

**Subordinate legislation tabled between
20 November 2013 and 11 February 2014**

Report No. 43

Health and Community Services Committee

April 2014

Health and Community Services Committee

Chair	Mr Trevor Ruthenberg MP, Member for Kallangur
Deputy Chair	Mrs Jo-Ann Miller MP, Member for Bundamba
Members	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 Mr Dale Shuttleworth MP, Member for Ferny Grove
Staff	Ms Sue Cawcutt, Research Director Ms Lee Archinal, Principal Research Officer (part-time) Ms Kathleen Dalladay, Principal Research Officer (part-time) Ms Liz Sbeghen, Principal Research Officer (part-time) Ms Stephanie Cash, Executive Assistant
Technical Scrutiny Secretariat	Mr Peter Rogers, Acting Research Director Mr Michael Gorringer, Principal Research Officer Ms Kellie Moule, Principal Research Officer (part-time) Mrs Gail Easten, Executive Assistant
Contact details	Health and Community Services Committee Parliament House George Street Brisbane Qld 4000
Telephone	+61 7 3406 7688
Fax	+61 7 3406 7070
Email	hcsc@parliament.qld.gov.au
Web	www.parliament.qld.gov.au/hcsc

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 20 November 2013 and 11 February 2014. 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 274	Proclamation made under the Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013	8/5/2014
SL 286	Public Health (Infection Control for Personal Appearance Services) (Infection Control Guideline) Notice 2013	8/5/2014
SL 287	Hospital and Health Boards Amendment Regulation (No.2) 2013	8/5/2014
SL 288	Radiation Safety Amendment Regulation (No.1) 2013	8/5/2014
SL 15	Proclamation made under the Health Ombudsman Act 2013	22/5/2014
SL 18	Proclamation made under the Health Legislation Amendment Act 2013	22/5/2014
SL 19	Public Health Amendment Regulation (No. 1) 2014	22/5/2014
SL 237	Nature Conservation and Other Legislation Amendment Regulation (No.2) 2013	8/5/2014
SL 303	Nature Conservation (Protected Areas Management) Amendment Regulation (No.3) 2013	8/5/2014
SL 13	Nature Conservation (Protected Areas Management) Amendment Regulation (No.1) 2014	8/5/2014
SL 283	Forestry Legislation Amendment Regulation (No.2) 2013	8/5/2014

3 Communities, Child Safety and Disability Services

3.1 Proclamation made under the Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013

The Proclamation made under the Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013 commenced Part 4 of that Act on 6 December 2013. Part 4 provides an express right for a person with a disability to be accompanied by their guide, hearing or assistance dog in a place of accommodation and creates an offence for an accommodation provider to refuse to rent accommodation to a person because they are accompanied by their certified guide, hearing or assistance dog.

The committee did not identify any fundamental legislative principles issues.

3.1.1 Explanatory Notes

The Explanatory Notes comply with most of the requirements of section 24 of the *Legislative Standards Act 1992* (the Legislative Standards Act). The committee notes, however, that the Explanatory Notes refer only to consultation within government. Section 24(2)(b) of the Legislative Standards Act provides that if consultation did not take place, the Explanatory Notes must include a statement of the reason for no consultation. The committee considers that an explanation of why consultation outside government was not considered necessary, is required to comply with section 24(2)(b) of the Legislative Standards Act.

The committee wrote to the Hon. Tracey Davis MP, Minister for Communities, Child Safety and Disability Services to seek advice on why the consultation section of the Explanatory Notes did not include a statement of the reason for no consultation.

The Minister stated that in future all consultation undertaken on subordinate legislation, in particular with community stakeholder organisations, will be detailed in the Explanatory Notes. A copy of the Minister's letter to the committee is at Appendix A.

4 Health portfolio

4.1 Public Health (Infection Control for Personal Appearance Services) (Infection Control Guideline) Notice 2013 Hospital and Health Boards Amendment Regulation (No.2) 2013

The Public Health (Infection Control for Personal Appearance Services) (Infection Control Guideline) Notice 2013 repeals a 2004 Infection Control Guideline for Personal Appearance Services and gives effect to the 2012 Infection Control Guideline for Personal Appearance Services.

