



QUEENSLAND PARLIAMENT **COMMITTEES**

Report on subordinate legislation tabled on 28 November 2024

Health, Environment and Innovation Committee



Report No. 3

58th Parliament, March 2025

Overview

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled on 28 November 2024. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness.¹ It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992 (LSA)*.²

The report also notes any issues identified by the committee in its consideration of compliance with the *Human Rights Act 2019 (HRA)*³ and the human rights certificates tabled with the subordinate legislation.⁴

Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
221	Nature Conservation (Protected Areas) (Omission of Lawn Hill Resources Reserves) Amendment Regulation 2024	28 November 2024	30 April 2025
222	Forestry and Other Legislation Amendment Regulation 2024	28 November 2024	30 April 2025
230	Medicines and Poisons (Medicines) Amendment Regulation (No. 3) 2024	28 November 2024	30 April 2025
233	Nature Conservation and Other Legislation Amendment Regulation 2024	28 November 2024	30 April 2025
234	Nature Conservation (Protected Areas) (Eastern Kuku Yalanji Area) Amendment Regulation 2024	28 November 2024	30 April 2025

* Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

¹ Fundamental legislative principles are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law. These principles include requiring that legislation has sufficient regard to rights and liberties of individuals and the institution of Parliament.

² *LSA* Part 4.

³ Section 8 of the *Human Rights Act 2019 (HRA)* relevantly provides that a statutory provision is compatible with human rights if the provision does not limit a human right or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of the HRA. Section 13 of the HRA provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

⁴ *HRA* s 41.

Committee consideration of the subordinate legislation

Committee Comment



Unless noted below, the committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, the lawfulness of the subordinate legislation or non-compliance with the HRA.

Similarly, unless noted below, the committee considers that the explanatory notes tabled with the subordinate legislation noted in this report comply with the requirements of section 24 of the LSA, which includes advice about consultation, and that the human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

1 SL No. 221 — Nature Conservation (Protected Areas) (Omission of Lawn Hill Resources Reserves) Amendment Regulation 2024

SL No. 221 removes references to the following resource reserves from the Nature Conservation (Protected Areas) Regulation 1994:

- Lawn Hill (Arthur Creek)
- Lawn Hill (Gorge Mouth)
- Lawn Hill (Gregory)
- Lawn Hill (Gregory River Base)
- Lawn Hill (Lilydale)
- Lawn Hill (Littles Range)
- Lawn Hill (Stockyard Creek); and,
- Lawn Hill (Widdallion).⁵

According to the *Nature Conservation Act 1992* (NC Act), land must have first been ‘Crown Land’ before it may be dedicated as a resource reserve.⁶ To qualify as ‘Crown Land’ reserve tenures should have been revoked under the former *Land Act 1962*.⁷ The explanatory notes provide that there is no evidence this process was undertaken, therefore, dedication of the resource reserves under the NC Act is invalid.⁸

Generally, the removal of lands from protected areas under the NC Act would require a decision by the Legislative Assembly.⁹ However, given that the NC Act does not apply in this

⁵ SL No. 221, s 3.

⁶ *Nature Conservation Act 1992*, s 28 and 29 (NC Act).

⁷ SL No. 221, Explanatory Notes, p 2.

⁸ SL No. 221, Explanatory Notes, p 2.

⁹ NC Act, s 32.

instance, a decision of the Legislative Assembly is not needed, nor appropriate, since the former *Land Act 1962* applies.¹⁰ Notwithstanding that the NC Act is not the correct authorising law in these circumstances, a legislative mechanism must still be enlivened to remove the land from the Regulation.¹¹ A decision to implement an Amendment Regulation relies on section 24AA of the *Acts Interpretation Act 1954*, which under the NC Act, is delegated to the Governor in Council.¹² Therefore, SL No. 221 operates under the delegated power of the NC Act.

