

State Development, Natural Resources and Agricultural Industry
Development Committee

Report No. 39, 56th Parliament

Subordinate legislation tabled between 12 June 2019 and 20 August 2019

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 12 June 2019 and 20 August 2019. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles (FLPs) and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
104	Planning Legislation (Fees and Other Matters) Amendment Regulation 2019	20 August 2019	24 October 2019
106	Vegetation Management (Clearing Codes and Regional Ecosystems) Amendment Regulation 2019	20 August 2019	24 October 2019
120	Water Amendment Plan (Burdekin Basin) 2019	20 August 2019	24 October 2019
127	Agriculture and Fisheries Legislation (fees) Amendment Regulation 2019	20 August 2019	24 October 2019
128	Rural and Regional Adjustment (Exceptional Damage Loans Scheme) Amendment Regulation 2019	20 August 2019	24 October 2019
129	Racing Integrity (Fees) Amendment Regulation 2019	20 August 2019	24 October 2019
136	Water (Border Rivers and Moonie and Condamine and Balonne) Amendment Regulation 2019	20 August 2019	24 October 2019
140	Mining Legislation (Classification of Chemicals) Amendment Regulation 2019	20 August 2019	24 October 2019
143	State Development and Public Works Organisation (State Development Areas) Regulation 2019	20 August 2019	24 October 2019

3 Committee consideration of the subordinate legislation

No significant issues regarding policy, consistency with FLPs or the lawfulness of the subordinate legislation were identified.

The explanatory notes tabled with the regulations comply with the requirements of section 24 of the LSA.

3.1 Planning Legislation (Fees and Other Matters) Amendment Regulation 2019 (SL 104)

The objective of the amendment regulation is to:

- update fees in line with the government indexation rate for 2019-20 and the Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics¹
- provide for two youth detention centre development projects - a 16 bed expansion of the existing Brisbane Youth Detention Centre at Wacol and the construction of a new 32 bed youth detention centre adjacent to the Brisbane Youth Detention Centre²
- clarify when dwelling houses and dual occupancies may or may not be regulated by a local categorising instrument by restructuring the provisions according to planning use terms rather than building classifications³
- give effect to the most current version of the State Development Assessment Provisions which is used by the State Assessment Referral Agency to assess development applications.⁴

Committee comment

The committee notes that all the fees within the amendment regulation come within the government indexation rate for the 2019-20 year of 2.25 percent, apart from some fee increases which can be accounted for by rounding.

The committee is satisfied that the Planning Legislation (Fees and Other Matters) Amendment Regulation 2019 does not raise any significant issues relating to policy, FLPs. The explanatory notes tabled with the amendment regulation comply with part 4 of the LSA.

3.2 Vegetation Management (Clearing Codes and Regional Ecosystems) Amendment Regulation 2019 (SL 106)

The objective of the amendment regulation is to approve the updated accepted development vegetation clearing codes (ADVCCs) and give effect to updated regional ecosystems and corresponding regional ecosystem conservation classes which are declared within the Vegetation Management Regulation (VMR) 2012.

The explanatory notes state that:

The VMR requires amendment to:

1. *Approve the updated ADVCCs to reflect the latest scientific knowledge and ensure authorised clearing was "low ecological risk clearing" only.*
2. *Declare an update to the regional ecosystems and conservation classes to align with the best available science to improve the vegetation management mapping.*⁵

¹ SL 104, explanatory notes, p 2.

² SL 104, explanatory notes, p 2.

³ SL 104, explanatory notes, p 2.

⁴ SL 104, explanatory notes, p 3.

⁵ SL 160, explanatory notes, p 2.

Additionally, s 3 of the VMR will be amended to remove nine ADVCCs and approve the following eight ADVCCs:

- Managing weeds
- Managing encroachment
- Necessary environmental clearing
- Clearing for infrastructure
- Clearing for an extractive industry
- Clearing to improve agricultural efficiency
- Managing fodder harvesting, and
- Managing regulated regrowth vegetation.

