



State Development, Natural Resources and Agricultural Industry
Development Committee

Subordinate legislation tabled between 14 November 2018 and
12 February 2019

Report No. 28, 56th Parliament

1. Aim of this report

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled on 12 February 2019. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992*.

2. Subordinate legislation examined:

SL No	Subordinate Legislation	Tabled Date	Disallowance Date
182	Planning Amendment Regulation (No. 1) 2018	12 February 2019	2 May 2019
183	State Development and Public Works Organisation (State Development Areas) (Cairns South) Amendment Regulation 2018	12 February 2019	2 May 2019
188	Proclamation made under the <i>Vegetation Management and Other Legislation Amendment Act 2018</i>	12 February 2019	2 May 2019
189	Rural and Regional Adjustment (Bus Driver Safety Scheme) Amendment Regulation 2018	12 February 2019	2 May 2019
212	Economic Development (Albert Street Cross River Rail PDA) Amendment Regulation 2018	12 February 2019	2 May 2019
213	State Development and Public Works Organisation Amendment Regulation 2018	12 February 2019	2 May 2019
1	Water (Metering and Compliance) Amendment Regulation 2019	12 February 2019	2 May 2019
2	Rural and Regional Adjustment (Solar for Rental Properties Scheme) Amendment Regulation 2019	12 February 2019	2 May 2019
3	National Energy Retail Law (Queensland) Amendment Regulation 2019	12 February 2019	2 May 2019

3. Committee consideration of the subordinate legislation

No significant issues regarding policy, consistency with fundamental legislative principles or the lawfulness of the subordinate legislation were identified.

The explanatory notes tabled with the regulations comply with the requirements of section 24 of the *Legislative Standards Act 1992*.

4. Planning Amendment Regulation (No. 1) 2018

The explanatory notes outline that the objectives are to:

- align the definition of ‘prescribed land’ in the Planning Regulation 2017 with the definition in the *Land Act 1994*, to ensure development applications involving clearing vegetation in boundary watercourses and boundary lakes are captured under the trigger for operational works for vegetation clearing in schedule 10 of the Planning Regulation 2017, to align with an amendment to the *Land Act 1994* in 2016
- in the definition of *State development assessment* provisions, change the date of the state development assessment provisions to 16 November 2018, to reflect an updated version of this instrument.¹

According to the explanatory notes, the amendment regulation is expected to:

- ensure that development applications relating to vegetation clearing in boundary watercourses and boundary lakes are triggered for assessment appropriately; and
- ensure an updated version of the SDAP with an expedited assessment process for managing thickened vegetation is in place.²

No issues of fundamental legislative principle were identified.

The explanatory notes comply with part 4 of the *Legislative Standards Act 1992*.

Committee comment

The committee is satisfied that the Planning Amendment Regulation (No. 1) 2018 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

5. State Development and Public Works Organisation (State Development Areas) (Cairns South) Amendment Regulation 2018

The objective is to declare the Cairns South State Development Area as a State Development Area (SDA).

An SDA is established under the *State Development and Public Works Organisation Act 1971* as a clearly defined area of land for industry, multi-user infrastructure corridors or major public infrastructure. The explanatory notes state that an SDA is intended to:

- provide guidance and development certainty to industry,
- control development in a way that considers existing development, and
- recognise and manage environmental, cultural and social values.³

¹ Explanatory notes for SL 2018 No. 182, p 1.

² Explanatory notes for SL 2018 No. 182, p 2.

³ Explanatory notes for SL 2018 No. 183, p 1.

The Department of State Development, Manufacturing, Infrastructure and Planning has conducted investigations into industrial land supply in the Cairns region.⁴ The declaration of the Cairns South SDA is expected to meet demand for medium to high impact industrial land and to provide a suitable location for regionally significant industrial development with minimal impact to the region's sugar cane industry.⁵

The explanatory notes outline that the proposed Cairns South SDA is expected to generate jobs and make a significant contribution to the regional economy.⁶

Committee comment

The committee is satisfied that the State Development and Public Works Organisation (State Development Areas) (Cairns South) Amendment Regulation 2018 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

6. Proclamation made under the Vegetation Management and Other Legislation Amendment Act 2018

The policy objective is to fix a commencement date of 16 November 2018 for section 35 of the *Vegetation Management and Other Legislation Amendment Act 2018*.

Section 35 inserts a new Part 4, Division 5 in the *Vegetation Management Act 1999* to provide for enforceable undertakings.

