

## State Development and Regional Industries Committee

### Report No. 7, 57th Parliament

Subordinate legislation tabled between 9 September 2020 and 26 November 2020

#### 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 9 September 2020 and 26 November 2020. 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)<sup>1</sup> and discusses the committee’s 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
197	Planning Legislation (Economic Recovery Measures and Other Matters) Amendment Regulation 2020	11 September 2020	23 March 2021
244	Local Government Legislation Amendment Regulation (No. 1) 2020	2 October 2020	23 March 2021
196	Fisheries (Saucer Scallops) Amendment Declaration 2020	26 November 2020	20 April 2021
198	Rural and Regional Adjustment (COVID-19 Daintree Area Scheme) Amendment Regulation 2020	26 November 2020	20 April 2021
202	Proclamation— <i>Forest Wind Farm Development Act 2020</i> (commencing remaining provisions)	26 November 2020	20 April 2021
213	Rural and Regional Adjustment (Changes to Vessel Tracking Rebate Scheme) Amendment Regulation 2020	26 November 2020	20 April 2021
214	Rural and Regional Adjustment (Special Disaster Assistance Recovery Loans Scheme) Amendment Regulation 2020	26 November 2020	20 April 2021
236	Fisheries Legislation Amendment Regulation 2020	26 November 2020	20 April 2021
237	Economic Development (Boggo Road Cross River Rail PDA) Amendment Regulation 2020	26 November 2020	20 April 2021
240	Water Plan (Moreton) (Warrill Valley Water Supply Scheme) Amendment Plan 2020	26 November 2020	20 April 2021

#### 3 Committee consideration of the subordinate legislation

The committee identified no issues regarding the policy to be given effect by the subordinate legislation.

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

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

The committee identified a number of fundamental legislative principle issues in its examination of the subordinate legislation. The committee is satisfied that the breaches are sufficiently justified.

The committee identified a number of minor errors in the explanatory notes for SL 197 and SL 196.

The committee considered a number of human rights issues within the report. The committee is satisfied that the human rights certificates tabled with the subordinate legislation provided a sufficient level of understanding to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

These matters are discussed in detail below.

#### **4 Planning Legislation (Economic Recovery Measures and Other Matters) Amendment Regulation 2020 (SL No. 197)**

The principal objective of this regulation is to support economic recovery by streamlining statutory planning processes for local government, business and the development industry, whilst maintaining the integrity of the planning framework. Specifically, the amendment regulation:

- gives effect to updated Development Assessment Rules (DA Rules) - noting that under a separate process DA Rules have been amended to make elements of the temporary public notification changes under the Planning (COVID-19 Emergency Response) Regulation 2020 more permanent arrangements.
- gives effect to updated Ministers Guidelines and Rules (MGR) – noting that through a separate process the MGR has been amended to streamline some processes for the Minister and Local Governments to support the efficient delivery of critical infrastructure, such as schools and hospitals.
- introduces economic support provisions to reduce barriers to new businesses opening, or existing businesses relocating and/or adapting to operational challenges. These changes are aligned to where a particular type of development is reasonably anticipated and compatible with the zone intent and will be in place until 17 September 2021. These changes are not mandatory but an ‘opt in’ choice for each local government.<sup>3</sup>

According to the explanatory notes, the economic support provisions benefit certain low risk businesses, local governments and the state by removing unnecessary barriers to certain land uses and associated processes.<sup>4</sup>

The explanatory notes identify a range of consultation activities that occurred for the DA rules, MGR and policy intent of the economic support initiatives. It is not clear from the explanatory notes what the feedback from this consultation was.<sup>5</sup>

##### **4.1 Fundamental legislative principle issues**

No issues of fundamental legislative principle were identified.

##### **4.2 Explanatory notes**

It is understood that errors in the subordinate legislation relating to the Authorising Act and the date that economic support instruments have now been addressed through an Erratum to Explanatory Notes.<sup>6</sup> It is also noted that the explanatory notes do not provide an outline of the results of the consultation as required by s 24 (2)(a)(ii) of the LSA.

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<sup>3</sup> Explanatory notes, SL 197, p 1.

<sup>4</sup> Explanatory notes, SL 197, p 4.

<sup>5</sup> Explanatory notes, SL 197, p 6.

<sup>6</sup> Erratum to Explanatory notes, SL 197, p 1.

The explanatory notes otherwise comply with part 4 of the LSA.

### **4.3 Human rights considerations**

In the human rights certificate accompanying the subordinate legislation, the Minister states the opinion that the amendment regulation is compatible:

- with the human rights protected by the HRA,<sup>7</sup> and
- with the HRA because it does limit, restrict or interfere with human rights, but the limitations are reasonable and demonstrably justified.<sup>8</sup>

The committee considers two human rights issues.

#### **4.3.1 Right to recognition and equality before the law**

Section 15 of the HRA provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. The provisions in the regulation which remove the need for planning approval and reduce the level of development assessment for certain businesses in certain zones could be seen as breaching this human right, as they extend to only some land uses, and so not all businesses are treated equally.

Additionally, it is suggested in the human rights certificate that, as local governments can choose whether or not to 'opt in' to the reduced regulation available under the regulation, new businesses in different local government areas could be subject to different levels of development assessment.<sup>9</sup>

The then Treasurer, Minister for Infrastructure and Planning provided the following justification:

The economic support provisions of the amendment regulation are a timely response from the Queensland Government to assist local government and some of our hardest hit sectors on the road to economic recovery...Only a few low risk, economic value adding land uses are subject to reduced regulation under the Amendment Regulation. Reduced regulation for some new land uses will provide for employment, support employment or will be employment generators. The Amendment Regulation does not limit local governments' capacity to amend their planning schemes to reduce the level of development assessment for other land uses as they see fit.<sup>10</sup>

#### Committee comment

The committee is satisfied that the limit to the human right to equality before the law is reasonable and demonstrably justified.

#### **4.3.2 Right to freedom of expression**

Under section 21(2) of the HRA, every person has the right to freedom of expression, including the freedom to seek, receive and impart information of all kinds. The certificate notes that this right is relevant as the Amendment Regulation reduces the level of development assessment for certain businesses seeking to establish in areas where that land use is expected. The reduced level of development assessment means that public consultation may no longer be required where it was formerly required for a change in tenancy.<sup>11</sup>

The then Treasurer, Minister for Infrastructure and Planning provided the following justification:

The proposed economic support provisions ... are proposed to have effect for 1 year. ... While there may be potential for the Amendment Regulation to impact temporarily on a person's right to freedom of

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<sup>7</sup> Human right certificate, SL 197, p 1.

