

**Subordinate legislation tabled between
15 July 2015 – 15 September 2015**

Report No. 11, 55th Parliament
Agriculture and Environment Committee
November 2015

Agriculture and Environment Committee

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1 Introduction

1.1 Role of the committee

The Agriculture and Environment Committee is a portfolio committee established by the Legislative Assembly on 27 March 2015 under the *Parliament of Queensland Act 2001*.¹ It consists of government and non-government members. The committee's primary areas of responsibility are: agriculture and fisheries; sport and racing; environment and heritage protection; and national parks and the Great Barrier Reef.²

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider –

- a) the policy to be given effect by the legislation
- b) the application of fundamental legislative principles to the legislation, and
- c) for subordinate legislation – its lawfulness.

1.2 Aim of this report

This report advises of portfolio subordinate legislation tabled between 15 July 2015 and 15 September 2015 (listed below) that the committee has examined. All the items of subordinate legislation covered by this report were tabled on 15 September 2015 and have a disallowance date of 3 December 2015.

Other than the issues discussed in section 2 of this report and relating to SL Nos. 83 and 126 (as shaded in the table below), no FLP or policy issues were identified by the committee. SL No. 125 was examined and reported on by the committee (Report No. 8).

SL No	Subordinate Legislation	Tabled On	New Disallowance Date
74	Rural and Regional Adjustment Amendment Regulation (No.2) 2015	15/09/2015	03/12/2015
82	Nature Conservation (Protected Areas Management) Amendment Regulation (No.1) 2015	15/09/2015	03/12/2015
83	Forestry Regulation 2015	15/09/2015	03/12/2015
88	Nature Conservation (Protected Areas Management) Amendment Regulation (No.2) 2015	15/09/2015	03/12/2015
106	Proclamation – Queensland Heritage and Other Legislation Amendment Act 2014	15/09/2015	03/12/2015
107	Queensland Heritage Regulation 2015	15/09/2015	03/12/2015
108	Nature Conservation Legislation Amendment Regulation (No. 1) 2015	15/09/2015	03/12/2015
109	Proclamation – Recreation Areas Management and Another Act Amendment Act 2014	15/09/2015	03/12/2015
110	Recreation Areas Management and Other Legislation Amendment Regulation (No. 1) 2015	15/09/2015	03/12/2015
125	Fisheries and Another Regulation Amendment Regulation (No. 1) 2015	15/09/2015	03/12/2015
126	Major Sports Facilities Amendment Regulation (No. 1) 2015	15/09/2015	03/12/2015

¹ Section 88 *Parliament of Queensland Act 2001* and Standing Order 194.

² Schedule 6 of the Standing Rules and Orders of the Legislative Assembly of Queensland.

2 Issues identified in particular subordinate legislation

2.1 SL 83 - Forestry Regulation 2015

The explanatory notes detail that the objectives of the regulation are to:

- a) repeal the Forestry Regulation 1998 and replace it with new and updated regulations in order to:
 - provide for the management of conduct and activities in State forests and timber reserves;
 - provide for the continued designation of timber reserves, State plantation forests, feature protection areas, scientific areas and State forest parks; and
 - designate statutory fees payable under the *Forestry Act 1959*.
- b) amend the State Penalties Enforcement Regulation 2014 to update listed infringement notice offences and penalties for provisions under the *Forestry Act 1959* and the Forestry Regulation 2015.
- c) make minor amendments to other legislation, including amendment of:
 - the Forestry (State Forests) Regulation 1987 to clarify that plans designating State forests will be available for inspection;
 - the Nature Conservation (Administration) Regulation 2006 to change a cross-reference from the Forestry Regulation 1998 to the *Forestry Act 1959*;
 - the Marine Parks Regulation 2006 to reinsert a penalty that was inadvertently omitted from an offence provision; and
 - the State Penalties Enforcement Regulation 2014 to list the marine park offence referred to above, as an infringement notice offence.³

The notes also state that the need to replace the Forestry Regulation 1998 with an updated Forestry Regulation 2015 arose due to the automatic expiry provisions of the *Statutory Instruments Act 1992*. Under these provisions, the Forestry Regulation 1998 was scheduled to expire in August 2009. However, that expiry date was extended to 31 August 2015, on the basis that provisions of the Forestry Act were under review. The relevant provisions of the Forestry Act have been reviewed. The notes also detail that the amendments to the Forestry Act were included in the *Forestry and Another Act Amendment Act 2014* (the Amendment Act).⁴

Potential issues and comment

The explanatory notes also detail that fees payable under the Forestry Act for camping permits, commercial activity permits, permits for competitive motor vehicle and equestrian events, permits for group activities, and fees for mustering, holding and releasing stock to their owner is specified in the regulation.