The committee did not identify any fundamental legislative principles issues.

4.1.1 Delay in giving effect to the Guideline

The committee noted that the Guideline is dated March 2012. The committee wrote to the Hon. Lawrence Springborg MP, Minister for Health to seek advice on the reason for the delay between completion of the Guideline in March 2012 and giving it effect in December 2013.

The Minister advised the committee that the implementation of the Guideline is subject to a two-step approval process and that there had been an unprecedented delay in the process, brought about by a number of factors. The Minister stated these factors are not anticipated to occur frequently in future. A copy of the Minister's letter to the committee is at Appendix B.

4.1.2 Committee comment

The committee considered the explanation provided by the Minister for the delay between the completion of the Guideline and the making of the Notice reasonable.

4.2 Hospital and Health Boards Amendment Regulation (No.2) 2013

The Hospital and Health Boards Amendment Regulation (No.2) 2013 amends the Health and Hospitals Boards Regulation 2012 to replace the current Memorandum of Understanding (MoU) with the Queensland Police Service (QPS) concerning the release of confidential patient information. The Explanatory Notes state the MoU outlines what information can be provided to the QPS and under what circumstances.

4.2.1 Rights and liberties of individuals

The committee considered whether the Amendment Regulation has sufficient regard to the rights and liberties of individuals (section 4(3) of the Legislative Standards Act), as it is not clear from either the Amendment Regulation or the Explanatory Notes under what circumstances confidential information may be disclosed and what safeguards have been put in place to protect an individual's confidential information.

The committee wrote to the Hon. Lawrence Springborg MP, Minister for Health, to seek advice on how the Amendment Regulation has sufficient regard to section 4(3) of the Legislative Standards Act. The Minister advised the committee that the Privacy Commissioner was consulted during the development of the revised MoU, which prescribes protocols to safeguard the disclosure of confidential information that may identify a patient. The Minister also provided information about safeguards and the circumstances under which personal information may be disclosed. A copy of the Minister's letter to the committee is at Appendix B.

4.2.2 Committee comment

The committee considered the additional information provided by the Minister indicates that the Amendment Regulation has sufficient regard to section 4(3) of the Legislative Standards Act.

4.3 Radiation Safety Amendment Regulation (No.1) 2013

The Radiation Safety Amendment Regulation (No.1) 2013 amends the Radiation Safety Regulation 2010 to provide for public access to commercial solaria to be phased out by 31 December 2014.

4.3.1 Rights and liberties of individuals

The committee considered that the Amendment Regulation has sufficient regard to section 4(3) of the Legislative Standards Act, which requires legislation to have sufficient regard to the rights and liberties of individuals. The committee considers that it is in the public interest to protect the public from the harmful effects of commercial solaria and that this is sufficient reason to restrict the commercial use of solaria.

4.4 Proclamation made under the Health Ombudsman Act 2013

The Proclamation made under the Health Ombudsman Act 2013 fixes a commencement date of 17 February 2014 for certain provisions of the *Health Ombudsman Act 2013* and 1 July 2014 for all remaining provisions. The provisions which commenced on 17 February 2014 enabled the establishment of the office, the appointment of a Director of Proceedings and approval of forms under the Legislative Standards Act.

The committee did not identify any fundamental legislative principles issues.

4.5 Proclamation made under the Health Legislation Amendment Act 2013

The Proclamation made under the Health Legislation Amendment Act 2013 fixed a commencement date of 1 March 2014 for Part 4 of the *Health Legislation Amendment Act 2013*. Part 4 amends to *Public Health Act 2005*, including inserting provisions about the disclosure of information for an investigation under the *Coroners Act 2003* and the collection and disclosure of maternal death statistics.

The committee did not identify any fundamental legislative principles issues.

4.6 Public Health Amendment Regulation (No. 1) 2014

The Public Health Amendment Regulation (No. 1) 2014 amends the Public Health Regulation 2005 to specify when a health professional is required to report a maternal death to the chief executive. The Amendment Regulation commenced on 1 March 2014. The Amendment Regulation requires include a health professional to notify the chief executive within 60 days of a death, using the approved form (National Maternal Death Report form) which the Amendment Regulation stated would be available on the Department of Health's website.