<sup>8</sup> Human right certificate, SL 197, p 4.

<sup>9</sup> Human rights certificate, SL 197, p 2.

<sup>10</sup> Human rights certificate, SL 197, p 3.

<sup>11</sup> Human rights certificate, SL 197, p 3.

expression as explained above (reduced level of development assessment) the power to do so is only available for a limited time.<sup>12</sup>

#### Committee comment

The committee is satisfied that any limit on the human right to freedom of expression are reasonable and demonstrably justified.

#### **4.4 Human rights certificate**

The human rights certificate tabled with SL 197 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

### **5 Local Government Legislation Amendment Regulation (No. 1) 2020 (SL No. 244)**

This amendment regulation amends the City of Brisbane Regulation 2012 (CBR) and Local Government Regulation 2012 (LGR) to:

- enable local governments to make additional rating decisions for the 2020-2021 financial year by deciding by resolution, at a meeting other than a budget meeting, what rates and charges are to be levied; and make provision for the local government's annual budget for the 2020-2021 financial year to be amended to take account of an extraordinary decision and for any amended annual budget to be adopted.<sup>13</sup>
- amend procedures for selling land, including by removing the automatic sale of the land to the local government and allowing the local government to offer the land for sale by a further auction or negotiation after an unsuccessful auction.<sup>14</sup>
- require local governments to inform the Minister for Local Government of a 'notifiable event' in relation to a controlled entity of the local government; inform the Minister of any changes to the documents governing the activities and members of a controlled entity, and require the publication by a local government of its controlled entities' audited financial statements.<sup>15</sup>

Additionally, the regulation: requires an extract showing particulars of a councillor's current interests to be published on the local government's website; replaces print newspaper advertising requirements with more appropriate alternatives, and contains a range of provisions regarding the tourist infrastructure levy on the Cairns to Kuranda rail line.<sup>16</sup>

The explanatory notes set out a comprehensive consultation process on the amendments, and note broad support from stakeholders for the various provisions of the regulation.<sup>17</sup>

#### **5.1 Fundamental legislative principle issues**

The committee canvasses one FLP issue.

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<sup>12</sup> Human rights certificate, SL 197, p 4.

<sup>13</sup> Explanatory notes, SL 244, p 2.

<sup>14</sup> Explanatory notes, SL 244, p 2.

<sup>15</sup> Explanatory notes, SL 244, p 3.

<sup>16</sup> See generally the explanatory notes SL 244 at pp 3-5.

<sup>17</sup> Explanatory notes, SL 244, pp 13-14.

### **5.1.1 Rights and liberties of individuals – compulsory acquisition of property only with fair compensation**

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation provides for the compulsory acquisition of property only with fair compensation.

In relation to the sale of land by local governments for overdue rates or charges, the regulation removes provisions that deem land to have been sold to a local government if the land does not sell at auction. The regulation also allows the local government to continue to offer the land for sale for a period of one year after giving notice of an intention to sell to the registered owner, if the land is not earlier sold or the overdue rates and charges are paid in full. Arguably, extending options available to a local authority to sell the land, involves a breach of this fundamental legislative principle.

The explanatory notes detail a number of safeguards<sup>18</sup> then conclude:

The potential breach of the fundamental legislative principles is considered justified as the overdue rates or charges owed to a local government are secured against the land as a statutory charge and the power to sell the land is only afforded to it where the rates or charges have been overdue for an extended period of time. The current safeguards and restrictions also ensure the owner of the land is given sufficient notice and opportunity to pay the overdue rates or charges before the land is sold and entitles the owner to the surplus of the sale after lawful deductions.<sup>19</sup>

#### Committee comment

The committee is satisfied that any breach of fundamental legislative principle is sufficiently justified.

### **5.2 Explanatory notes**

The explanatory notes comply with part 4 of the *Legislative Standards Act 1992*.

### **5.3 Human rights considerations**

In the human rights certificate accompanying the regulation, the Minister states an opinion that the amendment regulation is compatible:

- with the human rights protected by the HRA,<sup>20</sup> and
- with the HRA because it does limit, restrict or interfere with human rights, but the limitations are reasonable and demonstrably justified.<sup>21</sup>

The committee considers that the subordinate legislation raises one human rights issue.

#### **5.3.1 Property rights**

Under section 24 of the HRA, a person must not be arbitrarily deprived of their property. This right is relevant to the provisions allowing local governments to make additional rating decisions for the 2020-21 financial year, and the provisions regarding the sale of land to recover overdue rates or charges.

The certificate states the right could be limited in the following way:

The proposal to permit Local Governments to decide rates and charges outside budget meetings could limit property rights, as Local Governments may acquire land where there are overdue rates and charges on land in a Local Government area that are unpaid for a period of time ...If rates and charges are increased, this may result in additional overdue rates and charges for ratepayers.<sup>22</sup>

The Minister concluded in the certificate:

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<sup>18</sup> Explanatory notes, SL 244, p 12.

<sup>19</sup> Explanatory notes, SL 244, p 13.

<sup>20</sup> Human rights certificate, SL 244, p 1.

<sup>21</sup> Human rights certificate, SL 244, p 7.

<sup>22</sup> Human rights certificate, SL 244, p 3.

On balance, the importance of ensuring the financial sustainability of Local Governments in the context of the COVID-19 emergency outweighs the potential limitation on property rights that may occur if Local Governments increase rates and charges during the 2020-2021 financial year.<sup>23</sup>

Regarding provisions relating to the sale of land to recover overdue rates or charges, the certificate states:

The right to property is limited to the extent that an owner of land is deprived of the land if they owe overdue rates or charges to a Local Government for a period of time and the Local Government sells the land to recover the overdue rates or charges.<sup>24</sup>

The Minister concluded in the certificate:

... I consider that the purpose of facilitating a Local Government to recover overdue rates or charges by providing more options in how it may sell land outweighs the negative impact of the limitations.<sup>25</sup>

The power to sell land to recover unpaid rates already exists in legislation – this regulation contains provisions which modify the process in some respects.