The notes further outline that the Forestry Regulation 2015 applies additional imposts on business and the public in terms of the need to comply with particular rules and restrictions. However it is considered that those rules and restrictions are similar to, and no more restrictive than, those that apply in most other public areas for environmental and safety reasons.⁵

Queensland Parks and Wildlife Service (QPWS) undertook general consultation with commercial tour operators and community groups to identify 'red tape reduction' measures that can be applied across all QPWS managed areas. A number of such measures have been implemented and are continued in the

³ Forestry Regulation 2015, Explanatory Notes pp.1-2.

⁴ Forestry Regulation 2015, Explanatory Notes p.2.

⁵ Forestry Regulation 2015, Explanatory Notes p.8.

Forestry Regulation 2015 (e.g. permit exemptions for a generator used to operate a device for treatment of a medical condition).⁶

Part 9 of the explanatory notes detail the amendments to the State Penalties Enforcement Regulation 2014 as follows:

Sections 47 and 48 amend the State Penalties Enforcement Regulation 2014 to update listed infringement notice offences and penalties for provisions under the Forestry Act (as amended by the Forestry and Another Act Amendment Act 2014) and provisions under the Forestry Regulation 2015.⁷

The amendments allow forest officers to issue penalty infringement notices (PINs) for these offences. The explanatory notes state in relation to the appointment of forest officers for vehicular offences:

The provision of these offences in the Forestry Regulation 2015 is necessary to deliver better public safety outcomes, given that police or transport officers are not usually present or available to enforce vehicle offences in forest areas, although from time to time forest officers and police run shared enforcement operations.⁸

The explanatory notes also state in relation to the broadening of infringement notice offences:

As is the case with the management of most public places, some actions and behaviours need to be regulated in order to protect the environment, provide for public safety and protect the rights of other visitors.⁹

The explanatory notes however do not detail whether forest officers will be provided with additional training in the appropriate service of infringement offence notices for vehicular offences and other new offences outlined in the Forestry Regulation 2015.

Sections 9 and 42 of the explanatory notes refer to external documents – “plans” as follows:

Section 9 provides for public inspection of specified plans, in order to meet the requirements of section 23A of the Statutory Instruments Act 1992, which allows for a statutory instrument (such as a regulation) to use a plan to refer to land if the plan is available for inspection by members of the public.¹⁰

Sections 41 and 42 refer to public inspection of specified plans in order to meet the requirements of section 23A of the Statutory Instruments Act 1992, which allows for a statutory instrument (such as a regulation) to describe land by reference to a plan if the plan is available for inspection by members of the public.¹¹

The notes state that the plan is available for inspection by members of the public but do not provide any information on how it is made available.

Committee’s request for advice

The committee wrote to the Department of National Parks, Sport and Racing (DNPSR) to clarify if additional training is provided to forest officers, and if so, the type of training and qualification required to ensure the appropriate service of infringement notices.

The committee also asked the department to provide additional information on how the plan is made available to members of the public, and whether it is readily accessible by member of the public, either as hard copies or via the internet.

⁶ Forestry Regulation 2015, Explanatory Notes p.10.

⁷ Forestry Regulation 2015, Explanatory Notes p.20.

⁸ Forestry Regulation 2015, Explanatory Notes p.15.

⁹ Forestry Regulation 2015, Explanatory Notes p.2.

¹⁰ Forestry Regulation 2015, Explanatory Notes p.11.

¹¹ Forestry Regulation 2015, Explanatory Notes p.20.

Department's advice

In regards to training for forest officers, the department explained:

Forest officers are typically appointed from staff within the Queensland Parks and Wildlife Service (QPWS), in the Department of National Parks, Sport and Racing or staff of the Department of Agriculture and Fisheries (DAF).

Both QPWS and DAF forest officers must undertake professional compliance training (or have suitable experience in compliance and enforcement) before being eligible to be appointed as forest officers. This requirement ensures not only appropriate service of infringement notices, but a professional approach to compliance management on State forests throughout Queensland. Specifically, QPWS forest officers must complete Authorised Officer Training and Regulatory Skills Training provided by the Department of Environment and Heritage Protection (DEHP), which includes units of study such as 'exercising regulatory powers', 'acting on non-compliance' and 'evidence gathering'.

The enforcement guidelines¹² are also used by forest officers when responding to non-compliance with the Forestry Act, and these guidelines provide a framework for decision making for issuing an infringement notice.

In many cases, forest officers will issue a warning to a person committing an offence, to bring to a person's attention that their actions are in contravention of the legislation and provide them the opportunity to correct their behaviour and comply with the law.

