



# ***STATE DEVELOPMENT, NATURAL RESOURCES AND AGRICULTURAL INDUSTRY DEVELOPMENT COMMITTEE***

**Members present:**

Mr CG Whiting MP (Chair)  
Mr DJ Batt MP  
Mr JE Madden MP  
Mr BA Mickelberg MP  
Ms JC Pugh MP  
Mr PT Weir MP

**Staff present:**

Dr J Dewar (Committee Secretary)  
Ms C Furlong (Assistant Committee Secretary)

## **PUBLIC BRIEFING—CONSIDERATION OF SUBORDINATE LEGISLATION NO. 56 OF 2019, BIOSECURITY AND OTHER LEGISLATION AMENDMENT REGULATION 2019**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 10 June 2019**

**Brisbane**

## MONDAY, 10 JUNE 2019

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**The committee met at 12.00 pm.**

**CHAIR:** I declare open this public briefing for the committee's consideration of subordinate legislation No. 56 of 2019, Biosecurity and Other Legislation Amendment Regulation 2019. Thank you for your attendance here today. My name is Chris Whiting. I am the chair of the committee and the member for Bancroft. The other committee members with us today are: Mr Pat Weir, member for Condamine and deputy chair; Mr David Batt, member for Bundaberg; Mr Jim Madden, who will be here in a moment, member for Ipswich West; Mr Brent Mickelberg, member for Buderim; and Ms Jess Pugh, member for Mount Ommaney.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. The proceedings are being recorded by Hansard and witnesses will be provided with a copy of the transcript. To assist with clarity, please identify yourself when you first speak and speak clearly and at a reasonable pace. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media and images may also appear on the parliament's website or social media pages. The media rules endorsed by the committee are available from committee staff if required. I ask everyone present to turn mobiles phones off or to silent mode.

I also ask that if witnesses take a question on notice today that they provide the information to the committee by 10 am on Monday, 17 June 2019. We will now continue with consideration of subordinate legislation No. 56 of 2019, Biosecurity and Other Legislation Amendment Regulation 2019.

**BELL, Mr Patrick, General Manager, Strategy and Legislation, Biosecurity Queensland, Department of Agriculture and Fisheries**

**CLARKE, Ms Marguerite, Director, Regulatory Policy and Reform, Strategic Policy and Planning, Agriculture, Department of Agriculture and Fisheries**

**MILLER, Mr Elton, Executive Director, Rural Economic Development, Agriculture, Department of Agriculture and Fisheries**

**CHAIR:** I welcome representatives from the Department of Agriculture and Fisheries. I now invite you to make an opening statement after which committee members may have some questions for you.

**Mr Bell:** Thank you for the opportunity to appear before the committee today. On 26 April 2019 regulations under section 503 of the Queensland Biosecurity Act 2014 were amended to allow police and Biosecurity officers to issue effectively on-the-spot fines to people who put on-farm biosecurity at risk. The new offence under section 41 of the regulation requires that anyone entering, being present at, or leaving a property with a biosecurity management plan in place for that property must comply with that plan. Livestock producers and others who keep animals are encouraged to take measures to ensure that an infringement notice can be issued if someone does not comply with their plan. These steps are included in the regulation 41B and include 'to ensure that they are registered as a biosecurity entity with Biosecurity Queensland, to make sure they have an up-to-date biosecurity management plan in place and to have clear biosecurity signage conspicuously displayed at each management area on their property'—so at entrance points to their property.

There are 66 emergency animal diseases which the department—indeed all biosecurity agencies around Australia—are especially concerned about and they range from diseases such as anthrax through to swine fever. The government is concerned about the increased biosecurity risk of unauthorised entry to farms, especially the spread of those diseases. For example, in 2009 the pandemic H1N1 influenza strain, which was known at that stage as 'swine flu', was detected in two piggeries in Queensland and, unfortunately, the virus had been transferred by infected humans to livestock. Strict biosecurity measures help to manage those risks that could have potentially devastated Queensland's production animal industry and, by extension, our regional and rural communities.

In 2017-18 the gross value of our animal products industry including cattle and calves, poultry, pigs, eggs and milk—those industries that could be affected by animal disease risks—was approximately \$6.5 billion. Government has moved quickly to implement added biosecurity penalties in the light of the spike in unauthorised access by activists and those potential devastating biosecurity outcomes.