#### Committee comment

The committee is satisfied that any limitations on the right to property are reasonable and demonstrably justified.

#### **5.4 Human rights certificate**

The human rights certificate tabled with SL 244 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

### **6 Fisheries (Saucer Scallops) Amendment Declaration 2020 (SL No. 196)**

The purpose of this declaration is to urgently implement a number of management actions to support rebuilding scallop stocks.<sup>26</sup> The declaration:

- reduces the total scallop effort entitlement from 118,865 to 80,000 effort units for the southern and offshore and inshore trawl regions
- shortens the closure period for taking or possessing saucer scallops for the southern offshore and inshore trawl regions by 10 days
- implements an additional 31 days restriction on the possession or use of trawl nets in the southern inshore trawl region, and
- provides for a midday commencement and end time for the effort cap period to avoid the need for trawlers that fish at night to stop and return to port after having fished for only half the night when the effort cap period expires.<sup>27</sup>

Consultation with the Trawl Working Group took place in June 2020 to consider the results of the 2020 scallop stock assessment. The Southern Inshore Harvest Strategy Group was also consulted. The groups consist of fishing industry stakeholders, conservation group members and recreational fishing stakeholders selected through an expression of interest process available to all stakeholders.<sup>28</sup>

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<sup>23</sup> Human rights certificate, SL 244, p 4.

<sup>24</sup> Human rights certificate, SL 244, p 6.

<sup>25</sup> Human rights certificate, SL 244, p 7.

<sup>26</sup> Explanatory notes, SL 196, p 2.

<sup>27</sup> Explanatory notes, SL 196, p 2.

<sup>28</sup> Explanatory notes, SL 196, pp 5-6.

The groups discussed a range of options for management action to support rebuilding the stock. There was no consensus on recommended management action.

Industry stakeholders supported a reduction in the total effort entitlement, consistent with the stock assessment modelling of 80,000, along with additional fishing closures. All Industry stakeholders recognised the need to take sufficient management action to maintain the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* approvals that enable continued access to fishing in the Great Barrier Reef World Heritage Area and export of product. The conservation members supported a complete no take of scallops until biomass has recovered to sustainable levels above 20 per cent biomass. They remain concerned that reducing the effort cap and adjusting the closures is not sufficiently precautionary to rebuild this stock.<sup>29</sup>

### **6.1 Fundamental legislative principle issues**

No issues of fundamental legislative principle were identified.

### **6.2 Explanatory notes**

The explanatory notes canvass a fundamental legislative principle issue as to whether the subordinate legislation has sufficient regard to the institution of Parliament, by 'allowing the Chief Executive to make a fisheries declaration that is not subject to Parliamentary scrutiny.'<sup>30</sup> This power is conferred on the chief executive not by the declaration, but by the principal Act.<sup>31</sup> Thus, the issue does not arise in the present context and requires no further consideration.

Further, the explanatory notes identify the breach of fundamental legislative principle as relating to section (4)(4)(b) of the LSA.<sup>32</sup> However, that provision relates to whether a Bill has sufficient regard to the institution of Parliament.<sup>33</sup>

The explanatory notes otherwise comply with part 4 of the LSA.

### **6.3 Human rights considerations**

In the human rights certificate accompanying the amendment regulation, the Minister states an opinion that the amendment regulation is compatible:

- with the human rights protected by the HRA,<sup>34</sup> and
- with the HRA because it does limit, restrict or interfere with human rights, but the limitations are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.<sup>35</sup>

The committee canvasses two human rights issues.

#### **6.3.1 Property rights**

According to section 24 of the HRA, a person must not be arbitrarily deprived of their property. The regulation sets out a restricted period for taking or possessing saucer scallops as well as a reduction in the total effort units that can be used in the scallop fishery during a fishing season. The reduction of effort units will limit a person's property rights. An effort unit is a standardised measure of fishing effort and is calculated by converting fishing days that an operator is entitled to, based on the size of each individual vessel.

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<sup>29</sup> Explanatory notes, SL 196, pp 5-6.

<sup>30</sup> Explanatory notes, SL 196, p 5.

<sup>31</sup> *Fisheries Act 1994*, ss 33 and following.

<sup>32</sup> Explanatory notes, SL 196, p 5.

<sup>33</sup> It is s 4(5) of the LSA which relates to subordinate legislation having sufficient regard to the institution of Parliament.

<sup>34</sup> Human rights certificate, SL 196, p 1.

<sup>35</sup> Human rights certificate, SL 196, p 5.

The Minister advises:

The limitations do not result in the deprivation of property rights and are the least restrictive way to address the long-term commercial viability of the fishery resource.

The combined management action, including the reduction in the total effort entitlements, is implemented to support the rebuilding of stocks of saucer scallop to sustainable levels. In doing this, the management action seeks to balance the long-term sustainability of the saucer scallop stocks and viability of the industry, including maintaining Commonwealth Wildlife Trade Operation and export approval for the East Coast Trawl Fishery.<sup>36</sup>

Committee comment

The committee is satisfied that any impact on people's property rights is reasonable and demonstrably justified.

### **6.3.2 Cultural rights – Aboriginal and Torres Strait Islander peoples**

Section 28 of the HRA recognises that Aboriginal and Torres Strait Islander peoples hold distinct cultural rights. The regulation provides for the reduction in take of saucer scallops and a total effort unit cap. This may limit the rights of Aboriginal or Torres Strait Islander by limiting their ability to maintain and strengthen their relationship with waters and coastal seas.

Aboriginal or Torres Strait Islander peoples are not restricted from using traditional fishing methods, provided any catch is not sold commercially. The Minister provides this explanation:

The importance of preserving Queensland's fisheries resources from overfishing for all fishing sectors, including Aboriginal Peoples and Torres Strait Islander peoples, outweighs the importance of preserving individual traditional cultural rights to maintain their economic relationship with fisheries resources in this instance. Therefore, the rights are only limited in a broad-scale commercial fishing context, where a lack of limitation could result in depletion of fish stocks and, therefore, impact on achieving the purpose of ensuring the long-term sustainability of saucer scallop stocks in Queensland, viability of the industry, and maintaining Commonwealth Wildlife Trade Operation fishing and export approval for the East Coast Trawl Fishery.<sup>37</sup>

Committee comment

The committee is satisfied that any impact on cultural rights is reasonable and demonstrably justified

### **6.4 Human rights certificate**

The human rights certificate tabled with SL 196 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **7 Rural and Regional Adjustment (COVID-19 Daintree Area Scheme) Amendment Regulation 2020 (SL No. 198)**

The amendment regulation implements a scheme to administer assistance to off-grid households, small businesses and non-profit organisations in the Daintree area. Under the scheme: a \$200 payment for eligible households and a \$500 payment for eligible small businesses and non-profit organisations.

