

**Subordinate legislation tabled between
28 October 2015 and 1 December 2015**

**Report No. 18, 55th Parliament
Infrastructure, Planning and Natural Resources Committee
February 2016**

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 is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 27 March 2015.¹ It consists of government and non-government members.

The committee's areas of portfolio responsibility are:

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

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:

- (a) the policy to be given effect by the legislation
- (b) the application of fundamental legislative principles to the legislation
- (c) for subordinate legislation – its lawfulness.

This report contains a summary of the committee's examination of subordinate legislation tabled between 28 October 2015 and 1 December 2015 within its portfolio responsibilities.

1.3 Subordinate legislation examined

SL No	Subordinate Legislation	Tabled Date	Disallowance Date
156	Sustainable Planning Amendment Regulation (No. 3) 2015	1 December 2015	20 April 2016
160	Transport Legislation Amendment Regulation (No. 1) 2015	1 December 2015	20 April 2016
161	Proclamation made under the Holidays and Other Legislation Amendment Act 2015	1 December 2015	20 April 2016
162	Transport Legislation Amendment Regulation (No. 2) 2015	1 December 2015	20 April 2016
163	Proclamation made under the Building Queensland Act 2015	1 December 2015	20 April 2016

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*.

¹ *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

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

Recommendation

Recommendation 1

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

2 Subordinate legislation examined

2.1 Sustainable Planning Amendment Regulation (No. 3) 2015 (SL No. 156)

The objective of the *Sustainable Planning Amendment Regulation (No.3) 2015* (SL No. 156) is to create greater operational efficiency with the State Assessment and Referral Agency (SARA) by improving the clarity of referral triggers and definitions and reducing the number of low risk applications that are referred to the State for assessment.

Excluded uses for State transport infrastructure triggers

The amendment excludes certain low risk uses from the State transport infrastructure triggers at Schedule 7, table 3, item 1; Schedule 7, table 3, item 14 and Schedule 7, table 3, item 15A. Amending the State transport infrastructure triggers reduces low risk development applications requiring referral to the State, thereby saving time and resources for applicants.

Access to public passenger transport corridors

The amendment ensures that development applications with works associated with access to a public passenger transport corridor are referred to the State. The amendment provides consistency across State transport infrastructure triggers to require referral for operational works adjoining a State transport corridor that involves works associated with access.

Schedule 9 consistency with Queensland Planning Provisions (QPP) definitions

The amendment ensures consistency of terminology with the standard planning scheme provisions the QPP. This amendment ensures that all development applications for the uses defined in the QPP are referred to the State where they may potentially adversely impact the safe and efficient operation of the State transport infrastructure are referred for assessment.

Definition of dwelling

The amendment to Schedule 26 will remove ambiguity of the term 'dwellings' in Schedule 9 and ensure development that may potentially adversely impact the safe and efficient operation of the State transport infrastructure is referred for assessment.

Definition of new or changed access

The amendment clarifies interpretation of 'new or changed access' and ensures it is consistently applied.

State development assessment provisions (SDAP) version

Amending the definition of the SDAP in Schedule 26 of the SPR gives effect to the current version of the SDAP.³

Committee comment

The committee is satisfied that *Sustainable Planning Amendment Regulation (No. 3) 2015* (SL No. 156) does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes tabled with the regulation comply with Part 4 of the *Legislative Standards Act 1992*.

2.2 Transport Legislation Amendment Regulation (No. 1) 2015 (SL No. 160)

The objective of the *Transport Legislation Amendment Regulation (No.1) 2015* (SL No. 160) is to ensure national consistency and currency by adopting the third package of nationally-agreed amendments to the Model Subordinate Law on the Transport of Dangerous Goods by Road and Rail.

³ *Sustainable Planning Amendment Regulation (No. 3) 2015*. Explanatory notes for SL 2015 No. 156.

These amendments were developed by the National Transport Commission and were endorsed by the Transport Infrastructure Council in May 2015.

The amendment regulation will also enhance maritime legislation by making a number of minor reforms, and make other miscellaneous amendments to update or enhance the operation of transport regulation.

Dangerous goods by road and rail

National model laws have been developed to reduce the risks arising from the transport of dangerous goods by road and rail. Those laws include:

- the Model Law on the Transport of Dangerous Goods by Road and Rail;
- the Model Subordinate Law on the Transport of Dangerous Goods by Road and Rail; and
- the Australian Code for the Transport of Dangerous Goods by Road and Rail (the Code).

All of these laws are based on the internationally accepted United Nations Model Regulations on the Transport of Dangerous Goods which are revised every two years.

The National Transport Commission has developed the third Amendment Package to ensure national consistency and currency is maintained. The package amends the Model Law, the Model Subordinate Law and the Code to incorporate the recent changes made to the UN Model Regulations and to enhance the clarity of existing legislative requirements. The current edition of the Code is 7.3, with edition 7.4 to come into national effect on 1 January 2016.

