegated by an Act only:

- in appropriate cases and to appropriate persons, and
- if authorised by an Act.

### ***Availability of document and parliamentary scrutiny***

The significance of dealing with such matters other than by subordinate legislation is that since the relevant document (the survey standards) is not 'subordinate legislation' it is not subject to the tabling and disallowance provisions of Part 6 of the *Statutory Instruments Act 1992*.

The amendment notice which notifies the making or amending of the survey standards is subordinate legislation and therefore subject to disallowance.<sup>10</sup> However, the survey standards document is not attached to the amendment notice or required to be tabled with the notice. This means that any changes made to the guidelines are not formally brought before the Parliament for consideration.

Therefore, it could be argued that the process of making the guidelines does not have sufficient regard to the institution of Parliament.

### ***Explanatory notes***

The explanatory notes do not include a brief statement regarding the outcome of the consultation required by section 24(2)(a)(ii) of the *Legislative Standards Act 1992*. The explanatory notes do not identify the FLP issue identified above. The explanatory notes otherwise comply with Part 4 of the *Legislative Standards Act 1992*.

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<sup>8</sup> Survey and Mapping Infrastructure (Survey Standards) Notice 2015, Explanatory notes, p 2.

<sup>9</sup> Ibid, p 4.

<sup>10</sup> *Survey and Mapping Infrastructure Act 2003*, s 9(4).

Committee comment

The committee is satisfied the Survey and Mapping Infrastructure (Survey Standards) Notice 2015 (SL No. 31) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

The committee is satisfied with the way the guidelines are incorporated into the legislative framework. This is on the basis of balancing the significance of the subject matter dealt with and the practicalities of tabling a comprehensive document (currently 204 pages) that may change regularly.

The committee also notes that the changes made to the guidelines are detailed in the explanatory notes accompanied with the amendment notice and that the document is accessible on the Department's website.

If future amendments are made to the survey standards, the committee encourages the department to outline the changes made, and the results of any consultation undertaken, in the explanatory notes.



Jim Pearce MP  
**Chair**

September 2015