The committee did not identify any fundamental legislative principles issues.

4.6.1 Access to form to report a maternal death

The committee was unable to locate the approved form on the department's website. The committee wrote to the Hon. Lawrence Springborg MP, Minister for Health, to seek advice on where

the form could be accessed. The Minister advised the committee that technical issues with the form were not able to be rectified prior to the commencement of the Amendment Regulation. The Minister stated that the form should be accessible from 26 March 2014 and that, in the interim, health professionals who seek access to the form will receive it by email. A copy of the Minister's letter to the committee is at Appendix B.

4.6.2 Committee comment

The committee is satisfied with the Minister's response and notes that the form was published on the department's website in early April 2014.

5 National Parks, Recreation, Sport and Racing

5.1 Nature Conservation and Other Legislation Amendment Regulation (No.2) 2013

The Nature Conservation and Other Legislation Amendment Regulation (No.2) 2013 amends the Nature Conservation (Protected Areas Management) Regulation 2006 to:

- allow horse riding on specified tracks and management roads in national park (recovery) and national park classes of protected areas when authorised by a regulatory notice, and
- provide for the renewal of commercial activity permits, including a fee.

The Amendment Regulation also amends Schedule 6 of the Forestry Regulation 1998 to provide for an extension of commercial activity permits, including a fee.

5.1.1 Rights and liberties of individuals

The committee noted that the chief executive is not required to give a commercial activity permit holder an information notice about the renewal of, or refusal to renew, an existing permit. Section 4(3)(a) of the Legislative Standards Act provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether it makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The committee wrote to the Hon. Steve Dickson MP, Minister for National Parks, Recreation, Sport and Racing, to request an explanation of how the Amendment Regulation has sufficient regard to section 4(3)(a) of the Legislative Standards Act.

The Minister advised the committee that where a decision is made not to renew a permit, the permit holder is advised of the decision and the reasons for the decision. The permit holder may then apply for a new permit, for which there is a right of review. A copy of the Minister's letter to the committee is at Appendix C.

5.1.2 Committee comment

The committee noted the Minister's response and considered, on balance, that the Amendment Regulation has sufficient regard to section 4(3) of the Legislative Standards Act.

5.1.3 Explanatory Notes

The Explanatory Notes tabled with the Amendment Regulation comply with most of the requirements at section 24 of the Legislative Standards Act. The committee noted, however, that the consultation section of the Explanatory Notes state that "no specific consultation has taken place with the public or conservation groups on the proposed horse riding reforms". Section 24(2)(b) of the Legislative Standards Act provides that if consultation did not take place, the Explanatory Notes must include a statement of the reason for no consultation. The committee considers that an explanation of why consultation with the public or stakeholders was not considered necessary is required to comply with section 24(2)(b) of the Legislative Standards Act.

The committee wrote to the Hon. Steve Dickson MP, Minister for National Parks, Recreation, Sport and Racing, to seek advice on why the consultation section of the Explanatory Notes did not include a statement of the reason for no consultation.

The Minister advised the committee that the Explanatory Notes state the Minister undertook some consultation at a horse riding forum in September 2013 and that industry groups supported the proposed reforms. The Minister stated that appropriate consultation will be undertaken during the development of any specific proposals to allow horse riding in new areas. A copy of the Minister's letter to the committee is at Appendix C.

5.1.4 Committee comment

The committee noted the Minister's response and considered that the Explanatory Notes comply with section 24(2)(b) of the Legislative Standards Act.

5.2 Nature Conservation (Protected Areas Management) Amendment Regulation (No.3) 2013

The Nature Conservation (Protected Areas Management) Amendment Regulation (No.3) 2013 amends the Nature Conservation (Protected Areas Management Regulation 2006) to prescribe an ecotourism facility as a permitted use within a defined part of Wooroonooran National Park.