In the months prior to legislative amendment, activists had entered farms, feedlots and abattoirs in South-East Queensland. This spike had coincided with the one-year anniversary of the release of the film *Dominion*, an Australian documentary made by animal rights network Aussie Farms. Under the amendment to the State Penalties Enforcement Regulation 2014, police and Biosecurity officers can now issue infringement notices to activists, commonly referred to as on-the-spot fines, to those who commit a new offence either immediately or later when sufficient evidence has been assessed. Without a hearing in court, a person could face on-the-spot fines of five penalty units, and that is currently \$652.75, issued by police or Biosecurity officers. The maximum penalty that could be imposed by the courts for that new offence if it was not a penalty infringement notice was \$2,611. These fines will be indexed every year and are set to increase, as you know, on 1 July 2019. Before the new offence commenced, we undertook face-to-face training to Biosecurity officers and Queensland Police officers in Toowoomba. Up until now incidents have generally been confined to the South-East Queensland region and the Darling Downs region.

An online training package is available for Biosecurity officers around the state who will be issuing fines for new offences. If we obtain intelligence that there will be activities outside the south-east and Darling Downs, there is certainly plenty of capability to increase the number of officers available to issue those fines. Biosecurity has and continues to conduct extensive stakeholder engagement and communications about the new offence. An industry communication group has been established alongside the Animal Industry Security Taskforce to ensure that farmers and livestock producers are well informed about actions being taken to protect their farms and livelihoods. We are also communicating with Queensland animal exhibitors who could also be protected by the new offence. They are entities like Australia Zoo, Sea World and Dreamworld.

The regulation amendment consolidates the strategic implementation of biosecurity management plans for the long-term biosecurity of Queensland's production livestock industries. In recent years there have been significant efforts made by government, industry and other stakeholders to encourage those who keep animals to develop and deliver these plans for their property. They identify the most significant biosecurity risks relevant to their activities that occur on their property. They also detail all those measures that need to be taken to minimise those risks. We have heavily promoted them as an appropriate way for a livestock producer to meet his or her general biosecurity obligation under the Biosecurity Act. Now, under the amended regulation fines apply for noncompliance with biosecurity management plans, and efforts to strengthen property biosecurity continue.

**CHAIR:** One of the features of going down the regulation path and also issuing a PIN is that action can be taken promptly and quite effectively. Has that been one of the guiding principles or lights with this, that ability to take punitive action immediately?

**Mr Bell:** There is a perception in the community that instant action acts as a better deterrent, a more immediate deterrent and a more immediate change to the behaviour of folk rather than a delayed activity.

**CHAIR:** For our benefit, you were talking about the penalty units. How many penalty units?

**Mr Bell:** Five penalty units.

**CHAIR:** That equates to approximately—

**Ms Clarke:** Roughly \$650.

**CHAIR:** That is a fine of a substantial amount of money that is effectively issued immediately. During your consultations with the Animal Industry Security Taskforce it was reflected or felt that that immediate deterrent would be quite effective. Would that be correct?

**Mr Miller:** I am the chair of the Animal Industry Security Taskforce. While I was not at the meetings where it was discussed, my understanding is that how that would be a deterrent was discussed in general.

**Mr WEIR:** I am interested in that, too, because obviously the Darling Downs has a high concentration of piggeries and feedlots. We saw some fines issued only last week in a Toowoomba court. I think \$450 was the fine for the invasion of a feedlot. I am curious about how the penalty was arrived at. You have stated that \$6.5 billion is the value of the industry. I am surprised that the penalty was not much higher to reflect the significance of the industry.

**Ms Clarke:** We made an amendment to the regulation, and the act actually limits the penalty that can be imposed by regulation to a maximum penalty of 20 penalty units. A penalty infringement notice is usually at a discount to the maximum penalty. In fact, guidelines for the development of penalty infringement notice amounts provide that it would normally be no more than 10 per cent of the maximum penalty. The maximum penalty we could impose in the regulation was 20 penalty units. Normally, we would then be limited to a penalty infringement notice of two penalty units. We actually explored the particular circumstances and the risks involved in this case and put in place five penalty units. We are actually far exceeding the normal guidelines on the size of a penalty infringement notice because it is a serious impact.

**Mr WEIR:** Are you saying that for it to be increased it would be the act that would need to be amended?

**Ms Clarke:** Yes, to get a penalty higher than 20 penalty units you would need to amend the Biosecurity Act.

**Mr MADDEN:** I am curious as to how this will work. If I speed, I get a ticket and I am able to put something on that ticket if I want to go to court. Is that the case here?