The new vehicle offences inserted in the regulation are generally an extension of pre-existing offences, or reflect offences that already apply in national parks, negating the need for significant additional specific training; as forest officers are typically also the same QPWS rangers responsible for managing compliance in national parks. For example, the requirement to wear a helmet while riding a quad bike in a forest area is an extension of the helmet requirement for motorbike riders in State forests, and an equivalent quad bike helmet requirement has applied in national parks for many years.

Given the high level of compliance training already provided to forest officers, further specific training is not considered necessary in relation to these new offences, provided that forest officers are made aware of the relevant changes to the regulation. As a part of the implementation of the changed regulation, both QPWS and DAF staff have been provided with training documents that include detailed explanation of the new offences.¹³

In response to the committee's question regarding the accessibility of the specified plans, the department advised:

The department holds hard copies of specified plans, and most of these plans are also held in an electronic form. The electronic format varies, depending on the age of the original plan. Recent plans are created and stored as digital data, while older plans have been captured electronically as scanned copies of paper plans.

The specified plans are not available to the public over the internet. However, a member of the public can quickly be provided with a hard copy to inspect. Often the quickest and most convenient way is for the department to print a fresh copy of the plan from the electronic file following a request from a member of the public (large plans are printed on a plotter printer).

¹² The department's response included two attachments; one of which is available from the Department of Environment and Heritage Protection [website](#). The Department of Agriculture and Fisheries enforcement guidelines are part of an internal management document.

¹³ Department of National Parks, Sport and Racing, Correspondence 18 November 2015.

Requests to the department to inspect the specified plans are rare. The infrequency of requests is believed to be due to the ready availability of information about these areas through other online data sources. For example, spatial information about the location and extent of State forests is freely accessible online through Queensland Government applications such as Mines on Line Maps, and Queensland Globe, which are available at the following links:

- <https://minesonlinemaps.business.qld.gov.au>
- <https://www.business.qld.gov.au/business/support-tools-grants/services/mapping-dataimagery/queensland-globe>

The department anticipates that the specified plans may become available over the internet at some future time. However, the department's immediate open data priority relates to publishing spatial data about tracks and roads, and about facilities and structures in the relevant areas, as indicated in the department's Open Data Strategy 2015–16 at <http://www.nprsr.qld.gov.au/about/pdf/open-data-strategy.pdf>

Committee comment

The committee is satisfied with the department's advice.

2.2 SL 126 - Major Sports Facilities Amendment Regulation (No. 1) 2015

The explanatory notes detail that the objective of the Major Sports Facilities Amendment Regulation (No.1) 2015 is to increase the allowed number of major concerts that can be held at the Brisbane Stadium (also known as Suncorp Stadium), from 1 January 2016.

Section 5(2)(a) of the Major Sports Facilities Regulation 2014 limits the number of concerts that can be held at Suncorp Stadium to four concerts per calendar year.¹⁴

The notes outline that four concerts were approved for Suncorp Stadium during 2015, and Stadiums Queensland was approached by promoters seeking to hire the venue for two national tours by high profile performers. The explanatory notes detail that the request meant that the number of allowable number of concerts to be held at the venue would be exceeded. As a result the additional concerts could not be held at Suncorp Stadium.¹⁵

Potential issues and comment

The explanatory notes detail that the department had consulted with the community via an online survey on the Government's 'Get Involved' website. The survey asked whether the cap should be increased, and was open from 12 April to 12 June 2015. The explanatory notes outline that approximately 4,300 responses were received and 83 percent were in favour of an increase in the allowable number of concerts.¹⁶

The notes do not provide further details on who the respondents were. The committee has some concerns that residents around the stadium may not have had sufficient opportunity to express their views and concerns.

In addition, the notes do not provide any information on how the online survey was advertised to the community.

The explanatory notes detail that schedule 2 of the Major Sports Facilities Regulation 2014 places conditions on the conduct of special events at the stadium, which reduce undesirable impacts around the stadium. The conditions include the preparation of an operational management plan before each concert which includes strategies and actions to appropriately manage and control pedestrian and vehicular movements before and after the event. According to the explanatory notes, the stadium operator is

¹⁴ Major Sports Facilities Amendment Regulation (No. 1) 2015, Explanatory Notes p.1.

¹⁵ Major Sports Facilities Amendment Regulation (No. 1) 2015, Explanatory Notes p.1.

¹⁶ Major Sports Facilities Amendment Regulation (No. 1) 2015, Explanatory Notes p.1.

required to report to the Chief Executive after the event the details of the location and type of any complaint, and the action taken in response.¹⁷

However, the notes do not provide information on the number of complaints received to date, and how noise complaints are managed or dealt with after the report are received.