The current “Managing category C regrowth vegetation” and “Managing category R regrowth vegetation” ADVCCs are being replaced by a single “Managing regulated regrowth vegetation” ADVCC which is why nine ADVCCs are being replaced by eight.⁶

Schedules 1 to 5 of the VMR will be amended to provide for:

- eight regional ecosystems that are changing to a higher conservation class schedule (e.g. from least concern to of concern)
- four regional ecosystems that are changing to a lower conservation class schedule (e.g. from of concern to least concern)
- one grassland regional ecosystem changing from schedule 4 to 5 based on evidence of encroachment
- 12 grassland regional ecosystems being amended to their correct schedules due to a classification error when the regulation was last amended
- 23 regional ecosystems being removed from the schedule, and
- 53 updates to regional ecosystem descriptions.

These amendments to the VMR are a legislative requirement of the *Vegetation Management Act 1999* to ensure these mechanisms are based on the most up-to-date scientific knowledge and understanding.⁷

Committee comment

The committee is satisfied that the Vegetation Management (Clearing Codes and Regional Ecosystems) Amendment Regulation 2019 does not raise any significant issues relating to policy, FLPs or lawfulness. The explanatory notes comply with part 4 of the LSA.

3.3 Water Amendment Plan (Burdekin Basin) 2019 (SL 120)

The objective of the plan is to provide a framework for the allocation and sustainable management of surface water and overland flow water in particular parts of the plan area. These parts include the sub-catchment areas upstream of Burdekin Falls Dam, namely Belyando Suttor subcatchment area (subcatchment area E), Cape Campaspe subcatchment area (subcatchment area F) and Upper Burdekin subcatchment area (subcatchment area G).

⁶ SL 160, explanatory notes, p 1.

⁷ SL 160, explanatory notes, pp 2-3.

The amendment plan will provide:

- a framework for the conversion of water licences to water allocations in priority areas of subcatchment area F and subcatchment area G
- a framework to amend water licences in subcatchment area E, subcatchment area F and subcatchment area G to specify clearer licence terms and conditions
- landholders in areas outside water supply schemes with the ability to take water from a watercourse, lake or spring without an entitlement for non-riparian stock and domestic purposes, and
- landholders in areas outside water supply schemes with the ability to take up to five megalitres of water per annum in subcatchment area E, subcatchment area F and subcatchment area G without an entitlement for prescribed activities, such as for washing down agricultural equipment.⁸

The explanatory notes state that the implementation of the amendment plan will provide the following benefits, which include:

- the sustainable management of surface water, including water underneath a watercourse declared to be surface water and overland flow water
- expanding the water market through the conversion of water licences to tradable water allocations in subcatchment area F and subcatchment area G
- enabling a process whereby water users in particular areas of subcatchment area E can apply to the chief executive to seasonally assign or permanently relocate a water licence
- allowing an additional 50 000 ML to be traded from the Burdekin Falls Dam ponded area to meet emerging water demands
- granting three new water licences to recognise the historical take or interference with water that existing prior to the Water Resource (Burdekin Basin) Plan 2007
- extending the notification period for water users to notify the chief executive that they have existing works for taking overland flow water, to allow water users who have invested in such works to continue to use those works for taking overland flow water
- a framework to amend water licences in the subcatchment area E, subcatchment area F and subcatchment area G to streamline and simplify licence terms and conditions, and
- access to water without the requirement for an entitlement, to allow landholders in areas outside water supply scheme areas to take water for non-riparian stock and domestic use, and to take up to five megalitres of water per annum in subcatchment area E, subcatchment area F and subcatchment area G for prescribed activities, such as for washing down agricultural equipment.⁹

The explanatory notes state:

The community in areas affected by the amendment plan have been consulted throughout all stages of the amendment process via:

- *the Upper Burdekin Basin Water Consultation Group;*
- *public information sessions;*
- *meetings with key stakeholder groups including the local government;*
- *public submissions on the draft amendment plan; and*

⁸ SL 120, explanatory notes, pp 1-2.

⁹ SL 120, explanatory notes, pp 2-3.