The ecotourism facility is the Mamu Rainforest Canopy Walkway - an existing facility owned by the State. The Queensland Government has signed a lease with tourism operators to operate and maintain the walkway, commencing in April 2014. It is the first ecotourism lease prescribed under section 35 of the *Nature Conservation Act 1992* in a national park.

The committee did not identify any fundamental legislative principles issues.

5.3 Nature Conservation (Protected Areas Management) Amendment Regulation (No.1) 2014

The Nature Conservation (Protected Areas Management) Amendment Regulation (No.1) 2014 amends Schedule 3 of the Nature Conservation (Protected Areas Management) Regulation 2006 to permit the following uses within parts of the following national parks:

- an existing communications use in Mount Cook and Bowling Green Bay National Parks
- an existing communications and electricity distributions use in Conway National Park
- a new marine navigation and communications use in Lizard Island National Park, and
- the construction, maintenance and use of hydrants and an effluent reuse pipeline and an electricity distribution use in Burrum Coast National Park.

The committee did not identify any fundamental legislative principles issues.

5.4 Forestry Legislation Amendment Regulation (No.2) 2013

The *Forestry Legislation Amendment Regulation (No.2) 2013* amends:

- the Forestry Regulation 1998 to revoke parts of the Proserpine State Forest, Cordalba State Forest and Callide Timber Reserve, and
- the Schedule to the Forestry (State Forests) Regulation 1987, to change numerous property descriptions of state forests in a schedule to the 1987 regulation, which will allow for the publication of updated plans.

The committee did not identify any fundamental legislative principle issues. The Explanatory Notes tabled with the Proclamation comply with the majority of the requirements at section 24 of the Legislative Standards Act.

The committee notes that the Explanatory Notes state the Amendment Regulation will enable the Government to realign two road reserves and provide two heavy vehicle rest stops. The committee considers the Explanatory Notes would benefit from information on where plans which illustrate the

proposed revocation of the identified state forest and timber reserves and the intended location of the road realignments and heavy vehicle rest stops may be accessed.

6 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.

The committee has noted some deficiencies in Explanatory Notes to subordinate legislation, specifically in the description of consultation. Section 24(2)(b) of the Legislative Standards Act provides that if consultation about the subordinate legislation did not take place, the Explanatory Notes must include a statement of the reason for no consultation.

The committee acknowledges that it may not be considered necessary to consult on all pieces of subordinate legislation, including simple and straightforward proclamations. In circumstances where no consultation is undertaken by government, the committee expects that the requirement in section 24(2)(b) to include a statement of the reason for no consultation is complied with.

The committee also considers that the description of consultation in Explanatory Notes should focus on consultation outside government.

Recommendation 1

That the Legislative Assembly note the content of this report and the committee's conclusion that the subordinate legislation does not raise any significant issues regarding the application of fundamental legislative principles, and is lawful and within power.

Recommendation 2

That the Legislative Assembly note that the committee expects departments to comply with section 24(2)(b) of the *Legislative Standards Act 1992*, which provides that Explanatory Notes for subordinate legislation must include a statement of the reason for no consultation if consultation did not take place.



Trevor Ruthenberg MP

Chair

Appendix A – Letter from Minister for Communities, Child Safety and Disability Services



Hon Tracy Davis MP
Minister for Communities, Child Safety and Disability Services

Your reference: 11.7.1
Our reference: COM 02198-2014

Level 13
111 George Street Brisbane 4000
GPO Box 806 Brisbane
Queensland 4001 Australia
Telephone +61 07 3235 4280
Facsimile +61 07 3012 7704
Email ccsds@ministerial.qld.gov.au

28 MAR 2014

Mr Trevor Ruthenberg MP
Member for Kallangur
Chair
Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000



Dear Mr Ruthenberg

Trevor

Thank you for your letter of 20 March 2014 concerning the consultation section of the Explanatory Notes to the Proclamation made under the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013* (the Act).