**Ms Clarke:** Yes.

**Mr MADDEN:** I am also curious about who can issue that ticket. According to the explanatory notes there is quite a range of people who can issue this ticket. It states that—

... biosecurity inspectors and authorised persons, including those police appointed as inspectors—

but then it goes on to say—

... and also police officers can impose this under their general powers.

**Ms Clarke:** When you provide a penalty infringement notice under the State Penalties Enforcement Regulation you provide for who can issue it. Under the Biosecurity Act there are two levels of 'enforcement officer': there is an inspector and an authorised person. Just to be confusing, the collective term for them is an 'authorised officer'. In the explanatory notes we just tried to spell out that 'an inspector' can issue these; 'an authorised person' can issue these. We do have some police members of the organised—I always get the acronym wrong.

**Mr Bell:** It is Major and Organised Crime Squad (Rural). They are still very well known as the 'stock squad'.

**Ms Clarke:** 'Stock quad' members are appointed as inspectors under the Biosecurity Act, anyway. In their capacity as inspectors they would be able to issue this penalty infringement notice. In addition, any police officer can issue this penalty infringement notice.

**Mr MADDEN:** Just like a speeding ticket, they come in a separate book that they carry?

**Ms Clarke:** Yes, there is a PIN book.

**Mr MADDEN:** Does that mean we will have to issue these books to all police officers in Queensland?

**Ms Clarke:** We are not automatically issuing a PIN book to all police officers because that would be yet another book that they have to carry. There is no difficulty with them coming back later and asking for a PIN book in order to issue the PIN using the evidence they have gathered. Although these spot fines can be issued on the spot, they do not have to be issued on the spot. People may come back and make inquiries and then issue the penalty infringement notice later.

**Mr MADDEN:** In areas where there is a possibility of these farm invasions, we would like to see police officers given these books in advance.

**Mr Bell:** Certainly, before the legislation came into effect we provided PIN books to members of the Stock Squad and biosecurity inspectors on the Darling Downs and within South-East Queensland there are a number of officers as well. Yes, they have been distributed, but there is plenty of capability to send those books out to other areas if it becomes apparent that there will be animal activists operating in those areas as well.

**Mr BATT:** In relation to the PINs for your biosecurity inspectors and authorised persons, do they currently have other PINs that they can enforce under the act?

**Mr Bell:** Yes, they do. Just last week we issued PINs in relation to the movement of cattle in North Queensland. Yes, there are other PINs under the Biosecurity Act.

**Mr BATT:** It is not new to them to be able to do that?

**Mr Bell:** It is relatively new because the Biosecurity Act only commenced on 1 July 2016. We implemented PINs subsequent to the commencement of the Biosecurity Act, so it is still a relatively new process, but we have issued PINs.

**Ms Clarke:** There were PINs under the legislation that was in place before the Biosecurity Act. It was just that we did not have PINs under the Biosecurity Act until more recently.

**Mr BATT:** Do the officers have any powers to detain?

**Mr Bell:** No, we do not have any powers to detain under the Biosecurity Act, no.

**Mr BATT:** If someone walks out of a place, they cannot just hand them a PIN? If they keep walking, they are going to have to stop of their own free will and be issued with a PIN?

**Mr Bell:** We have extensive standard operating procedure for our staff to undertake the due diligence in order to gather the identity of that person. Providing we have positively identified the activist who has potentially spread a biosecurity risk, they can issue the PIN in the normal way. They do not have to accept that PIN in order for it to be deemed to be served.

**Mr BATT:** Is there a power to get the name and address or other details?

**Mr Bell:** Absolutely. Over and above that, as usual, there are powers to ask the Queensland Police Service for support in gathering that information.

**Mr BATT:** You mentioned the maximum penalty in the act of 20 penalty units. Was there consideration to modify the act to increase the number of penalty units? This is a serious matter. Ms Clarke, you mentioned that we could not do anything more because 20 penalty units was the maximum penalty in the act. Did we consider increasing that penalty?

**CHAIR:** Once again, we may be straying into policy. I think the member knows of the decision to amend the act. I will certainly ask Mr Bell to answer that.

**Mr Bell:** When parliament passed the biosecurity legislation back in 2014, a provision was included that the act needed to be reviewed within three years of its commencement. Over the past few months we have been reviewing the act and this is a matter that has been considered as part of that review. I am not at liberty to provide the committee today with where that review is at, but I can certainly say to you that stakeholders have raised the issue and we are aware from correspondence to the department and social media activity that this is a community concern.