The explanatory notes state:

*An enforceable undertaking is a new compliance tool to expand the compliance options available under the Vegetation Management Act 1999 and the Planning Act 2016 to address unlawful clearing. It is a voluntary tool whereby a person can request the chief executive enter into a written agreement in relation to a contravention, or alleged contravention, by the person under the Vegetation Management Act 1999 or Planning Act 2016.*⁷

Enforceable undertakings commit the alleged offender to deliver on agreed environmental outcomes, for example: revegetating an area connecting a strategic environmental corridor; contributing to environmental research; or implementing education strategies to improve a broader understanding of the vegetation management framework and better land management practices.⁸

Committee comment

The committee is satisfied that the Proclamation made under the *Vegetation Management and Other Legislation Amendment Act 2018* does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

7. Rural and Regional Adjustment (Bus Driver Safety Scheme) Amendment Regulation 2018

The purpose of the proposed legislation is to enable the Queensland Rural and Industry Development Authority (QRIDA) to provide financial assistance to contracted bus operators providing urban bus services across Queensland for the purchase and installation of anti-shatter film and driver barriers to increase safety for bus occupants. This is expected to support the implementation of

⁴ Explanatory notes for SL 2018 No. 183, p 1.

⁵ Explanatory notes for SL 2018 No. 183, p 2.

⁶ Explanatory notes for SL 2018 No. 183, p 2.

⁷ Explanatory notes for SL 2018 No. 188, p 1.

⁸ Explanatory notes for SL 2018 No. 188, p 1.

recommendations from the *Queensland Bus Driver Safety Review*, which was released in August 2017 to improve safety for bus drivers.

At the public hearing, QRIDA stated that the risk assessment of the likelihood of violence against bus drivers is done by the bus operator themselves.⁹

For anti-shatter film, the bus operator can claim a rebate of 100 per cent of the purchase costs and installation. For driver barriers, the bus operator can claim a rebate of 50 per cent of the purchase and installation. QRIDA, having extensive experience in administering grant, loan and rebate schemes for government, will administer the scheme on behalf of the Department of Transport and Main Roads.

At the public hearing, the committee asked QRIDA about the administration fee charged to the department for such schemes. Representatives from QRIDA stated:

*With regard to the Bus Driver Safety Scheme, we actually charged them an upfront administration fee of \$65,000 and there was no fee per application because it was a very, very low-volume scheme. As I mentioned, as at 29 March we have actually had two applications for 1,215 buses.*¹⁰

The proposed regulations set out the scheme, including the application process and the way the authority considers and decides on an application.¹¹

Committee comment

The committee is satisfied that the Rural and Regional Adjustment (Bus Driver Safety Scheme) Amendment Regulation 2018 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

7.1. Fundamental legislative principle issues

Under the heading *Consistency with fundamental legislative principles*, the explanatory notes state:

*The subordinate legislation has been drafted with regard to the fundamental legislative principles as defined in section 4 of the Legislative Standards Act 1992.*¹²

This statement does not include any assessment as to consistency with the fundamental legislative principles. As such, it does not comply with the requirements for explanatory notes set out in Part 4 of the *Legislative Standards Act 1992* which, inter alia, require explanatory notes to include:

*a brief assessment of the consistency of the legislation with fundamental legislative principles and, if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency.*¹³

The explanatory notes otherwise comply with part 4 of the *Legislative Standards Act 1992*.

Committee comment

The committee notes that the explanatory notes for SL No.189 – Rural and Regional Adjustment (Bus Driver Safety Scheme) Amendment Regulation 2018 does not fully comply with the *Legislative Standards Act 1992*.

⁹ Mr MacMillan, QRIDA, Public hearing transcript, Brisbane, 1 April 2019, p 5.

¹⁰ Mr MacMillan, QRIDA, Public hearing transcript, Brisbane, 1 April 2019, p 4.

¹¹ Explanatory notes for SL 2018 No. 189, p 1.

¹² Explanatory notes for SL 2018 No. 189, p 3.

¹³ Paragraph 24(1)(i) *Legislative Standards Act 1992*

8. Economic Development (Albert Street Cross River Rail PDA) Amendment Regulation 2018

The policy objective is to amend the *Economic Development Regulation 2013* to declare the Albert Street Cross River Rail (CRR) Priority Development Area (PDA) and to make an Interim Land Use Plan regarding development in the area.

Essentially, the CRR project will provide a 10.2 kilometre rail line from Dutton Park to Bowen Hills including a 5.9 kilometre tunnel under the Brisbane River and Brisbane City Centre. The project has been designed to alleviate constraints at the core of the rail network, so it can grow and evolve and benefit communities across the region.

The main purpose of the *Economic Development Act 2012* (EDA) is to facilitate economic development, and development for community purposes, in the state. This purpose of the EDA is achieved primarily by:

- establishing the Minister for Economic Development Queensland to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in the state
- providing for a streamlined planning and development framework for particular parts of the state (declared as PDAs under the EDA) to facilitate economic development, and development for community purposes, in or for the parts.¹⁴

Section 37(1) of the EDA provides that a regulation may declare a part of the state to be a PDA.