I acknowledge that, specifically, consultation on the proclamation occurred only with the Department of the Premier and Cabinet, Queensland Treasury and Trade and the Office of Best Practice Regulation, which is detailed in the Explanatory Notes accompanying the Proclamation. However, please be assured that extensive consultation was undertaken on the amendments to the *Guide, Hearing and Assistance Dogs Act 2009* (GHAD Act) and communication strategies with a range of internal and external stakeholders on the review panel for the Government's broader review of the GHAD Act.

There is strong support for these amendments from guide, hearing and assistance dogs users, as well as key stakeholders including Vision Australia and Guide Dogs Queensland.

As you may recall, Mr Skinner, a guide dog user, made a public submission to the Committee during its consideration of the Bill and has been advocating for these amendments for a considerable amount of time after being refused access to holiday accommodation due to his guide dog accompanying him.

As detailed in the Explanatory Notes to the Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2013, consultation was undertaken with the Department of Housing and Public Works and the Department of Tourism, Major Events, Small Business and the Commonwealth Games. The Department of Communities, Child Safety and Disability Services worked with these agencies prior to the commencement of the amendments to develop a communication strategy to consult with the public, accommodation providers and the tourism sector.

In future, in accordance with the *Legislative Standards Act 1992*, all consultation undertaken, in particular with community stakeholders and organisations, will be detailed in explanatory notes for subordinate legislation, including proclamations.

-2-

If you require any further information or assistance in relation to this matter, please do not hesitate to contact Mr Tim Rawlings, Chief of Staff, in my office or [REDACTED]

Thank you for taking the time to raise this issue.

Yours sincerely

[REDACTED]

Tracy Davis MP
Minister for Communities, Child Safety
and Disability Services

Appendix B – Letter from Minister for Health



Hon Lawrence Springborg MP
Minister for Health

24 MAR 2014

MI196342

Mr Trevor Ruthenberg MP
Member for Kallangur
Chair
Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000

Level 19
147–163 Charlotte Street Brisbane 4000
GPO Box 48 Brisbane
Queensland 4001 Australia
Telephone +61 7 3234 1191
Facsimile +61 7 3229 0444
Email health@ministerial.qld.gov.au

Dear Mr Ruthenberg

Thank you for your letter dated 20 March 2014, in relation to the Health and Community Services Committee's (the Committee) consideration of subordinate legislation for which the Department of Health is the administering agency.

I am pleased to provide the following information, which I trust will satisfy the Committee's concerns about the making of the *Hospital and Health Boards Amendment Regulation (No.2) 2013*, the *Public Health (Infection Control for Personal Appearance Services) (Infection Control Guideline) Notice 2013* and the *Public Health Amendment Regulation (No.1) 2014*.

Hospital and Health Boards Amendment Regulation (No.2) 2013

The Memorandum of Understanding (MOU) prescribed in the *Hospital and Health Boards Regulation 2012* is an updated version of an MOU previously prescribed in 2010. The intent of the MOU is to support Queensland Health employees in their provision of health service delivery, by providing them with discretionary powers to report criminal activity they have been victims of, become aware of, or witnessed in the course of their duties. In addition, the MOU provides the Queensland Police Service (police officers) with the authority to seek information to assist with investigating alleged criminal activity or to locate missing persons. It is worth mentioning that Ms Linda Matthews, Privacy Commissioner was consulted during development of the revised MOU and all her feedback was addressed and incorporated into the final MOU.

The MOU prescribes a number of protocols to safeguard the disclosure of confidential information that may identify a patient. These protocols and further detail around the circumstances under which confidential information may be disclosed, are attached for your information.

Public Health (Infection Control for Personal Appearance Services) (Infection Control Guideline) Notice 2013

The infection control guidelines originally published in 2004 were reviewed over a period of time and revised guidelines were endorsed by the Chief Health Officer in March 2012. In addition to the development and endorsement of guidelines by the Chief Health Officer, the implementation of such guidelines is subject to a two-step approval process: Ministerial approval of the guidelines, and Ministerial approval of a Notice to notify of the making of the guidelines.