The explanatory notes provide that SL No. 221 reorganises the above listed reserves as their original tenures (a combination of departmental reserves, official purpose reserves, and official (natural resources reserves) and corrects the Queensland Land Titles Register.¹³

SL No. 221 enables the department to effectively deliver commitments contained in the Waanyi Registered Native Title Body Corporate (Waanyi RNTBC) registered Indigenous Land Use Agreement (ILUA).¹⁴ The human rights certificate notes that the Waanyi RNTBC were consulted on SL No. 221 and are supportive as the amendments are essential for the land to be transferred as a combination of Aboriginal freehold land and national park (Aboriginal land) in accordance with ILUA commitments.¹⁵

2 SL No. 222 — Forestry and Other Legislation Amendment Regulation 2024

SL No. 22 contains administrative amendments and reasoning for the below listed land re-classifications:¹⁶

- dedicate the following:
 - Lot 3 on SP 301977 as part of the Girringun National Park
 - Lot 7 on MCH 4562 as part of Great Sandy National Park
 - Lot 2 on AP 23897 as part of the new Redcliffe Tableland National Park, and
 - Part of Lot 2 on GH7 as the new Edgbaston Special Wildlife Reserve.¹⁷
- revoke the entirety of the:
 - State plantation forest declaration on Ringtail State Forest (Lot A on PLP0997)¹⁸

¹⁰ SL No. 221, Explanatory Notes, p 2.

¹¹ See generally, Office of Premier and Cabinet, *Queensland Legislation Handbook* (2019, 6th edition) <<https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/legislation-handbook.aspx>> p 18 and 27.

¹² SL No. 221, Explanatory Notes, p 2. See also, *Acts Interpretation Act 1954*, s 24AA; NC Act, s 32, 33, 175.

¹³ SL No. 221, Explanatory Notes, p 1-3; SL No. 221, Human Rights Certificate, p 1-2.

¹⁴ SL No. 221, Explanatory Notes, p 2.

¹⁵ SL No. 221, Human Rights Certificate, p 3.

¹⁶ SL No. 222, Explanatory Notes, p 3-8.

¹⁷ SL No. 222, Explanatory Notes, p 6-8.

¹⁸ SL No. 222, Explanatory Notes, p 3.

- Edgbaston Nature Refuge (Lot 2 on GH 7)¹⁹
- revoke parts of the:
 - Beerburrum East State Forest, for the Bribie Island Road Upgrade (Lot 4 on AP23631)
 - Yurol State Forest, to allow the area to be dedicated as part of the Tewantin National Park (Lots 3 and 4 on AP 22502 and lot 5 on AP 23654)
 - Ringtail State Forest, to allow the area to be dedicated as part of the Tewantin National Park (Lots 6, 7, 8 and 11 on AP 22503 and lot 5 on AP 23653), and
 - Expedition (Limited Depth) National Park, to facilitate a lawful thoroughfare access to an adjoining property with leases for resource activities, in line with the road which has been in place for over thirty years.²⁰
- redescribe the entirety of the:
 - Targinie State Forest, due to a replacement Survey Plan for the establishment of a new multi-user infrastructure corridor linking Fisherman's Landing at the Port of Gladstone, including a revocation of the declaration of the entirety of the forest (Lots 1 - 6 on AP 346685)
 - Jimna State Forest, through the use of contemporary survey and mapping technology, including a revocation of part of the State forest (Lot 1 on AP 23883) to be dedicated as part of the Wrattens National Park (Lots 1 and 207 on AP 23883)
 - Peachester State Forest, through the use of contemporary survey and mapping technology, including a revocation of part of the State forest (Lot 3 on AP 23888) to be dedicated as part of Glass House Mountains Conservation Park (Lots 3 and 313 on AP 23888)
 - Squirrel Creek State Forest, through the use of contemporary survey and mapping technology, including a revocation of part of the State forest (Lot 344 on AP23882) to be dedicated as part of the new Squirrel Creek National Park (Lots 343 and 344 on AP 23882)
 - Bellthorpe State Forest, including a complete revocation of the State Forest to be dedicated as part of Bellthorpe National Park (Lot 572 on AP 23880)
 - Beerburrum West State Forest, through the use of contemporary survey and mapping technology, including a revocation of part of the State forest to be dedicated as part of Glass House Mountains Conservation Park (Lots 4 - 7 on AP 23657)
 - Deer Reserve State Forest, through the use of contemporary survey and mapping technology, including a revocation of part of the State forest (Lot 3 on AP 23887) to

¹⁹ SL No. 222, Explanatory Notes, p 8.