At the public hearing, the committee asked about the process of public consultation in relation to a declaration of a PDA. In response, the Cross River Rail Delivery Authority stated:

At the moment we are preparing a draft development scheme, in consultation with Brisbane City Council and Economic Development Queensland. That builds on the current interim land use plan, and that process will be underway for a little while yet. The next step for us then is to undertake engagement with state agencies and check state interests. From that point we will be ready for the Minister for Economic Development Queensland to consider the proposed development scheme for the Cross River Rail PDA. Then the minister will determine whether or not it is ready for public consultation. From that point we will enter public consultation for a period of 30 business days, seek submissions, finalise the submission report, amend the proposed development scheme in response to submissions for the Minister for Economic Development Queensland's consideration and then the minister will recommend making the development scheme, and that has to be in place by 13 December this year.¹⁵

No issues of fundamental legislative principle were identified.

The explanatory notes comply with part 4 of the *Legislative Standards Act 1992*.

Committee comment

The committee is satisfied that the Economic Development (Albert Street Cross River Rail PDA) Amendment Regulation 2018 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

9. State Development and Public Works Organisation Amendment Regulation 2018

The objective is to insert new provisions in the State Development and Public Works Organisation Regulation 2010 directing the Coordinator-General to undertake certain works, in accordance with

¹⁴ Explanatory notes for SL 2018 No. 21, p 3. See *Economic Development Act 2012* sections 3 and 4.

¹⁵ Ms Elliot, CRRDA, Public hearing transcript, Brisbane, 1 April 2019, p 2.

sections 108 and 109 of the *State Development and Public Works Organisation Act 1971* (SDPWO Act), in relation to the:

- Building Future School Fund (BFS fund) projects
- Rookwood Weir project.¹⁶

The Department of Education is responsible for the BFS fund projects and has requested that the Coordinator-General facilitate the project using various functions and powers of the Coordinator-General.

SunWater Limited, the project proponent of the Rookwood Weir project, is seeking to undertake investigations and works in relation to the construction of the project. SunWater has requested the use of various powers of the Coordinator-General including powers relating to acquisition, land access and road closures.¹⁷

No issues of fundamental legislative principle were identified.

The explanatory notes comply with part 4 of the *Legislative Standards Act 1992*.

Committee comment

The committee is satisfied that the State Development and Public Works Organisation Amendment Regulation 2018 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

10. Water (Metering and Compliance) Amendment Regulation 2019

The objectives are to:

- strengthen metering, meter validation and compliance provisions
- add new metered entitlements and making other operational amendments
- correcting minor errors and out of date references.

The amendment regulation will achieve its objectives by:

- preventing water taken through a faulty meter unless certain conditions are met.
- providing a more comprehensive framework for meter validation.
- improving the compliance value of meter cessation notices.
- updating the schedule of meter entitlements.
- clarifying the process for accessing unallocated water reserves.
- clarifying that a seasonal water assignment notice does not increase the volume of water that may be taken under multi-year accounting.
- providing additional flexibility in the format of the Minister reporting on water plans to better support stakeholder consultation on plan development.
- enabling joint landholders to be issued a copy of their licences following land dealings¹⁸

¹⁶ Explanatory notes for SL 2018 No. 213, pp 1 – 2.

¹⁷ Explanatory notes for SL 2018 No. 213, p 2.

¹⁸ Explanatory notes for SL 2019 No. 1, pp 1 – 2.

The explanatory notes state that the first objective addresses actions as part of the Queensland Government's response to the Independent audit of Queensland – non-urban water measurement and compliance (Independent audit), and the Murray-Darling Basin Water Compliance Review.¹⁹

No issues of fundamental legislative principle were identified.

The explanatory notes comply with part 4 of the *Legislative Standards Act 1992*.

Committee comment

The committee is satisfied that the Water (Metering and Compliance) Amendment Regulation 2019 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

11. Rural and Regional Adjustment (Solar for Rental Properties Scheme) Amendment Regulation 2019

The explanatory notes state that the objectives of the subordinate legislation are to:

- enable the Queensland Rural and Industry Development Authority (QRIDA) to provide financial assistance under a scheme to owners of eligible residential premises in selected Local Government Areas for the purchase and installation of eligible solar photovoltaic (PV) systems
- make electricity more affordable for tenants of such premises.²⁰

The explanatory notes further state that the scheme:

- extends the benefits of solar power to tenants in the private rental market
- addresses barriers preventing landlords putting solar systems on their rental houses
- offers financial incentives to landlords for using monitoring equipment to enable a solar benefit sharing arrangement between landlords and tenants.²¹

According to the explanatory notes, of the 560,000 private dwellings currently rented in Queensland, about one quarter of electricity customers have limited or no access to solar PV. This offers significant opportunity for more households to enjoy the benefits of solar electricity.²²