Appendix B (continued)

Under most circumstances, the approval processes do not result in a significant time period between the initial endorsement and making of a Notice to give the guidelines effect. However, certain circumstances can bring about a delay. In this case, the delay was unprecedented and brought about by a number of factors during the period from March 2012 to December 2013. These factors included the formation of a new government, significant organisational reform of the department, an increased focus on impact analysis (to meet the requirements of the Regulatory Impact Statement System), and the need to respond to reasonable queries raised by Ministerial staff. These factors affected the continuity of the required processes for the making of a Notice, and are not anticipated to occur frequently in future.

Public Health Amendment Regulation (No.1) 2014

I am advised that there were technical issues with the National Maternal Death Report Form which were not able to be rectified prior to the making and notification of the *Public Health Amendment Regulation (No.1) 2014*. It is understood the Australian Institute of Health and Welfare (which oversees the collection of data on all reported maternal deaths) has corrected the anomaly, and it is expected the form will be accessible by 26 March 2014. In the interim, health professionals who have sought access to the form have been emailed a copy of the form directly.

Should you require any further information in relation to this matter, I have arranged for Mr Peter Frederiksen, Acting Director, Regulatory Instruments Unit, System Policy and Performance Division, Department of Health, on telephone [REDACTED] to be available to assist you.

Thank you again for bringing this matter to my attention.

Yours sincerely

[REDACTED]
LAWRENCE SPRINGBORG MP
Minister for Health

Encl

Appendix B (continued)

Attachment

Safeguards and Circumstances for Disclosure of Confidential Information under the Memorandum of Understanding between Queensland Health and the Queensland Police Service

Safeguards

The MOU establishes protocols for requesting and disclosing information under the MOU. These protocols include:

- The disclosure may only occur where the Queensland Health employee has:
 - acquired the confidential information while acting in the course of their duties; and
 - satisfied themselves that the disclosure of the information is in accordance with the MOU.
- Police may rely on the MOU to request confidential information from Queensland Health employees only if the information is sought to assist with:
 - investigating criminal conduct;
 - investigating a missing person matter;
 - assessing the level of charges to be laid against an offender; or
 - preparing and tendering statements as evidence at a hearing.
- Where police are notified about an alleged criminal offence, the decision to investigate or prosecute any such offence is based upon tests of 'sufficiency of evidence' and 'public interest'.
- Under the provisions of the MoU, Queensland Health employees may exercise discretion about whether or not to disclose confidential information to police, but are encouraged to do so in accordance with the MOU.
- A Queensland Health employee has a right to seek independent legal advice regarding the disclosure of confidential information and preparation of statements, and will ultimately decide if they consider the confidential information being sought is relevant and may be disclosed.
- A Queensland Health employee will only respond to a request from police for information about a patient where the request has been made in the following form:
 - a letter on QPS letterhead seeking confidential information about the patient;
 - an email or facsimile which can be authenticated as being a request from the QPS;
 - contact in person by a QPS Liaison Officer at a Hospital and Health Service or attached to the Ethical Standards Unit in the Department of Health; or
 - by the means relied upon by the Department of Health or a Hospital and Health Service, to establish that the person requesting the information is a QPS officer.
- Disclosure of confidential information to police should, in the first instance, be with the express or implied consent of a patient, where appropriate. The MOU provides for circumstances where obtaining patient consent is unreasonable or impossible.
- The MOU provides protection from disclosure of information if it would tend to incriminate the Queensland Health employee.

The MOU also attaches the following conditions to information disclosed under the MOU:

- Confidential information must not be disclosed by the police to a third party, unless authorised by the MOU or with the written approval of the Chief Executive (Queensland Health). Likewise, information provided by a police officer to a Queensland Health employee must not be disclosed to a third party unless permission is first obtained from the Commissioner for Police or the Commissioner's delegate, or where required or permitted by law.
- Appropriate security measures are in place to protect confidential information from misuse, loss and unauthorised access, modification or disclosure.

Appendix B (continued)

- The intent of the *Hospital and Health Boards Act 2011* must be upheld, and that QPS will maintain heightened awareness of the sensitivity of confidential information disclosed under the MOU and will treat it accordingly.