²⁰ SL No. 222, Explanatory Notes, p 3-5.

be dedicated as part of the Deer Reserve Conservation Park (Lots 3 and 637 of AP 23887)

- Elgin Vale State Forest, through the use of contemporary survey and mapping technology, including a revocation of part of the State forest (Lot 674 on AP 23889) to be dedicated as part of Wrattens National Park (Lots 673 – 675 on AP 23889)
 - Curra State Forest (currently Lot 700 on FTY 1491 to be described as lot 104 on SP 334006) to rectify a small encroachment into the State forest and create a practical management boundary for Queensland Parks and Wildlife Service (QPWS)
 - Luttons State Forest, through the use of contemporary survey and mapping technology, including a revocation of part of the State forest (Lot 2 on AP 23886) to be dedicated as part of Glass House Conservation Park (Lots 2 and 766 on AP 23886)
 - Yabba State Forest, through the use of contemporary survey and mapping technology, including a revocation of part of the State forest (Lot 1 on AP 23884) to be dedicated as part of Wrattens National Park (Lots 1 and 986 – 989 on AP 23884), and
 - Delaneys Creek State Forest, including a complete revocation of the State Forest to be dedicated as the new Delaneys Creek Conservation Park (Lot 2563 on AP 23778).²¹
- prescribe the following apiary areas and maximum apiary sites:
 - Bellthorpe National Park with two apiary sites (Lot 573 on AP 23880)
 - Glass House Mountains National Park with two apiary sites (Lot 4 on AP 23657)
 - Squirrel Creek National Park with 34 apiary sites (Lot 344 on AP 23882)
 - Wrattens National Park with nine apiary sites (Lot 1 on AP 23883) and five apiary sites (Lot 1 on AP 23884), and
 - Tewantin National Park with one apiary site (Lot 3 on AP 22502) and four apiary sites (Lot 5 on AP 23653).²²

3 SL No. 230 — Medicines and Poisons (Medicines) Amendment Regulation (No. 3) 2024

SL No. 230 amends the Medicines and Poisons (Medicines) Regulation 2021 (2021 Regulation) to implement Commonwealth vaping reforms that ‘ban recreational and disposable vaping goods, including restrictions on their importation, manufacture, possession and supply’.²³

²¹ SL No. 222, Explanatory Notes, p 4-6.

²² SL No. 222, Explanatory Notes, p 8.

²³ SL No. 230, Explanatory Notes, p 1. See also *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Act 2024* (Cth); *Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Act 2024*.

Under the Commonwealth reforms, pharmacists will be lawfully permitted to sell vaping goods to members of the public, and only for the purpose of managing nicotine dependence and to assist people in quitting smoking.²⁴

SL No. 230 focuses on imposing controls on vaping products which contain nicotine, the ‘regulated substance’ under the *Medicines and Poisons Act 2019*.²⁵ The explanatory notes provide that the additional controls in SL No. 230 will not apply to therapeutic vaping devices, or accessories that do not contain nicotine, while the Commonwealth legislation does still capture those items.²⁶ Therapeutic nicotine is defined as nicotine contained in a therapeutic vaping food, including accessories, devices and substances.²⁷ It does not include replacement therapies, like nicotine patches or gum.²⁸ The impact of this jurisdictional divergence is that a person who is not a pharmacist cannot sell, or advertise, those items.²⁹

SL No. 230:

- classifies therapeutic nicotine as a diversion risk medicine (that is, a medicine that has value as an illicit substance, such as anabolic steroids or pseudoephedrine)³⁰
- restricts the sale of therapeutic nicotine to a ‘community pharmacy’³¹
- restricts the sale of schedule 2, 3 and 4 medicines to a community pharmacy, other than therapeutic nicotine
- provides that therapeutic nicotine must be stored and kept out of sight from members of the public at community pharmacy
- provides that a pharmacist must notify the chief executive (of the Department of Health, the Director-General) and police service if they reasonably suspect that therapeutic nicotine has been lost or stolen.³²



3.1 Legislative Standards Act 1992

Assessment of SL No. 196’s compliance with the LSA identified issues with the proportionality of penalties. Generally, penalties should be proportionate to the offences, and penalties within legislation should be consistent with each other.³³ In the context of subordinate legislation, maximum penalties should be limited where possible (generally, limited to 20 penalty units).³⁴

²⁴ SL No. 230, Explanatory Notes, p 2.

²⁵ *Medicines and Poisons Act 2019*, s 17; SL No. 230, cl 7 and 8; SL No 230, Explanatory Notes, p 2-4.

²⁶ SL No. 230, Explanatory Notes, p 2.

²⁷ SL No. 230, Explanatory Notes, p 2; SL No. 230, cl 8.

²⁸ SL No. 230, Explanatory Notes, p 2-4.

²⁹ SL No. 230, Explanatory Notes, p 2-4.

³⁰ SL No. 230, Explanatory Notes, p 2; SL No. 230, cl 4-7.

