

## Economics and Governance Committee

### Report No. 22, 56<sup>th</sup> Parliament

#### Subordinate legislation tabled between 5 September 2018 and 30 October 2018

#### Introduction

##### *Role of the committee*

The Economics and Governance Committee (the committee) is a portfolio committee of the Legislative Assembly.<sup>1</sup> The committee's primary areas of responsibility include:

- Premier and Cabinet, and Trade
- Treasury
- Aboriginal and Torres Strait Islander Partnerships, and
- Local Government, Racing and Multicultural Affairs.

The committee is responsible for examining each item of subordinate legislation in its portfolio area to consider the policy to be given effect by the legislation, the application of fundamental legislative principles (FLPs), and the lawfulness of the legislation.<sup>2</sup>

##### *Aim of this report*

This report summarises the committee's examination of subordinate legislation tabled between 5 September 2018 and 30 October 2018. It reports on any issues identified by the committee in relation to the policy to be given effect by the legislation, its consistency with FLPs, and its lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).

#### Subordinate legislation considered

The committee considered the following items of subordinate legislation.

SL No.	Subordinate legislation	Tabled date	Disallowance date
150 of 2018	Proclamation made under the <i>Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018</i>	16 October 2018	28 February 2019
162 of 2018	Trans-Tasman Mutual Recognition (NSW Container Deposit Scheme) Notice 2018	30 October 2018	28 March 2019

<sup>1</sup> *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

<sup>2</sup> *Parliament of Queensland Act 2001*, s 93.

***SL No. 150 of 2018 – Proclamation made under the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018***

The objective of the subordinate legislation is to fix a commencement date of 2 October 2018 for certain provisions (Parts 3 and 5) of the *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018* (the Act).

Parts 3 and 5 of the Act amend the *Electoral Act 1992* and the *Local Government Electoral Act 2011* respectively, to implement the Government’s response to recommendation 20 of the Crime and Corruption Commission’s report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government*.<sup>3</sup>

The amendments prohibit the making of political donations by property developers to: candidates in State or local government elections, groups of candidates in local government elections, third parties, political parties, councillors, and Members of State Parliament.<sup>4</sup>

*Committee comment*

The committee identified no issues regarding the subordinate legislation’s consistency with FLPs or its lawfulness.

The committee notes that the explanatory notes also generally comply with the requirements of the LSA. However, the committee had concerns regarding the extent to which the information provided in the notes satisfies the requirements of section 24(1)(h) (brief assessment of the benefits and costs of implementing the subordinate legislation), and section 24(2) of the LSA (details of the nature and results of consultation undertaken).

The committee sought additional information from the Department of Local Government, Racing and Multicultural Affairs (the department) in these respects.

In response, the department advised:

*There were no costs associated with implementing the proclamation and the costs of implementation of parts 3 and 5 of the Act were previously considered as part of passage of the Act. The benefits of the proclamation are to commence parts 3 and 5 of the Act to achieve the policy objectives of the Act in relation to those parts. As stated in the explanatory notes for the Bill, the policy objectives are to reinforce integrity and minimise corruption risk that political donations from property developers has potential to cause at both a State and Local Government level and to improve transparency and accountability in State and Local Government.*

*In relation to the results of consultation on the proposal to proclaim parts 3 and 5 of the Act into force on 2 October 2018, the Local Government Association of Queensland suggested that commencement be deferred until the definition of 'gift' is further clarified by amendment. The Electoral Commission of Queensland supported the proposal.*<sup>5</sup>

The committee is satisfied with the information provided by the department.

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<sup>3</sup> Proclamation - Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018, explanatory notes, p 2.

<sup>4</sup> Proclamation - Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018, explanatory notes, p 2.

<sup>5</sup> Department of Local Government, Racing and Multicultural Affairs, correspondence dated 18 February 2019.