Circumstances for disclosure of confidential information

The circumstances under which the prescribed MOU enables confidential information to be disclosed, and any specific safeguard for that disclosure (in addition to the protocols that apply broadly to all disclosures), are as follows:

Circumstance	Examples	Additional Safeguards (if applicable)
<i>Report criminal activity</i> A Queensland Health employee may provide police with information relating to alleged criminal conduct engaged in by a patient: <ul style="list-style-type: none"> • at a Queensland Health facility; and/or • while the staff member was providing a health service (regardless of where the health service is provided); and/or • while the patient is travelling to or from a Queensland Health facility. 	Examples: <ul style="list-style-type: none"> • A nurse in an emergency department is assaulted by a patient who is suffering an amphetamine psychosis. Under the MoU the nurse is authorised to report the assault to police and provide all relevant details of the offence. • A Home and Community Care worker is spat on and abused by a patient in the patient's home. The MoU authorises the HaCC worker to report the assault to police and provide all relevant details of the offence. • A taxi driver is assaulted and robbed of his takings while transporting a patient from one health facility to another. The taxi driver reports this to the facility from where he picked up the patient. Under the MoU, staff at the health facility are permitted to report the assault and theft to police and provide all relevant details of the offence. 	When making a disclosure, the Queensland Health employee must create a record of the disclosure, containing the type and particulars of the confidential information disclosed, to whom the information pertains, and when, how and to whom it was disclosed. It is the responsibility of Queensland Health to securely store records about instances of disclosure under the MOU in accordance with the <i>Public Records Act 2002</i> and the <i>Information Privacy Act 2009</i> .

Appendix B (continued)

Circumstance	Examples	Additional Safeguards (if applicable)
<p>Police investigations</p> <p>A Queensland Health employee may disclose the following confidential information to police, upon request, to assist with enquiries into alleged criminal conduct:</p> <p>(a) where a police officer provides the patient's name:</p> <ul style="list-style-type: none"> • confirmation that the patient attended the facility; • the patient's contact details; and • if relevant, the patient's general medical condition. <p>(b) where a police officer provides a sufficient description of the patient to enable the identification of the patient:</p> <ul style="list-style-type: none"> • the patient's name; • the patient's contact details; and • if relevant, the patient's general medical condition. <p>This information may be used by police to investigate criminal conduct, assess the level of charges to be laid against an alleged offender, or prepare and tender statements as evidence at a hearing.</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Police attend at a mental health facility looking for contact details for patient 'John Smith' who is a suspect in a homicide investigation. Police have information that the patient suffers a mental illness and may have previously been a patient of the facility. As per the MoU, staff may confirm the patient has attended the facility and the patient's last known address. • Police attend at an emergency department looking for a suspect in a rape which has recently been committed. Police advise the suspect was wearing a green t-shirt and was likely to have presented with significant facial injuries inflicted by the victim whilst the alleged sexual assault was occurring. The MoU permits staff in the emergency department to confirm a patient has recently presented fitting that description and provide the patient's name and contact details. 	

Appendix B (continued)

Circumstance	Examples	Additional Safeguards (if applicable)
<p>Missing persons</p> <p>Where police are attempting to locate a missing person who is a current or former patient, a Queensland Health employee may, upon request, provide police with the following information:</p> <p>(a) where a police officer provides the patient's name:</p> <ul style="list-style-type: none"> confirmation that the patient attended the facility; the patient's contact details; and if relevant, the patient's general medical condition. <p>(b) where a police officer provides a sufficient description of the patient to enable the identification of the patient:</p> <ul style="list-style-type: none"> the patient's name; the patient's contact details; and if relevant, the patient's general medical condition. <p>The Queensland Health employee may provide this information in a written statement to the police.</p>	<p>Police attend at a City Community Health Centre and advise staff they are attempting to locate a person, 'Jane Smith', who has been reported missing by her concerned family. The patient's family has advised that Ms Smith had previously sought treatment for drug addiction from the facility. The MoU permits staff to confirm that Jane Smith has attended the facility and her last known address. Police are able to locate Ms Smith and inform the family of her welfare.</p>	
<p>Written statements to police</p> <p>The Queensland Health employee may provide a written statement to the police to assist the police to:</p> <ul style="list-style-type: none"> investigate an alleged criminal offence; prosecute an alleged offender; and/or locate a missing person. <p>Where the police execute a search warrant and obtain a patient's health records containing confidential information, the Queensland Health employee may, at the request of the police, give a statement to provide additional information, context, meaning, opinion and/or other comments about the information contained in the health record.</p>	<p>Police execute a search warrant to obtain the chart of a four year old male patient who police believe has been abused by his carers. In order to provide context and meaning to the clinical notes in the chart, the MoU permits the treating paediatrician to provide a statement to police which clarifies and explains the clinical notes.</p>	