³¹ SL No. 230, Explanatory Notes, p 2; SL No. 230 cl 8.

³² SL No. 230, Explanatory Notes, p 2; SL No. 230, cl 5.

³³ *LSA*, s 4(2). See also Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental Legislative Principles: The OQPC Notebook*’ p 120 (OQPC, *FLP Notebook*).

³⁴ OQPC, *FLP Notebook*, p 150.

3.1.1 Individual rights and liberties – proportionality of penalties

SL No. 230 expands two existing offence provisions in the 2021 Regulation to include therapeutic nicotine, namely:

- if therapeutic nicotine is possessed and kept at a place, then it must be stored out of the view of the public (with a maximum penalty of 40 penalty units, or \$6452),³⁵ and
- if a pharmacist, in the course of practice, reasonably suspects that therapeutic nicotine has been lost or stolen they must give notice to the chief executive and the police service by the end of the next business day (with a maximum penalty of 40 penalty units, or \$6452).³⁶

The explanatory notes provide that the amendments ‘set consistent standards for storing therapeutic nicotine that are commensurate with the risks associated with the particular substance’ and effectively restricts access to persons who are permitted to possess vaping goods on an as-needs basis.³⁷

The explanatory notes seek to justify the penalty for failing to report suspected lost or stolen goods on the basis that the consequences of unauthorised access to medicines are serious.³⁸ Further, the potential for harm to be suffered as a result of uncontrolled access to medicines associated with abuse, diversion and illicit use are serious.³⁹

Committee Comment



The committee is satisfied that the penalties in SL No. 230 are justified in the circumstances, owing to the serious nature of the offences contained in the proposed legislation. Further, the penalty values and proposed offences are consistent with the current prescribed offences relating to the misuse of pseudoephedrine.⁴⁰ Therefore, the proposed penalties are consistent with fundamental legislative principles.

4 SL No. 233 – Proclamation – *Environmental Protection and Other Legislation Amendment Act 2023*

The Proclamation made under the *Environmental Protection and Other Legislation Amendment Act 2023* fixes a commencement date of 27 September 2024 for the remaining provisions of the Act which are not yet in force.

³⁵ *Penalties and Sentences Act 1992*, s 5, 5A; *Penalties and Sentences Regulation 2015*, s 3. Note: The value of a penalty unit is currently \$161.30. See also SL No. 230, s 4; 2021 Regulation, s 199(2).

³⁶ SL No. 230, s 5; 2021 Regulation, s 226.

³⁷ SL No. 230, Explanatory Notes, p 7.

³⁸ SL No. 230, Explanatory Notes, p 8.

³⁹ SL No. 230, Explanatory Notes, p 8.

⁴⁰ See 2021 Regulation, s 199(2), 226(2).

5 SL No. 234 – Nature Conservation (Protected Areas) (Eastern Kuku Yalanji Area) Amendment Regulation 2024

SL No. 234 amends the protected area estate register and makes additions to several classes of protected areas, including:

- redescribing and changing the class of parts of 2 Cape York Peninsula national parks as national parks, namely Cape York Peninsula Aboriginal land
- declaring a nature refuge over 2 parcels of Aboriginal freehold land, and
- dedicating 5 parcels of State land as national parks.⁴¹

The explanatory notes and human rights certificate provide that engagement has been undertaken with the Traditional Owner Negotiation Committee, the Jabalbina Yalanji Aboriginal Corporation and through feedback from Elder groups, and through that engagement, consent has been given to the amendments.⁴²

The explanatory notes state that consultation was undertaken with local councils and other relevant entities, as well as the broader public, to which there was support for the amendments. In particular, notices were published on the former Department of Environment, Science and Tourism website seeking submissions on SL No. 234’s compliance with section 28 of the *Human Rights Act 2019*, which protects the cultural rights of Aboriginal and Torres Strait Islander peoples.⁴³ No public submissions were received during consultation on the application of section 28.⁴⁴



Recommendation 1

The committee recommends that the Legislative Assembly note this report.

Rob Molhoek MP

Chair

⁴¹ SL No. 234, Human Rights Certificate, p 1.

⁴² SL No. 234, Explanatory Notes, p 5; SL No. 234, Human Rights Certificate, p 1.

⁴³ SL No. 234, Explanatory Notes, p 5.

⁴⁴ SL No. 234, Explanatory Notes, p 5.

Health, Environment and Innovation Committee

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