## ***SL No. 162 of 2018 – Trans-Tasman Mutual Recognition (NSW Container Deposit Scheme) Notice 2018***

The objective of the Trans-Tasman Mutual Recognition (NSW Container Deposit Scheme) Notice 2018 is to endorse a proposed Commonwealth regulation to be made by the Governor-General of Australia under the *Trans-Tasman Mutual Recognition Act 1997* (Cth) (the Commonwealth Act).<sup>6</sup>

The Commonwealth Act, as adopted by Queensland in the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*, provides for the recognition within Australia of regulatory standards adopted in New Zealand regarding certain goods and occupations. The Commonwealth Act provides that goods that may lawfully be sold in New Zealand may be lawfully sold in an Australian jurisdiction without the necessity for compliance with further requirements imposed under Australian legislation.<sup>7</sup>

However, the Commonwealth Act also provides for circumstances where the mutual recognition principle will not apply. These circumstances are covered by exclusions to the principle for certain types of legislation which operate unaffected – for example, in relation to Australian custom controls and tariffs, intellectual property requirements, and certain state taxes or duties, as these laws relate to the sale of goods.<sup>8</sup> In addition, provision is also made for permanent and temporary exemptions in this respect. Temporary exemptions have a limited life of 12 months and cannot be extended.<sup>9</sup>

New South Wales has amended the *Waste Avoidance and Resource Recovery Act 2001* (NSW) and regulations under that Act (NSW Container Deposit Laws) that impose packaging and labelling requirements on beverage containers sold in NSW, to create a container deposit scheme.<sup>10</sup>

Regulations were made in 2017 under the Commonwealth Act to extend an existing temporary exemption for the NSW Container Deposit Laws for 12 months from the operation of the Act. This temporary exemption, which ensured that goods imported into or produced in New Zealand must comply with the requirements of the NSW Container Deposit Laws in order to be lawfully sold in Australia, expired on 16 November 2018.<sup>11</sup>

Under section 45(4) of the Commonwealth Act, the Governor-General may not make a regulation establishing a permanent exemption unless all of the then participating jurisdictions have endorsed the regulation. The explanatory notes state that to maintain the exemption for the NSW Container Deposit Laws from the operation of the Commonwealth Act, the Commonwealth has requested that Queensland endorse a proposed Commonwealth regulation to be made by the Governor-General to permanently exempt certain parts of the NSW Container Deposit Laws from the application of the Commonwealth Act.<sup>12</sup>

The subordinate legislation endorses the Commonwealth regulation, enabling the exemption to take effect from 8 December 2018.<sup>13</sup>

### *Committee comment*

The committee identified no issues regarding the subordinate legislation's consistency with FLPs or its lawfulness.

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<sup>6</sup> Trans-Tasman Mutual Recognition (NSW Container Deposit Scheme) Notice 2018, explanatory notes, p 1.

<sup>7</sup> Trans-Tasman Mutual Recognition (NSW Container Deposit Scheme) Notice 2018, explanatory notes, p 1.

<sup>8</sup> *Trans-Tasman Mutual Recognition Act 1997* (Cth), s 44 and Schedule 1.

<sup>9</sup> Trans-Tasman Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018, explanatory notes, p 1.

<sup>10</sup> Trans-Tasman Mutual Recognition (NSW Container Deposit Scheme) Notice 2018, explanatory notes, p 2.

<sup>11</sup> Trans-Tasman Mutual Recognition (NSW Container Deposit Scheme) Notice 2018, explanatory notes, p 2.


<sup>12</sup> Trans-Tasman Mutual Recognition (NSW Container Deposit Scheme) Notice 2018, explanatory notes, p 2.

<sup>13</sup> Schedule 1(2) of the subordinate legislation provides that the proposed Commonwealth regulation takes effect the day after it is registered. The Commonwealth regulation was registered on 7 December 2018. See: Trans-Tasman Mutual Recognition Amendment (NSW Container Deposit Scheme) Regulations 2018 (Cth), s 2.

The committee notes that the explanatory notes tabled with the subordinate legislation comply with the requirements of the LSA.

## Recommendation

The committee recommends that the Legislative Assembly notes this report.



Linus Power MP  
Chair

February 2019

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### Economic and Governance Committee

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