The regulation prescribes the COVID-19 Daintree Area Scheme as an approved assistance scheme in the Rural and Regional Adjustment Regulation 2011, allowing the scheme to be administered by the Queensland Rural and Regional Adjustment Authority.

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<sup>36</sup> Human rights certificate, SL 196, p 3.

<sup>37</sup> Human rights certificate, SL 196, p 5.



### **7.1 Issues of fundamental legislative principle and comment**

No issues of fundamental legislative principle were identified.

### **7.2 Explanatory notes comment**

The explanatory notes comply with part 4 of the LSA.

### **7.3 Human rights comment**

The subordinate legislation is compatible with human rights.

### **7.4 Human rights certificate**

The human rights certificate tabled with SL 198 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **8 Proclamation—Forest Wind Farm Development Act 2020 (commencing remaining provisions) (SL No. 202)**

The proclamation fixes 30 September 2020 as the commencement date for the provisions of the *Forest Wind Farm Development Act 2020* not currently in force.

### **8.1 Issues of fundamental legislative principle and comment**

No issues of fundamental legislative principle were identified.

### **8.2 Explanatory notes comment**

The explanatory notes comply with part 4 of the LSA.

### **8.3 Human rights comment**

The subordinate legislation is compatible with human rights.

### **8.4 Human rights certificate**

Under section 41(4A) of the HRA, where a proclamation fixes a date for commencement of all the provisions of an Act that are not in force, a human rights certificate is not required. As such, a human rights certificate was not tabled with the subordinate legislation.

## **9 Rural and Regional Adjustment (Changes to Vessel Tracking Rebate Scheme) Amendment Regulation 2020 (SL No. 213)**

The regulation:

- enables the Queensland Rural and Industry Development Authority to extend financial assistance under the vessel tracking rebate scheme to the holders of eligible licences in the aquarium fish fishery and the trochus fishery to assist with the costs incurred in purchasing and installing vessel tracking units
- expressly extends the rebate scheme to holders of a L8 licence (for completeness, noting that in practice all L8 licence holders are already covered by the scheme)
- makes other adjustments to the scheme which reflect requirements to install a vessel tracking unit, and
- extends the closing date of the scheme from 31 December 2020 to 30 June 2022.<sup>38</sup>

The additional cost of extending the vessel tracking rebate scheme to additional fisheries and extending the closing date for the scheme will be funded from within the total budget (\$3 million)

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<sup>38</sup> Explanatory notes, SL 213, p 1.

allocated towards the scheme. The Queensland Government has provided \$800,000, with the remaining \$2.2 million provided by the Great Barrier Reef Marine Park Authority.<sup>39</sup>

Extensive consultation on the Draft Vessel Tracking Guidelines took place in 2018. The consultation identified concerns within industry regarding the purchase and installation costs of vessel tracking unit required at that time. This regulation is made in the context of this consultation and helps address these concerns.<sup>40</sup>

A total of \$250 000 (excluding GST) to fund the Scheme, however total cost will depend on uptake.<sup>41</sup>

### **9.1 Issues of fundamental legislative principle and comment**

No issues of fundamental legislative principle were identified.

### **9.2 Explanatory notes comment**

The explanatory notes comply with part 4 of the LSA.

### **9.3 Human rights comment**

The subordinate legislation is compatible with human rights.

### **9.4 Human rights certificate**

The human rights certificate tabled with SL 213 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **10 Rural and Regional Adjustment (Special Disaster Assistance Recovery Loans Scheme) Amendment Regulation 2020 (SL No. 214)**

This regulation amends two financial assistance schemes administered by the Queensland Rural and Industry Development Authority under the joint Commonwealth Disaster Recovery Funding Arrangements (DRFA) to align them with Australian Government Guidelines, by:

- amending Schedule 24 Special Disaster Assistance Recovery Loans Scheme which provides concessional loans to primary producers, small business and not for profit organisations in response to the 2019 bushfires to expand eligible activities to include refinancing an eligible loan, and
- removing the primary producer off-farm income threshold of \$100,000 in Schedule 23 Special Disaster Assistance Recovery Grants Scheme, a scheme which provides clean up and recovery grants to eligible primary producers, small businesses and not for profit organisations in response to severe natural disasters.

These schemes will be equally cost shared between the Queensland and Australian Governments under DRFA.<sup>42</sup>

### **10.1 Fundamental legislative principle issues**

No issues of fundamental legislative principle were identified.

### **10.2 Explanatory notes**

The explanatory notes comply with part 4 of the LSA.

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<sup>39</sup> Explanatory notes, SL 213, p 4.

<sup>40</sup> Explanatory notes, SL 213, p 3.

<sup>41</sup> Explanatory notes, SL 213, p 1.

<sup>42</sup> Explanatory notes, SL 214, p 3.

### 10.3 Human rights

The subordinate legislation is compatible with human rights.

### 10.4 Human rights certificate

The human rights certificate tabled with SL 214 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## 11 Fisheries Legislation Amendment Regulation 2020 (SL No. 236)

The objectives of this regulation are to make changes:

- to support the commercial fishing industry's economic recovery from COVID-19 by reducing red tape and streamlining requirements
- that are necessary to implement harvest strategies and meet the conditions of the Commonwealth Wildlife Trade Operation approvals under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and
- clarify existing fishing rules to support ongoing fishing efficiency and compliance.<sup>43</sup>

### 11.1 Issues of fundamental legislative principle

The committee canvasses four issues.

#### 11.1.1 Ordinary activities should not be unduly restricted

Legislation should not, without sufficient justification, unduly restrict ordinary activities. Under the regulation, Dalrymple Bay and Hay Point will be included as regulated waters in which the taking or possessing of fish is prohibited. Limiting the taking and possessing of fish restricts the ordinary activities of individuals.