Committee's request for advice

The committee asked DNPSR to advise from the survey results as follows:

- How many residents and/or businesses are impacted by events held at the Stadium,
- Of the 4,300 responses, how many were from residents or local businesses, and
- How the online survey was advertised.

The committee also sought from the department the number of complaints that have been lodged to date and information on how concerns or complaints are managed after a report by the operator is lodged with the Chief Executive.

Department's advice

The department provided additional information on the survey results as follows:

- *Under Schedule 2 of the Major Sports Facilities Regulation 2014 (the Regulation), the Suncorp Stadium operator must notify all occupiers of land in the Lang Park Traffic Area prior to the conduct of a concert at Suncorp Stadium.*

The Lang Park Traffic Area is the area designated by Brisbane City Council in its Lang Park Traffic Area Local Law 2002, setting parking restrictions for events at Suncorp Stadium.

The Lang Park Traffic Area is shown on the attached map (Attachment 1).

The number of notices sent out to occupiers of land in the Lang Park Traffic Area for a concert to be held at Suncorp Stadium on 28 November 2015 is approximately 6,800.

- *From the responses received, 16 per cent were identified as being from the suburbs adjacent to the venue (Milton, Paddington, Toowong, Auchenflower, Mt Coot-tha, Bardon and Brisbane City and surrounds). This was identified through postcode data; the survey didn't allow for identification of business owners or residents, it only required a postcode and general demographic information to ensure anonymous responses.*
- *A Ministerial media release and subsequent news media alerted Queenslanders to the survey.*

The survey was advertised as a banner ad on the Qld Government's website for the duration of the survey (two months).

It was also advertised on the NPSR website for the duration of the survey.¹⁸

In relation to the number of complaints and procedures for managing those complaints, the department stated:

The requirement in Schedule 2 of the Regulation to notify all occupiers of land in the Lang Park Traffic Area prior to the conduct of a concert at Suncorp Stadium includes a requirement to provide details of the special complaints hotline which the Regulation requires the venue operator to establish for concerts.

¹⁷ Major Sports Facilities Amendment Regulation (No. 1) 2015, explanatory notes p.3.

¹⁸ Department of National Parks, Sport and Racing, Correspondence 18 November 2015.

The number of complaints received from local residents/businesses (primarily through calls made on the special concert complaints hotline) is listed in the table below.

Concert	Date	Number of complaints received from local residents/businesses
<i>Robbie Williams (two concerts)</i>	<i>December 2006</i>	<i>20</i>
<i>The Police</i>	<i>January 2008</i>	<i>19</i>
<i>Andre Rieu (two concerts)</i>	<i>December 2008</i>	<i>2</i>
<i>U2 (two concerts)</i>	<i>December 2010</i>	<i>21</i>
<i>Bon Jovi</i>	<i>December 2010</i>	<i>1</i>
<i>Cold Play</i>	<i>November 2012</i>	<i>3</i>
<i>Queensland Music Festival World's Biggest Orchestra</i>	<i>July 2013</i>	<i>0</i>
<i>Taylor Swift</i>	<i>December 2013</i>	<i>1</i>
<i>Bon Jovi</i>	<i>December 2013</i>	<i>8</i>
<i>Eminem</i>	<i>February 2014</i>	<i>1</i>
<i>One Direction</i>	<i>February 2015</i>	<i>2</i>
<i>Foo Fighters</i>	<i>February 2015</i>	<i>2</i>

The procedure for dealing with complaints about noise is for the details to be immediately passed on to the stadium's consulting engineers who monitor noise levels at the five locations in the local area specified in the Regulation on the night of each concert. The consulting engineers determine whether noise levels at any of these locations are exceeding the thresholds set in the Regulation and if so, direct the sound engineer to reduce the concert sound levels, as provided for in the Regulation (Schedule 2 section 8).

This system has been instigated by the Chief Executive to enable corrective action to be taken in real time should a noise level be exceeded.¹⁹

Committee comment

The committee notes that while the number of responses to the survey from residents close to the venue is low (16 per cent or 688 responses) in relation to the number of notices sent (6,800), the number of complaints is also low. The committee is satisfied with the department's advice regarding noise management procedures.

¹⁹ Department of National Parks, Sport and Racing, Correspondence 18 November 2015.

3 Recommendations

Recommendation 1

The committee recommends that the Legislative Assembly note the contents of this report.



Jennifer Howard MP

Chair

November 2015

Attachment 1: Lang Park Traffic Area – Brisbane City Council