- *discussions with individuals about issues raised during public information sessions or in submissions.*¹⁰

The explanatory notes also state that the intent of the draft amendment plan was generally well received and no significant changes were required as a result of the consultation.¹¹

Committee comment

The committee is satisfied that the Water Amendment Plan (Burdekin Basin) 2019 does not raise any significant issues relating to policy, FLPs or lawfulness. The explanatory notes comply with part 4 of the LSA.

3.4 Agriculture and Fisheries Legislation (Fees) Amendment Regulation 2019 (SL 127)

The objective of the amendment regulation is to increase the fees in the following regulations by 2.25 per cent in line with the government indexation rate for 2019-20:

- Agricultural Chemicals Distribution Control Regulation 1998
- Animal Care and Protection Regulation 2012
- Animal Management (Cats and Dogs) Regulation 2009
- Biosecurity Regulation 2016
- Brands Regulation 2012
- Chemical Usage (Agricultural and Veterinary) Control Regulation 2017
- Drugs Misuse Regulation 1987
- Fisheries Regulation 2008
- Food Production (Safety) Regulation 2014
- Veterinary Surgeons Regulation 2016.

Committee comment

The committee notes that all the fees within the amendment regulation come within the government indexation rate for the 2019-20 year of 2.25 percent, apart from where rounding increases some fees by 2.3 per cent.

The committee is satisfied that the Agriculture and Fisheries Legislation (Fees) Amendment Regulation 2019 does not raise any significant issues relating to policy, FLPs or lawfulness. The explanatory notes tabled with the amendment regulation comply with part 4 of the LSA.

3.5 Rural and Regional Adjustment (Exceptional Damage Loans Scheme) Amendment Regulation 2019 (SL 128)

The objective of the amendment regulation is to empower the Queensland Rural and Industry Development Authority (QRIDA) to administer the January-February 2019 Flood Disaster (Exceptional Damage) Loans Scheme (Scheme). The Scheme is intended to assist primary producers and critical supply chain businesses to pay re-establishment costs resulting from direct extreme damage caused by the North West Queensland flooding during January and February 2019.¹²

The Scheme is one of the additional measures announced by the Queensland Government in March 2019 to support the economic recovery of the regions of North West Queensland which had been severely impacted by the flood disaster. The Scheme will provide loans to entities whose impact is such that the standard Disaster Recovery Funding Arrangements concessional loans and grants are insufficient to support recovery. According to the explanatory notes, it is intended that the provision

¹⁰ SL 120, explanatory notes p 3.

¹¹ SL 120, explanatory notes p 4.

¹² SL 128, explanatory notes, p 2.

of the concessional loans will sustain business viability and accelerate economic recovery of the region.¹³

The Scheme will be equally cost shared between the Queensland and Australian Governments under the Commonwealth-State Disaster Recovery Funding Arrangements (DRFA). QRIDA currently administers a range of DRFA assistance measures to assist businesses, primary producers and not for profit organisations impacted by natural disasters. QRIDA has also administered enhanced concessional loans similar to this scheme in previous severe natural disasters.¹⁴

Committee comment

The committee is satisfied that the Rural and Regional Adjustment (Exceptional Damage Loans Scheme) Amendment Regulation 2019 does not raise any significant issues relating to policy, FLPs or lawfulness. The explanatory notes comply with part 4 of the LSA.

3.6 Racing Integrity (Fees) Amendment Regulation 2019 (SL 129)

The objective of the amendment regulation is to increase fees and charges under the Racing Integrity Regulation 2016 in line with government indexation rate of 2.25 per cent.

Committee comment

The committee notes that all fee increases come within the indexation rate of 2.25 per cent.

The committee is satisfied that the Racing Integrity (Fees) Amendment Regulation 2019 does not raise any significant issues relating to policy, FLPs or lawfulness. The explanatory notes comply with part 4 of the LSA.