The explanatory notes provide this justification:

This amendment is necessary to minimise the risk of incidental take of black jewfish while fishing for other species and ensure effective compliance of recent sustainability actions for black jewfish in these waters.<sup>44</sup>

#### Committee comment

The committee is satisfied that any breach of fundamental legislative principle is justified.

#### 11.1.2 Ordinary activities and conducting business

Legislation should not, without sufficient justification, unduly restrict ordinary activities, including operating a business.

#### Fishing licences

A number of new authorisations and conditions have been inserted regarding hand-harvest fisheries. These new authorisations and conditions may breach the principle that legislation should not, without sufficient justification, unduly restrict ordinary activities, including the right to conduct business without interference.

The explanatory notes include this statement:

... the amendments do not represent a substantive change in management of these fisheries because the authorisations and conditions that are now included in the subordinate legislation were previously stated in commercial harvest fishery licences.<sup>45</sup>

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<sup>43</sup> Explanatory notes, SL 236, p 2.

<sup>44</sup> Explanatory notes, SL 236, p 20.

<sup>45</sup> Explanatory notes, SL 236, p 20.

Nonetheless, issues of fundamental legislative principle that arise do require consideration.

In relation to fishing apparatus and traps, the amendments impose new requirements to:

- check crab apparatus at least every 7 days after being set (clause 15), and
- check eel traps every 24 hours after being set (clause 169).

These requirements impose additional burdens on individuals and affect their right to conduct business without interference.

The explanatory notes state the requirements are justified:

... because the obligation is only to check the apparatus at reasonable intervals, and there is a high risk that these particular types of fishing apparatus could inadvertently capture other animals and fish species, often resulting in death. By requiring the licence holder to periodically check the apparatus, there is an increased [chance] of saving non-target species and other animals.<sup>46</sup>

#### Committee comment

The committee is satisfied that any breach of fundamental legislative principle is justified.

#### New management regions

The regulations, in clause 165, impose new management regions in a number of areas. Combined with the individual transfer quota (ITQ) and effort unit amendments, this restricts how fish can be taken in each of the new management regions. This affects the right of individuals to conduct business without interference.

The explanatory notes provide:

The implementation of management regions and arrangements are critical in implementing effective harvest strategies as they enable fisheries management to better control fishing pressure on different fish stocks or parts of a fishery. As the maintenance of sustainable fish stocks is critical for ensuring the long-term viability of the commercial fishing industry, the potential infringement on this FLP is justified as it operates to ensure that business can be conducted in the long-term, and actually operates to minimise business impacts that would result from any future need to take significant management action and/or if the fishery collapses.<sup>47</sup>

#### Committee comment

The committee is satisfied the breach of fundamental legislative principle is justified.

#### Implementing quota or effort management of fisheries

Clause 76 makes amendments to ITQ and effort units that will restrict the quantity of fish or quantity of effort. These limits will restrict the manner in which commercial fishing can be conducted as it will limit catch or effort. This will affect a person's right to conduct a business without undue interference.

The explanatory notes state the restrictions are justified:

... on the basis that managing fisheries using ITQ and effort units reduces the potential for overfishing and the maintenance of sustainable fish stocks is critical for ensuring the long-term viability of the commercial fishing industry. ITQ and effort units also provide certainty to holders and users of these entitlements, as to how much they can fish regardless of the amount of effort it takes, the size of the boat, type or gear or competition from other fishers. This enables fishers to maximise their return on investment ... [and] operates to ensure that business can be conducted in the long-term, and ... to minimise business impacts that would result from any future need to take significant management action and/or if the fishery collapses.<sup>48</sup>

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<sup>46</sup> Explanatory notes, SL 236, p 21.

<sup>47</sup> Explanatory notes, SL 236, p 23.

<sup>48</sup> Explanatory notes, SL 236, p 24.

Committee comment

The committee is satisfied the breach of fundamental legislative principle is justified.

Standardised reporting

Clause 156 inserts a provision to provide for standardised logbook reporting requirements. Although this requirement existed administratively, it now is a legislative requirement. Complying with reporting requirements has the potential to unduly restrict the manner in which commercial fishing can be conducted and impose an additional burden on a person operating such a business.

The explanatory notes state the breach is justified:

... because the reporting requirements facilitate the gathering of data that can be used to assess the status of fish stocks to facilitate management decisions, which ensure the long-term sustainability of fisheries resources, reducing the potential for overfishing. Catch data is also necessary to ensure the integrity of quota management of fisheries, which is essential to ensuring these fisheries are not overfished. Consequently, this requirement helps to ensure that business can be conducted in the long-term, and helps to minimise business impacts resulting from fishery collapse.<sup>49</sup>

Committee comment

The committee is satisfied the breach of fundamental legislative principle is justified.

Removal of commercial harvest fishery licences and carrier boat licences

The regulation provides for the transition of commercial harvest fishery licences to primary commercial fishing licences, and removes carrier boat licences.

These amendments will affect the ordinary course of business of individuals, as the primary fishing licence will require an additional impost. The removal of the carrier boat licences will also affect the way in which a person conducts their business.

The explanatory notes provide this justification:

... the potential breach is minimised because clause 122 exempts them from any fee payable for a commercial fisher licence for the first year of the licence. The amendments also replace the existing nominee system which is administratively cumbersome and difficult to enforce.<sup>50</sup>

In relation to the removal of the carrier boat licences, the explanatory notes state:

... the removal of the licence is justified because other amendments to the Commercial Fisheries Regulation ensure that the activity of carrying fish can still occur without the need for a licence in most fisheries (such as transshipment).<sup>51</sup>

Committee comment

The committee is satisfied the breach of fundamental legislative principle is justified.

Restriction on filleting of particular fish

Clauses 67 and 68 provides that certain species of fish will be subject to new catch limits and will be prohibited from being filleted. The prohibition of filleting these species could be seen to limit the rights of individuals to conduct business.

The explanatory notes state this amendment is necessary:

... as a result of the difficulties associated with identifying filleted fish, which undermines the effective enforcement of management not only for the relevant species but also for species with which they could

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<sup>49</sup> Explanatory notes, SL 236, p 25.

<sup>50</sup> Explanatory notes, SL 236, p 26.