In Queensland, the transport of dangerous goods by road is regulated under the Transport Operations (Road Use Management) Act 1995 and the Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008 (the Road Regulation). Likewise, the transport of dangerous goods by rail is governed by the Transport Infrastructure Act 1994 and the Transport Infrastructure (Dangerous Goods by Rail) Regulation 2008 (the Rail Regulation). These regulations are based on the Model Subordinate Law.

Both the Road and Rail Regulations will be amended to:

- clarify the definition of multiple-element gas container, which is an assembly of cylinders, tubes and bundles of cylinders used in the transport of dangerous goods;
- allow the chief executive to refer an approval, determination or exemption that has been given in another jurisdiction to the Competent Authorities Panel for the purpose of mutual recognition; and
- for changes to be made to the Code on 1 January 2016, provide industry with a 12-month transitional period during which they can comply with either the existing Code or the Code as amended.

The Road Regulation will also be amended to clarify that the requirement to display warning triangles when a dangerous goods vehicle is stopped on a road, only applies to vehicles with a gross vehicle mass of 12 tonnes or less. The Queensland Road Rules address the requirements for vehicles over 12 tonnes.

Maritime legislation

Currently, Queensland legislation requires certain commercial and recreational ships to display a registration number that is at least 200mm high on both sides of the ship. In other Australian jurisdictions, the displayed number must be at least 150mm high.

This jurisdictional difference can lead to difficulties for boat owners, builders, manufacturers and dealers. For example, Queensland enforcement officers may unnecessarily intercept an interstate registered ship due to the smaller registration numbers displayed on the ship. To address this, it is proposed to amend the Transport Operations (Marine Safety) Regulation 2004 to decrease, from 200mm to 150mm, the minimum size of registration numbers which must be displayed on the side of

particular commercial and recreational ships. Current Queensland ship numbers will continue to satisfy the lower requirements.⁴

Committee comment

The committee is satisfied the *Transport Legislation Amendment Regulation (No.1) 2015* (SL No. 160) 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*.

2.3 Proclamation made under the Holidays and Other Legislation Amendment Act 2015 (SL No. 161)

The Proclamation made under the *Holidays and Other Legislation Amendment Act 2015* fixed a commencement date of 1 January 2016 for certain provisions of the Holidays and Other Legislation Amendment Act 2015. The amendments concern 'digital photos and digitised signatures used on a range of transport authorities, including driver licences, marine licences and tow truck driver's certificates'.⁵

Committee comment

The committee is satisfied the Proclamation made under the *Holidays and Other Legislation Amendment Act 2015* (SL No. 161) 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*.

The committee notes that the Finance and Administration Committee, considered this legislation in detail and tabled a report in August 2015.⁶

2.4 Transport Legislation Amendment Regulation (No.2) 2015 (SL No. 162)

The Holidays and Other Legislation Amendment Act 2015 amended a number of transport Acts to consolidate existing provisions about taking, keeping and using customers' digital photos and digitised signatures (digital image set provisions) into *the Transport Planning and Coordination Act 1994*.

The policy objective of the *Transport Legislation Amendment Regulation (No. 2) 2015* (SL No. 162) is to provide for the operation of the amendments in the Act by applying digital image set provisions to applicants for high risk work licences, prescribing other particular matters for the Act and making other consequential amendments required as a result of the Act.

Under work health and safety laws across Australia, a high risk work licence is required for persons operating certain high risk equipment such as cranes and forklifts, or performing scaffolding duties. Applying the digital image set provisions to high risk work licences will support the implementation of an online application service for high risk work licences using electronic identity verification and the existing digital bank of customer image sets and card production processes used by the Department of Transport and Main Roads.⁷

⁴ Transport Legislation Amendment Regulation (No. 1) 2015. Explanatory notes for SL 2015 No. 160

⁵ Proclamation made under the Holidays and Other Legislation Amendment Act 2015. Explanatory notes for SL 2015 No. 161

⁶ Finance and Administration Committee, Report No. 6, 55th Parliament, August 2015

⁷ Transport Legislation Amendment Regulation (No. 2) 2015. Explanatory notes for SL 2015 No. 162

Committee comment

The committee is satisfied the *Transport Legislation Amendment Regulation (No. 2) 2015* (SL No. 162) 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*.

2.5 Proclamation made under the Building Queensland Act 2015 (SL No. 163)

The Proclamation made under the *Building Queensland Act 2015* (SL No. 163) fixed a commencement date of 3 December 2015 for provisions of the *Building Queensland Act 2015* that were not yet in force.

Committee comment

The committee is satisfied that the Proclamation made under the *Building Act 2015* (SL No. 163) 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*.



Jim Pearce MP
Chair

February 2016