

# **Subordinate legislation tabled between 21 August 2013 and 15 October 2013**

**Report No. 39**

**Health and Community Services Committee**

**February 2014**

## Health and Community Services Committee

<b>Chair</b>	Mr Trevor Ruthenberg MP, Member for Kallangur
<b>Deputy Chair</b>	Mrs Jo-Ann Miller MP, Member for Bundamba
<b>Members</b>	Ms Ros Bates MP, Member for Mudgeeraba
	Dr Alex Douglas MP, Member for Gaven
	Mr John Hathaway MP, Member for Townsville
	Mr Jon Krause MP, Member for Beaudesert
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## 1 Introduction

### 1.1 Role of the committee

The Health and Community Services Committee is responsible for examining subordinate legislation within its portfolio areas and considering the policy effect, the application of fundamental legislative principles, and the lawfulness of the subordinate legislation (section 93(1) of the *Parliament of Queensland Act 2001*). The committee's responsibilities include monitoring the operation of the *Statutory Instruments Act 1992* as it relates to subordinate legislation. The committee reports to the Legislative Assembly on all subordinate legislation it has considered.

### 1.2 Aim of this report

This report summarises the committee's examination of subordinate legislation tabled between 21 August 2013 and 15 October 2013. It reports on fundamental legislative principle issues identified by the committee.

## 2 Subordinate legislation examined

SL No.	Name of Subordinate Legislation	Date for disallowance
SL 178	Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2013	6/3/2014
SL 183	National Parks, Recreation, Sport and Racing Legislation Amendment Regulation (No.1) 2013	6/3/2014
SL 185	Health Legislation (Fees) Amendment Regulation (No. 1) 2013	6/3/2014

### 2.1 Fundamental legislative principles

#### Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2013

The Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2013 amends schedules 3 and 4 of the Nature Conservation (Protected Areas Management) Regulation 2006 to provide that the following uses are permitted in the following areas:

- the construction, operation, maintenance and use of a water reservoir in the Hull River National Park
- use and maintenance of existing essential infrastructure on part of the Capricornia Cays National Park, and
- use and maintenance of existing essential infrastructure on part of the Molle Island National Park.

The committee identified two instances where the Explanatory Notes are inconsistent with the Amendment Regulation.

The committee wrote to the Hon. Steve Dixon MP, Minister for National Parks, Recreation, Sport and Racing on 10 December 2013 to request advice on this matter. A copy of the committee's letter to the Minister is at Appendix A.

The Minister advised the committee, in a letter dated 18 December 2013, that the Explanatory Notes are incorrect in both instances. A copy of the Minister's letter to the committee is at Appendix B. On 5 February 2014 the Minister tabled an erratum to the Explanatory Notes to correct the inconsistency.

### **National Parks, Recreation, Sport and Racing Legislation Amendment Regulation (No.1) 2013**

The National Parks, Recreation, Sport and Racing Legislation Amendment Regulation (No.1) 2013 amends the Forestry Regulation 1998, the Marine Parks Regulation 2006, the Nature Conservation (Conservation of Protected Areas) Management Regulation 2006, the Racing Regulation 2013 and the Recreation Areas Management Regulation 2007, to increase regulatory fees for the department of National Parks, Recreation, Sport and Racing in accordance with the Queensland Government's indexation rate of 3.5 per cent. The committee did not identify any fundamental legislative principles issues.

### **Health Legislation (Fees) Amendment Regulation (No. 1) 2013**

The Health Legislation (Fees) Amendment Regulation (No. 1) 2013 amends the Food Regulation 2006, the Health (Drugs and Poisons) Regulation 1996, the Health Regulation 1996, the Pest Management Regulation 2003, the Private Health Facilities Regulation 2000 and the Radiation Safety Regulation 2010, to increase in accordance with the Queensland Government's indexation rate of 3.5 per cent. The committee did not identify any fundamental legislative principles issues.

## **3 Recommendation**

The committee has examined the policy to be given effect by the subordinate legislation, the application of fundamental legislative principles and lawfulness and has not identified any significant issues.

### **Recommendation 1**

That the Legislative Assembly notes the content of this report.

## Appendix A: Letter to Minister for National Parks Recreation, Sport and Racing



### Health and Community Services Committee

Health and Community Services Committee  
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Your Ref:

Our Ref: 11.7.1

10 December 2013

Hon. Steve Dickson MP  
Minister for National Parks, Recreation, Sport and Racing  
PO Box 15187  
CITY EAST QLD 4002

by email to: [nprsr@ministerial.qld.gov.au](mailto:nprsr@ministerial.qld.gov.au)

Dear Minister

#### **Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2013**

The Health and Community Services Committee (the committee) is currently considering the *Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2013* (the Amendment Regulation), made under the *Nature Conservation Act 1992* (the Act).

Permitted uses in national parks are prescribed in the *Nature Conservation (Protected Areas Management) Regulation 2006*, at schedule 3 (for section 35 of the Act) and schedule 4 (for section 37 of the Act). The Amendment Regulation amends those schedules to provide for specific uses in three national parks, including Capricornia Cays National Park.

The Explanatory Notes state that the use and maintenance of existing infrastructure in Capricornia Cays National Park has been assessed and meets the requirements under section 37 of the Act. The Amendment Regulation inserts information about the permitted use in schedule 3 of the Regulation, which relates to permitted uses under section 35 of the Act rather than section 37. The committee requests your comments about this potential inconsistency.

It appears there is an incorrect cross reference in section 15 of the Amendment Regulation, which refers to section 35(1)(c) of the Act. The correct reference to the Act appears to be section 35(1)(d). The committee would also appreciate clarification on this matter.

The committee requests your response by Wednesday 18 December 2013. Any questions can be directed to the committee's research director, Sue Cawcutt, on 3406 7688, or by email to [hcsc@parliament.qld.gov.au](mailto:hcsc@parliament.qld.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read "T. Ruthenberg".

Trevor Ruthenberg MP  
Chair

cc: Peter Tones, CLLO: [Peter.Tones@nprsr.qld.gov.au](mailto:Peter.Tones@nprsr.qld.gov.au); [cllo@nprsr.qld.gov.au](mailto:cllo@nprsr.qld.gov.au)

## Appendix B: Response from Minister for National Parks Recreation, Sport and Racing



Hon Steve Dickson MP  
Minister for National Parks, Recreation,  
Sport and Racing

Our Ref: CTS 30718/13  
Your Ref: 11.7.1

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Email NPRSR@ministerial.qld.gov.au

18 December 2013

Mr Trevor Ruthenberg MP  
Chair  
Health and Community Services Committee  
Parliament House  
George Street  
Brisbane Qld 4000



Dear Mr Ruthenberg

Thank you for your letter of 10 December 2013 concerning the Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2013.

In response to your first query, the Explanatory Notes state that the use and maintenance of existing infrastructure in Capricornia Cays National Park has been assessed and meets the requirements under section 37 of the *Nature Conservation Act 1992*. I am advised that there is an inconsistency between the Explanatory Notes and the subordinate legislation as a result of final drafting changes with the Office of the Queensland Parliamentary Counsel. The correct reference should be section 35.

In response to your second query, the reference to section 35(1)(c) of the Act in the Explanatory Notes should be section 35(1)(d).

Thank you for bringing these matters to my attention.

I hope this information has been of assistance to you. Should you have any further enquiries, please contact Ms Johanna de Winter, Chief of Staff in my office, on telephone (07) 3719 7115.

Yours sincerely

A handwritten signature in black ink, appearing to be "Steve Dickson".

Steve Dickson MP  
Minister for National Parks, Recreation, Sport and Racing