<sup>51</sup> Explanatory notes, SL 236, p 26.

be mistaken. Consequently, the restrictions are necessary to ensure the integrity of management arrangements, which are necessary for the sustainability of both the relevant and other fish species.<sup>52</sup>

Committee comment

The committee is satisfied the breach of fundamental legislative principle is justified.

Number of tender boats per fishing licence

Clause 89 limits the number of tender boats that can be operated under a primary commercial fishing licence to a maximum of seven. This could be seen to limit the rights of individuals to conduct business.

The explanatory notes state:

... each of the new conditions [is] targeted at ensuring the long-term sustainability of Queensland's commercial fisheries and are justified on this basis.<sup>53</sup>

Committee comment

The committee is satisfied the breach of fundamental legislative principle is justified.

Restrictions on issue of general fisheries permits

Clause 67 restricts the chief executive from issuing a general fisheries permit to authorise the taking or possession of regulated coral reef fin fish in coral reef fin fish waters in a regulated period.

This impacts rights of individuals who would wish to obtain and then use a general fisheries permit to take or possess regulated coral reef fin fish in ways that are not permitted.

The explanatory notes state:

... the restriction on the issue of a permit is necessary to ensure that the fishery is managed consistently and accessed in the most equitable way.<sup>54</sup>

Committee comment

The committee is satisfied the breach of fundamental legislative principle is justified.

### **11.1.3 Reversal of onus of proof**

Whether legislation has sufficient regard to the rights and liberties of individuals depends on whether, for example, it does not reverse the onus of proof in criminal proceedings without adequate justification.<sup>55</sup>

Clauses 138 and 140 extends the application of location detection and reporting provisions to all of the east coast and Moreton Bay trawl fisheries. If vessel tracking equipment or manual reporting detects a primary boat identified on a primary commercial fishing licence (with the relevant east coast and Moreton Bay trawl fishery symbols) in a trawl region at any time during a day, this is evidence that the licence holder has used the boat for a whole fishing or steaming day, and this will result in a deduction of effort units.

A fishing licence holder may not incur a reduction of effort units if they can satisfy the chief executive that the primary boat was not used on the day. Requiring the licence holder to establish this might be seen to be a reversal of the onus of proof and thus a breach of fundamental legislative principle.

The explanatory notes provide:

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<sup>52</sup> Explanatory notes, SL 236, p 26.

<sup>53</sup> Explanatory notes, SL 236, p 27.

<sup>54</sup> Explanatory notes, SL 236, p 27.

<sup>55</sup> LSA, s 4(3)(d).

The reversal of the onus of proof is justified because the offences involve matters which would be within the defendant's knowledge and/or on which evidence would be available to them.<sup>56</sup>

Committee comment

The committee is satisfied the breach of fundamental legislative principle is justified.

**11.1.4 Retrospectivity**

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively, according to section 4(3)(g) of the LSA.

In relation to lobster harvests, the regulation provides that relevant lobster catches in the period from 1 January 2021 to 30 June 2021 will be included in the holder's entitlement, although that entitlement does not commence until 1 September 2021. This could be seen to be a retrospective action which amounts to a breach of fundamental legislative principle.

The explanatory notes state:

... the potential breach is justified given the quota entitlement that will be available to relevant holders from 1 September 2021 replaces a quota, that is currently imposed as a condition of the licence, that the holder is already entitled to fish in part of the 'first' quota year. The provision merely ensures the holder is not able to take twice the amount of relevant lobster that they would ordinarily be allowed to take in the first quota year (i.e. the entitlement under their licence from the beginning of the quota year until 30 June and then the same entitlement under a quota authority from 1 September until the end of the season), which would jeopardise the sustainability of the commercial fishery.<sup>57</sup>

Committee comment

The committee is satisfied that any breach of fundamental legislative principle is justified.

**11.1.5 Subdelegation of power**

Subordinate legislation should only allow the subdelegation of a power delegated by an Act only:

- (i) in appropriate cases and to appropriate persons, and
- (ii) if authorised by an Act.<sup>58</sup>

The regulation standardises the existing logbook requirements across all fisheries to report interactions with threatened, endangered and protected (TEP) animals. TEP animals are protected animals, within the meaning of section 118 of the *Fisheries Act 1994*, which have been designated by the chief executive and published on the department's website.

As the chief executive can determine what a TEP animal is and this determination is not subordinate legislation, it is not subject to the tabling and disallowance provisions in Part 6 of the *Statutory Instruments Act 1992* and may not come to the attention of the House.

The explanatory notes provide:

... this potential breach is limited as the chief executive's discretion is restricted by the requirement that a TEP animal either be a protected animal under the *Nature Conservation Act 1992* or a listed threatened species, listed migratory species or listed marine species under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth). Providing the chief executive with discretion to determine what is a TEP animal is, is required, as it will provide the necessary flexibility to define species that are a TEP animal and apply reporting requirements to [enable] management to minimise the risk of fishing activities to align with changes in risk to different protected species.<sup>59</sup>

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<sup>56</sup> Explanatory notes, SL 236, p 28.

<sup>57</sup> Explanatory notes, SL 236, p 28.

<sup>58</sup> LSA, s 4(5)(e).

<sup>59</sup> Explanatory notes, SL 236, p 29.

Committee comment

The committee is satisfied that any breach of fundamental legislative principle is justified.

**11.2 Explanatory notes comment**

The explanatory notes comply with part 4 of the LSA.

**11.3 Human rights comment**

In the human rights certificate accompanying the amendment regulation, the Minister states an opinion that the amendment regulation is compatible:

- with the human rights protected by the HRA,<sup>60</sup> and
- with the HRA because it does limit, restrict or interfere with human rights, but the limitations are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.<sup>61</sup>

The committee canvasses four human rights issues.

**11.3.1 Freedom of movement**

Under section 19 of the HRA, every person lawfully within Queensland has the right to move freely within Queensland.

The regulation makes a number of amendments which affect a person's right to move freely, as they may be restricted in where they can go, may be required to be at a certain location at a certain point in time, or have their movement limited.

The Minister provided the following comment:

... the restrictions only apply in certain circumstances and the person has the ability to be able to move freely if he or she complies with simple requirements, such as ceasing to fish with a [mesh] net, obtaining the required logbook, or travelling through an area at a minimum speed. These limitations are consequently consistent with a free and democratic society based on human dignity, equality and freedom.<sup>62</sup>

Committee comment

The committee is satisfied that the impact on a person's right to freedom of movement is reasonable and demonstrably justified.