3.7 Water (Border Rivers and Moonie and Condamine and Balonne) Amendment Regulation 2019 (SL 136)

The objective of the amendment regulation is to amend the Water Regulation 2016 to:

- reflect the new names of the *Water Plan (Border Rivers and Moonie) 2019* and the *Water Plan (Condamine and Balonne) 2019* that have commenced
- repeal underground water areas previously managed under the water regulation, as it will now be managed under the water plans.¹⁵

The explanatory notes state that all of the proposed amendments to the water regulation are consequential amendments resulting from the water planning process.¹⁶

Committee comment

The committee is satisfied that the Water (Border Rivers and Moonie and Condamine and Balonne) Amendment Regulation 2019 does not raise any significant issues relating to policy, FLPs or lawfulness. The explanatory notes comply with part 4 of the LSA. However, the committee notes that there are errors in the Notes on Provisions¹⁷ provided in the explanatory notes and draws this to the attention of the Department of Natural Resources, Mines and Energy.

3.8 Mining Legislation (Classification of Chemicals) Amendment Regulation 2019 (SL 140)

The objective of the amendment regulation is to complete the transition to the Globally Harmonised System for the Classification and Labelling of Chemicals at coal mines, mineral mines and quarries.

¹³ SL 128, explanatory notes, pp 2, 3.

¹⁴ SL 128, explanatory notes, p 2.

¹⁵ SL 136, explanatory notes, p 1.

¹⁶ SL 136, explanatory notes p 2.

¹⁷ SL 136, explanatory notes p 3.

Hazardous chemicals are classified according to their health, physical and chemical hazards. Manufacturers, importers, suppliers and users of hazardous chemicals collectively have obligations to ensure the safe use, handling and storage of hazardous chemicals. The Globally Harmonised System for the Classification and Labelling of Chemicals has been created by the United Nations to be a single, international method for chemical classification and communication using consistent terms, signal words, pictograms, other precautionary information, and safety data sheets.¹⁸

The explanatory notes state that the regulation amends the Coal Mining Safety and Health Regulation 2017 and the Mining and Quarrying Safety and Health Regulation 2017 to ensure that the requirements for the classification and labelling of chemicals used at mines and quarries are consistent with the use of the Globally Harmonised System for the Classification and Labelling of Chemicals throughout general workplaces in Queensland.¹⁹

According to the explanatory notes, chemicals supplied prior to commencement of the regulation will not have to be relabelled or disposed of, if not labelled according to the Globally Harmonised System for the Classification and Labelling of Chemicals, so long as the chemicals are labelled in compliance with the former requirements.²⁰

Committee comment

The committee is satisfied that the Mining Legislation (Classification of Chemicals) Amendment Regulation 2019 does not raise any significant issues relating to policy, FLPs or lawfulness. The explanatory notes comply with part 4 of the LSA.

3.9 State Development and Public Works Organisation (State Development Areas) Regulation 2019 (SL 143)

The objective of the regulation is to replace the State Development and Public Works Organisation (State Development Areas) Regulation 2009, which expired on 1 September 2019.

Section 77 of the *State Development and Public Works Organisation Act 1971* states a regulation is required to declare any part of the state or of any area over which the state claims jurisdiction to be a state development area, if the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the state requires it.²¹

The explanatory notes state that there are no substantive changes from the 2009 regulation, other than those made by the Office of the Queensland Parliamentary Counsel to reflect modern drafting standards.²²

Committee comment

The committee is satisfied that the State Development and Public Works Organisation (State Development Areas) Regulation 2019 does not raise any significant issues relating to policy, FLPs or lawfulness. The explanatory notes comply with part 4 of the LSA.

¹⁸ SL 140, explanatory notes, pp 1, 2.

¹⁹ SL 140, explanatory notes, p 2.

²⁰ SL 140, explanatory notes, p 2.

²¹ SL 143, explanatory notes, p 1.

²² SL 143, explanatory notes, p 1.

4 Recommendation

The committee recommends that the Legislative Assembly notes this report.



Chris Whiting MP

Chair

October 2019

State Development, Natural Resources and Agricultural Industry Development Committee

Chair

Mr Chris Whiting MP, Member for Bancroft (Chair)

Deputy Chair

Mr Pat Weir MP, Member for Condamine (Deputy Chair)

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Mr David Batt MP, Member for Bundaberg

Mr James (Jim) Madden MP, Member for Ipswich West

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