**Ms PUGH:** You mentioned earlier Australia Zoo and Sea World being encapsulated within the act. I believe that, after the release of the documentary *Blackfish* in America, there was quite a bit of activist activity at Sea World. Can you expand on why those two parks were included and any previous activist activity that might have occurred?

**Ms Clarke:** It is not specific to those parks. Pat was just giving some examples.

**Ms PUGH:** Yes.

**Ms Clarke:** I think it is important to make a distinction between situations where, for example, there is a protest out the front of a park or even in a publicly accessible part of a park and the situation where perhaps someone might go behind the scenes and be posing biosecurity risks by entering areas where the public is not allowed to enter. To the extent that this can help exhibitors, it can help exhibitors in that area—where they are going into places where the public is not normally allowed to enter. They would be able to develop a biosecurity plan about what measures someone should take before entering those off-exhibit areas and then it would be able to be enforced in the same way.

In an agricultural setting, a person who makes a plan must be a registered biosecurity entity. In an exhibitor setting, the person must be the holder of an exhibited animals authority. That would be those fixed exhibits like Australia Zoo but also potentially it could be a demonstrator—someone who takes snakes to community events if they have enclosures for their snakes in an area and they make a biosecurity plan for how risks should be managed at that place.

**Mr MICKELBERG:** Ms Clarke, you just mentioned an agricultural setting. In order for this regulation to apply, there would have to be a registered biosecurity entity. Is that anyone who holds a PIC? Would that satisfy the need?

**Ms Clarke:** Yes.

**Mr MICKELBERG:** Did the department consider making the regulation apply to any property that has a PIC as opposed to any property that has a biosecurity management plan?

**CHAIR:** Probably you should explain—

**Mr MICKELBERG:** Property identification codes. Presumably, the rationale is that, if the economic impact is great enough, a manager would establish a biosecurity management plan to protect their interests. A small entity may similarly present a biosecurity risk to the broader industry and not personally see the need to have a biosecurity management plan—for example, a hobby farmer on the Darling Downs. While they are not a likely target of those individuals who may perform these kinds of incursions, from an industry viewpoint they could present the same biosecurity risk as a large feedlot. This regulation uses the mechanism of a biosecurity management plan as opposed to the PIC. I am keen to understand why that was not considered to be the approach and how you arrived at using the biosecurity management plan.

**Ms Clarke:** Yes, we looked at a number of options and that is one. I think it is really important to think about the threshold—that someone needs to have the knowledge that they are potentially committing an offence. If you just specified somewhere where there was a PIC, how could someone know that they are entering land where there was a PIC? There would be some situations in which it was fairly obvious—you are entering a paddock and you can see cattle in a paddock—but there would certainly be situations where you would not necessarily know there was a PIC for the place.

The way it has been written in terms of a biosecurity management plan, a person ought reasonably know because they can see signs saying, 'This area is subject to a biosecurity management plan.' It was simply around those considerations of someone needing to be able to know that they were potentially committing an offence. In fact, the signage needs to include wording that noncompliance with the biosecurity management plan is an offence so that people are aware that potentially they could be committing an offence.

**Mr MICKELBERG:** I put it to you that an alternative approach would have been to issue every PIC holder with that signage, which would have broadened the approach. In terms of the signage, the regulation describes the requirement that it be displayed. It is obviously a defence if a person is not aware that the area was subject to the regulation. Is that signage at every entry point to the property? Let us use a feedlot as an example. It may have multiple facings onto a road. Does every gate need to have a sign? Does it have to have a sign at a certain distance?

**Ms Clarke:** The regulation actually says that a sign has to be conspicuously displayed at each management area. Our communications to the industry have been at each entry point, which probably goes beyond that, but we want to ensure that they do not miss the protection of this regulation just for the lack of a sign at another entry point. Essentially, it talks about a sign conspicuously displayed at each management area.

**Mr MICKELBERG:** Just to be clear, my understanding is that, under the regulation, a management area is effectively a property.

**Ms Clarke:** Or part of a property.

**Mr MICKELBERG:** Or an area where there is a biosecurity management plan. If you have multiple business entities—you might have a poultry operation here and a pig operation over here—on the one property you might have two—

**Ms Clarke:** Exactly.

**Mr MICKELBERG:** You need a sign for each?

**Ms Clarke:** Yes. Potentially, you might have your property here, but you do not have any measures across the driveway entry part. That would not be part of the management area. You could have a situation where you have a number of management areas on a property, or a number of management areas spread across a couple of properties.