**11.3.2 Property rights**

Under section 24 of the HRA, a person must not be arbitrarily deprived of their property.

An effort unit is a standardised measure of fishing effort and is calculated by converting the number of fishing days an operator is entitled to, based on the size of individual vessels. A person's quota entitlement has property-like characteristics. The amendment regulation contains several provisions which affect effort units and ITQ unit entitlement, which may lead to potential reduction in a holder's quota.

In relation to the automatic deduction of effort units, the Minister states:

... (the provision) ensures that commercial fishers cannot utilise more than their allocated effort units by switching vessel tracking equipment off to avoid monitoring of activities by Fisheries Queensland. ... This fisheries management tool is used to ensure the sustainability of commercial fishing by limiting the ability for commercial fishers to fish more than their allocation. Depriving commercial fishers of their property through automatic deduction of quota in these circumstances directly helps to achieve the purpose of

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<sup>60</sup> Human rights certificate, SL 236, p 1.

<sup>61</sup> Human rights certificate, SL 236, p 20.

<sup>62</sup> Human rights certificate, SL 236, p 3.



ensuring over fishing does not occur by limiting the potential for commercial fishers to fish more than their allocated quota.<sup>63</sup>

In relation to the surrender of quota entitlement units, which would deprive a person this entitlement, the Minister provides:

... (the provision) is implemented to prevent the potential for overfishing to occur in a fishing year due to too much quota allocation. ... If quota were allowed to be carried over to the following year, there is a considerable risk that too much stock would be taken in a year, limiting the potential for fish stock replacement and resulting in the collapse of the fishery. Consequently, this property right limitation is directly correlated to the purpose of ensuring long-term sustainability of fish stocks, and subsequently, the commercial fishing industry.<sup>64</sup>

In relation to the requirement for logbooks/record of fishing day for TEP animal interactions, the Minister provides:

... (the provision) has been implemented to help assess fish stocks and further assist with management of species of conservation interest. Logbooks are the main source of commercial fisheries data collection and are used to assess the status of fish stocks in Queensland. ... this property right limitation is directly correlated to the purpose of ensuring long-term sustainability of fish stocks, and subsequently, the commercial fishing industry.<sup>65</sup>

In relation to the reallocation of effort units for the East Coast Trawl Fishery and establishment of the Moreton Bay effort units, the Minister advises:

... (the provision) is implemented to prevent the potential for overfishing to occur along the east coast and within the Moreton Bay region. ... The amendments will restrict the fishing that can occur in each location through effort allocation, which restricts effort/number of days a fisher can fish the area. This helps reduce the ability for fishers to continue to exhaust fishery resources throughout the east coast.<sup>66</sup>

Regarding the establishment of new Individually Transferable Quota Fisheries, the Minister advises:

...(the provision) is implemented to limit the impact of overfishing on key fish species, including blue swimmer crab, mud crab, sea cucumber, coral, shell grit, trochus, crayfish and rock lobster. ... The purpose of implementing this quota is to ensure that the take of the relevant species is limited to an amount that is sustainable to ensure a viable long-term industry and prevent the collapse of these fisheries. Making these fisheries quota fisheries, enables effective management and monitoring of take from these fisheries, therefore directly helping to achieve the purpose of ensuring the long-term sustainability of fish stocks and the commercial fishing industry.<sup>67</sup>

#### Committee comment

The committee is satisfied that the impact on a person's property rights is reasonable and demonstrably justified.

#### **11.3.3 Privacy and reputation**

Under section 25 of the HRA, a person has the right not to have their privacy unlawfully or arbitrarily interfered with. The regulation imposes a number of requirements that involve the collection or disclosure of the personal information of individuals, which amounts to an interference with a person's right to privacy.

The Minister states:

The collection of this private information is required to address a range of strategies employed by offenders to avoid detection when taking more fish than that which is allowed. Requiring a name on eel trap floats gives fisheries inspectors the opportunity to ensure that commercial fishers are not overfishing

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<sup>63</sup> Human rights certificate, SL 236, p 8.

<sup>64</sup> Human rights certificate, SL 236, p 8.

<sup>65</sup> Human rights certificate, SL 236, p 9.

<sup>66</sup> Human rights certificate, SL 236, p 9.

<sup>67</sup> Human rights certificate, SL 236, p 9.

in a manner that is reasonable and minimally restrictive. Consequently, the limitation is balanced between achieving the purpose and preserving the human right to privacy.<sup>68</sup>

Committee comment

The committee is satisfied that the impact on a person's right to freedom of movement is reasonable and demonstrably justified.

#### **11.3.4 Cultural rights – Aboriginal and Torres Strait Islander peoples**

Section 28 of the HRA recognises that Aboriginal and Torres Strait Islander peoples hold a number of distinct cultural rights. The regulation restricts the ways in which fish may be taken in a commercial fishing context. This will affect the rights of an Aboriginal or Torres Strait Islander person to enjoy their traditional relationship with waters and coastal seas through traditional fishing methods.

The Minister provides the following justification:

The importance of preserving Queensland's fisheries resources from overfishing for all fishing sectors, including Aboriginal Peoples and Torres Strait Islander peoples, outweighs the importance of preserving individual traditional cultural rights to maintain their economic relationship with fisheries resources in this instance. Therefore, the rights are only limited in a broad-scale commercial fishing context, where a lack of limitation could result in depletion of fish stocks and therefore impact on achieving the purpose of ensuring the long-term sustainability of fish stocks in Queensland.<sup>69</sup>

Committee comment

The committee is satisfied that the impact on a person's right to freedom of movement is reasonable and demonstrably justified.

#### **11.4 Human rights certificate**

The human rights certificate tabled with SL 236 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

## **12 Economic Development (Boggo Road Cross River Rail PDA) Amendment Regulation 2020 (SL No. 237)**

The regulation amends the Economic Development Regulation 2013 to declare the Boggo Road Cross River Rail Priority Development Area.

### **12.1 Fundamental legislative principle issues**

No issues of fundamental legislative principle were identified.

### **12.2 Explanatory notes**

The explanatory notes comply with part 4 of the LSA.