The scheme is expected to benefit both property owners and tenants. Property owners will obtain the benefit of financial assistance to equip their homes with solar PV systems, allowing them to increase rent at the premises. Tenants, on the other hand, will benefit by having more affordable electricity costs through a reduction in reliance on electricity purchased off the grid, together with access to monitoring technology allowing tenants to take steps to manage their home energy usage and further reduce their electricity bills.²³

In addition, it is noted that information gathered during the scheme will be used to inform the market about outcomes and potential models that may encourage uptake of solar and monitoring technologies both in the rental market and more broadly.²⁴

¹⁹ Explanatory notes for SL 2019 No. 1, p 2.

²⁰ Explanatory notes for SL 2019 No. 2, p 1.

²¹ Explanatory notes for SL 2019 No. 2, p 1.

²² Explanatory notes for SL 2019 No. 2, p 1.

²³ Explanatory notes for SL 2019 No. 2, p 3.

²⁴ Explanatory notes for SL 2019 No. 2, p 1.

The subordinate legislation supports the Government's commitment to deliver the Affordable Energy Plan, which features \$300 million of initiatives aimed at making electricity more affordable for residential and business customers.²⁵

At the public hearing, the committee asked further questions about the way that people can access the scheme. QRIDA confirmed that in this particular scheme, applications for funding can only be made online. QRIDA advised:

*This scheme has particular front-end requirements around an applicant first registering their interest and acknowledging that they understand the requirements of the scheme before they go ahead and install the system and submit their invoices to us for reimbursement.*²⁶

The committee also asked QRIDA questions about their time frame standards in relation to service level arrangements. In response, QRIDA stated:

*We have standard response indicators on all of our programs. For example, we are in the midst of the delivery for disaster recovery with regard to the monsoon up north. The standard response indicators for that event are 15 working days for a grant and 30 working days for a loan. To give an indication of our capability, so far we have approved 700 applications in the first five weeks of that program, as I mentioned – about \$35 million. The average turnaround is currently sitting at 9.8 days against and SRI or 15 working days.*²⁷

No issues of fundamental legislative principle were identified.

The explanatory notes comply with part 4 of the *Legislative Standards Act 1992*.

Committee comment

The committee is satisfied that the Rural and Regional Adjustment (Solar for Rental Properties Scheme) Amendment Regulation 2019 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

12. National Energy Retail Law (Queensland) Amendment Regulation 2019

The objective is to amend the National Energy Retail Law (Queensland) Regulation 2014 to align the Queensland Legislation with changes made to national energy law.

The amendments have impact in three areas:

- estimated meter reads, to make it easier for small customers to fix inaccurate estimated bills by providing their own reading of an electricity or gas meter to their retailer
- providing a new 'early price change notification rule', requiring a retailer to notify a small customer at least 10 business days before any increase in tariffs and charges takes effect
- providing a new 'fixed benefit notification rule', requiring energy retailers to notify customers when benefits, such as discounts in a contract, are about to end or change.²⁸

The explanatory notes state that the amendments detailed are consequential subsequent to the finalisation of new national rules. These new national rules were made following an extensive consultation process undertaken by the Australian Energy Market Commission.²⁹

No issues of fundamental legislative principle were identified.

²⁵ Explanatory notes for SL 2019 No. 2, p 2.

²⁶ Mr Hallam, QRIDA, Public hearing transcript, Brisbane, 1 April 2019, p 5.

²⁷ Mr MacMillan, QRIDA, Public hearing transcript, Brisbane, 1 April 2019, pp 4 - 5.

²⁸ Explanatory notes for SL 2019 No. 3, pp 1 - 2.

²⁹ Explanatory notes for SL 2019 No. 3, p 2.

The explanatory notes comply with part 4 of the *Legislative Standards Act 1992*.

Committee comment

The committee is satisfied that the National Energy Retail Law (Queensland) Amendment Regulation 2019 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

Recommendation

The committee notes that the explanatory notes for SL No.189 – Rural and Regional Adjustment (Bus Driver Safety Scheme) Amendment Regulation 2018 does not fully comply with the *Legislative Standards Act 1992*. The committee draws this to the attention of the Legislative Assembly.

The committee recommends that the Legislative Assembly notes this report.



Chris Whiting MP

Chair

April 2019

State Development, Natural Resources and Agricultural Industry Development Committee

Chair	Mr Chris Whiting MP, Member for Bancroft
Deputy Chair	Mr Pat Weir MP, Member for Condamine
Members	Mr David Batt MP, Member for Bundaberg
	Mr Brent Mickelberg MP, Member for Buderim
	Ms Jess Pugh MP, Member for Mount Ommaney
	Mr Jim Madden MP, Member for Ipswich West