**Ms PUGH:** I am aware of an incident at Sea World in Florida where somebody broke into an animal enclosure after the park had closed down. I believe that person died. This was in the documentary *Blackfish*. In addition to invading a space, there are also some safety concerns. Is that addressed at all? Is the fine part and parcel of the deterrent effect? People are potentially putting their safety at risk. We are not talking about cows; we are talking about crocodiles at Australia Zoo, or killer whales, or dolphins. I know that cows could kill people, but some of these animals are quite dangerous to be around if you are a human being with no animal training. If we are seeing increased incidences, are we working with these parks to ensure that these issues are addressed, however small the chance may be?

**Mr Bell:** Multiple policy areas are involved in that question. The first is really around trespass, or unauthorised entry. We cannot answer for the policy ambit of the Minister for Justice or the Queensland Police Service. Similarly, there are also provisions under work health and safety around the protection of folk entering property. I certainly would not be able to speak to the policy issues around the model Work Health and Safety Act.

**Ms PUGH:** To be clear, this person was not an employee; they were trespassing. They were an animal activist.

**Mr Bell:** The purpose of the Exhibited Animals Act is around biosecurity risks, managing exotic animals and to some extent managing public safety. As part of the application for a permit under the Exhibited Animals Act, which is also within the purview of Biosecurity Queensland, you are obligated to say how you would manage risk to the public. That is obviously not going to deal with after-hours folk beyond the normal circumstances, but, yes, there is a level of obligation on exhibitors under the Exhibited Animals Act to keep a watch on public safety.

**Mr BATT:** In relation to consultation, the report mentions that there was not any public consultation but, after the Premier's announcement that we would have new powers to issue fines for farm invasions, feedback from this announcement has informed development of the amendment regulation. Can anyone advise how much feedback was given and what it was that helped bring about this regulation?

**Mr Bell:** The social media campaign around this issue has been quite extraordinary and it has been quite challenging to watch some of that or read some of that commentary. We put a post to Facebook and we reached out to more than 285,000 people, we think mostly in Queensland. Overwhelmingly, the response has been positive. There are obviously a number of issues about the way that folk have taken to that sort of post. There are obviously folk out there who were quite inflammatory in their language. We do not think that that is a positive approach and we have sought to de-escalate that, as the Queensland Police Service has. That has been the priority all the way on this issue—to try to de-escalate it. We think that we are now in a very good space.

**CHAIR:** Is one of the benefits of this regulation going to be an increase in compliance of the biosecurity management plans? I would imagine that there is already a very high rate of compliance, but I believe that this regulation will encourage all of those operators to create those biosecurity management plans.

**Mr Bell:** Certainly, there has been a significant increase in the number of inquiries, especially to Animal Health Australia and the peak industry bodies—pork, chicken, AgForce, with the beef—seeking advice and information about biosecurity management plans. I think that view is well grounded.

**Ms Clarke:** I should clarify also that there is no requirement to have a biosecurity management plan. It is optional, but it is a tool that is extremely helpful to someone to ensure that they are meeting their biosecurity obligations.

**Mr WEIR:** When you go to a local show there is always someone there who has a few goats, or chickens—that sort of thing. Do they have to show a sign in relation to that? Do they need a biosecurity sign?

**Ms Clarke:** Nobody has to develop a biosecurity management plan, no-one has to display a sign, but if the person who is organising the event wanted to protect themselves in this way they could develop a biosecurity management plan and erect signage.

**Mr Bell:** There are many examples of regional shows—large regional shows in particular—that have biosecurity management plans for their operation.

**Ms Clarke:** Whenever you bring, for example, a lot of cattle together and take them away you want to be very careful in managing the risks associated with that.

**Mr WEIR:** There would be one that would encompass, in most cases, the actual show itself?

**Mr Bell:** Yes, I am certainly aware that the royal national association does one for the annual Ekka. I am aware of a regional show outside the western suburbs of Brisbane that does a significant biosecurity plan. I am aware that there are many organisations up and down the coast that do biosecurity plans for their annual shows.

**CHAIR:** Thank you. The time allocated for this session has now expired. That concludes this briefing. On behalf of the committee, I would like to thank all the representatives who have participated today. I thank our Hansard reporters and our committee staff. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare this public briefing closed.

**The committee adjourned at 12.32 pm.**