### **12.3 Human rights issues in the amendment regulation**

In the human rights certificate accompanying the amendment regulation, the Minister states an opinion that the amendment regulation is compatible:

- with the human rights protected by the HRA,<sup>70</sup> and

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<sup>68</sup> Human rights certificate, SL 236, p 12.

<sup>69</sup> Human rights certificate, SL 236, p 15.

<sup>70</sup> Human rights certificate, SL 237, p 1.

- with the HRA because it does limit, restrict or interfere with human rights, but the limitations are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.<sup>71</sup>

### 12.3.1 Property rights

Under section 24 of the HRA, a person must not be arbitrarily deprived of their property. Potentially, land could be acquired under a Cross River Rail PDA, pursuant to section 20 of the *Cross River Rail Delivery Authority Act 2016* (CRRDA Act) and the *Acquisition of Land Act 1967* (ALA).

The Minister provides the following explanation:

The ability to impinge on someone's property rights arising from the CRR PDA [Cross River Rail Priority Development Area] declaration is a lawful provision that helps facilitate the purpose of [the] declaration. In this instance the potential to compulsorily acquire land in a CRR PDA would be in the public interest by facilitating the delivery of the CRR [Cross River Rail] project. The impact on a person's property rights is limited to the application of the CRRDA Act and the process for compensation under the ALA. The compulsory acquisition of land is not an arbitrary process but an established framework with compensation provisions to facilitate certain lawful objectives.<sup>72</sup>

The certificate includes this statement:

People's property rights are only impacted in so far as what is lawful, and safeguards are in place to ensure these impacts are limited and adequate financial compensation is received.<sup>73</sup>

It could be argued, that some of the above statements could be considered to fall short of justifying the impact on a person's property rights. Stating that a human rights impact is justified because legislation provides for that impact does not of itself constitute a reasonable and justified reason for the impact. The following statement addresses the issue of a reasonable justification:

The purpose of the limitation is to save public resources and streamline development in the CRR PDA. There are significant economic benefits to the community in the facilitation of large projects which provide not only jobs, but a more stable and diversified economy. The positive impact to the broader community must be viewed against the backdrop of both the social and economic impacts to landholders who may be potentially displaced by the exercise of the ability to compulsorily acquire land.<sup>74</sup>

### Committee comment

The committee is satisfied that the impact on a person's property rights is reasonable and demonstrably justified.

### 12.3.2 Privacy and reputation

Under section 25 of the HRA, a person has the right not to have their privacy unlawfully or arbitrarily interfered with.

Personal information is collected by the Minister for Economic Development Queensland (MEDQ) for a variety of purposes, including processing and responding to enquiries and requests for information about projects, researching the needs of communities, partners and potential customers, keeping a public register of development applications and development decisions. The collection, storage and disclosure of this information impacts on a person's right to privacy regarding their personal information.

The Minister advises:

Information obtained through public submissions is only used for the purposes for which it was obtained. ... The MEDQ only uses personal information for this purpose. Personal information provided will be

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<sup>71</sup> Human rights certificate, SL 237, p 6.

<sup>72</sup> Human rights certificate, SL 237, p 4. Quote is followed by a reference to 'performing arts experiences'.

<sup>73</sup> Human rights certificate, SL 237, p 5.

<sup>74</sup> Human rights certificate, SL 237, p 5.

uploaded to the MEDQ's stakeholder relationship software and is consistent with the MEDQ's privacy policy.<sup>75</sup>

Committee comment

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

**12.3.3 Right to a fair hearing**

Under section 31 of the HRA, a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial tribunal after a fair and public hearing.

Under the ED Act, making a submission during public notification of a development application does not afford the submitter the right to appeal any decision made on the development application. It might be considered that this limits a person's right to a fair hearing.

The Minister provides the following justification:

The limitation is necessary to promote efficient development in the CRR PDA. There are significant economic benefits to the community in the facilitation of large projects which provide not only jobs, but a more stable and diversified economy. The positive impact to the broader community must be viewed against the backdrop of both the social and economic impacts to landholders who may be limited in their exercise to appeal a decision on a development application. Decisions may still be subject to right to information and judicial review proceedings.<sup>76</sup>

Committee comment

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

**12.4 Human rights certificate**

A human rights certificate was tabled with the subordinate legislation, as required by section 41 of the HRA.

Committee comment

At times, the content in the certificate addressing matters contained in section 13 of the HRA lacked relevance.<sup>77</sup> There were also several instances where the human rights certificate contained statements to the effect that a human rights impact was justified because legislation provided for that impact, without necessarily providing adequate analysis under section 13(2). Examples include these statements:

- 'The potential limitation of information is only to the extent in which the ED Act or CRRDA Act allows'<sup>78</sup>, and
- 'The potential limitation of property rights is only to the extent in which the CRRDA Act allows'.<sup>79</sup>

In these respects, it could be argued that the certificate falls short of facilitating an understanding of the subordinate legislation in relation to its compatibility with human rights.

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<sup>75</sup> Human rights certificate, SL 237, p 5.

<sup>76</sup> Human rights certificate, SL 237, p 6.

<sup>77</sup> Human rights certificate, SL 237, pp 4-6. The last sentence on page 4 and on page 5 contain syntax and other errors.

<sup>78</sup> Human rights certificate, SL 237, p 5.

<sup>79</sup> Human rights certificate, SL 237, p 5. Also: 'The potential limitation of the right allows the Delivery Authority to facilitate the CRR project' (Human rights certificate, p 5).

### **13 Water Plan (Moreton) (Warrill Valley Water Supply Scheme) Amendment Plan 2020 (SL No. 240)**

The Amendment Plan inserts a reference to high priority group C (which relates to the way water is allocated) in the Warrill Valley water supply scheme that was previously incorrectly removed.

#### **13.1 Issues of fundamental legislative principle**

No issues of fundamental legislative principle were identified.

#### **13.2 Explanatory notes**

The explanatory notes comply with part 4 of the LSA.

#### **13.3 Human rights**

The subordinate legislation is compatible with human rights.

#### **13.4 Human rights certificate**

The human rights certificate tabled with SL 240 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

### **14 Recommendation**

The committee recommends that the House notes this report.



Chris Whiting MP

**Chair**

**March 2021**

#### **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