Appendix C – Letter from the Minister for National Parks, Recreation, Sport and Racing



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

Level 7
111 George Street Brisbane 4000
PO Box 15187 City East
Queensland 4002 Australia
Telephone +61 7 3224 7477
Facsimile +61 7 3012 7725
Email NPRSR@ministerial.qld.gov.au

Our Ref: CTS 06966/14
Your Ref: 11.7.1

25 MAR 2014

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 20 March 2014 concerning the Nature Conservation and Other Legislation Amendment Regulation (No.2) 2013. Please find responses to your queries below.

Renewal of commercial activity permits – How this provision has sufficient regard to rights and liberties of individuals under section 4(3)(a) of the Legislative Standards Act 1992

The provisions relating to the renewal of commercial activity permits are discretionary provisions only and have been included to provide the chief executive with a more efficient option of renewing a permit, rather than requiring the holder of the expiring permit to apply for a new permit, if the activities to be carried out under the renewed permit are substantially the same.

There are a range of criteria defined in sections 33D and 33E of the amended Nature Conservation (Administration) Regulation 2006 that must be satisfied before the chief executive can renew a permit. If the chief executive is not satisfied that the permit should be renewed, for example, because of a change to the activity, location or scale of the activity, the holder will be advised of the decision to refuse the renewal and the reasons for the decision. This refusal does not prevent the permit holder from applying for a new permit so that a full assessment of these aspects can be undertaken. In this case, the existing process for a new permit application would take effect, which is subject to information notice requirements and appropriate review provisions.

The provisions relating to the renewal of commercial activity permits therefore have sufficient regard to rights and liberties of individuals under section 4(3)(a) of the *Legislative Standards Act 1992*.

Consultation – Explanatory Notes prepared in compliance with section 24(2)(b) of the Legislative Standards Act 1992

I note that section 24(2)(b) of the *Legislative Standards Act 1992* only applies if no consultation took place about the subordinate legislation.

While the consultation section of the explanatory notes does state that “no specific consultation has taken place with the public or conservation groups on the proposed horse riding reforms”, they do:

- (i) provide a brief statement that I undertook some consultation during my attendance at the Future of Horse Riding in Queensland Forum on 18 September 2013, which included representatives from the Queensland Outdoor Recreation Federation, the Australian Trail Horse Riders Association, the Queensland Horse Council and Equathon;
- (ii) indicate that industry support was confirmed for the proposed amendments to allow horse riding in national parks, noting the need for consultation in identifying appropriate areas into the future; and
- (iii) remain silent on changes to the legislation because none were required due to the consultation.

It is noted that the amended provisions will only allow for horse riding in national parks where a regulatory notice has been put in place, they do not automatically result in the activity being authorised. As such, appropriate consultation will be undertaken during the development of any proposals to allow horse riding in new areas. This is supported on page 6 of the Explanatory Notes which confirms, “A policy framework will inform decision making about new horse riding trails, addressing issues around trail selection and assessment, management strategies, stakeholder consultation and managing visitor conflict / risk.”

While the policy framework is still under development, it will provide guidance around the process for consultation on individual proposals for horse riding with the local communities, local government, horse riding associations and other relevant stakeholders.

Therefore, I believe the explanatory notes address section 24(2)(a) of the *Legislative Standards Act 1992*, however in the future I will endeavour to use more clear and precise language. 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) [REDACTED]

Yours sincerely

[REDACTED]

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