

State Development, Natural Resources and Agricultural Industry Development Committee

Report No. 50, 56th Parliament

Subordinate legislation tabled between 27 November 2019 and 4 February 2020

1 Aim of this report

This report summarises the committee’s findings following its examination of the subordinate legislation within its portfolio areas tabled between 27 November 2019 and 4 February 2020. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles (FLPs) and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).¹

The report identifies any issues considered by the committee in its examination of the human rights certificates tabled with the subordinate legislation.²

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
2019-242	Water (Annual Levy for Underground Water Management) Amendment Regulation 2019	4 February 2020	16 July 2020
2019-243	Planning (Spit Master Plan and Other Matters) Amendment Regulation 2019	4 February 2020	16 July 2020
2019-246	Economic Development (Roma Street Cross River Rail PDA) Amendment Regulation 2019	4 February 2020	16 July 2020
2019-249	Land, Explosives and Other Legislation Amendment (Postponement) Regulation 2019	4 February 2020	16 July 2020
2019-251	Water Plan (Moreton) (Supply Scheme Arrangements) Amendment Plan 2019	4 February 2020	16 July 2020
2019-262	Rural and Regional Adjustment (Wheelchair Accessible Taxi Grants Scheme) Amendment Regulation 2019	4 February 2020	16 July 2020
2019-264	Water Plan (Cooper Creek) (Postponement of Expiry) Notice 2019	4 February 2020	16 July 2020

¹ *Legislative Standards Act 1992*, Part 4.

² *Human Rights Act 2019*, s 41.

2019 -267	Water Plan (Baffle Creek Basin) (Postponement of Expiry) Notice 2019	4 February 2020	16 July 2020
2020 - 5	Rural and Regional Adjustment (2019-2020 Extraordinary Bushfires Disaster Recovery Funding) Amendment Regulation 2020	4 February 2020	16 July 2020

* Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

3 Committee consideration of the subordinate legislation

No significant issues regarding policy, consistency with FLPs or the lawfulness of the subordinate legislation were identified. The committee considers explanatory notes tabled with the subordinate legislation comply with the requirements of s 24 of the LSA.

The committee considers that SL 2020 No. 5 raises no human rights issues. The human rights certificate tabled with the subordinate legislation provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.³

4 Water (Annual Levy for Underground Water Management) Amendment Regulation 2019 (SL 2019 No. 242)

The regulation establishes a levy structure, aimed at recovering the costs of the Office of Groundwater Impact Assessment's mining-related functions, so as to allow that office to be fully funded by a levy on industry to enable it to perform its statutory functions.

The explanatory notes state that:

The amendment regulation achieves its objectives by amending the Water Regulation 2016 to:

- Define relevant mining tenures for the purposes of charging the levy and establishes three new classes of relevant mining tenure that will be charged an annual levy;
- Require the OGIA to separately estimate its costs (on which the levy is calculated) for all petroleum tenure holders and all mining tenure holders, having regard to the proportion of OGIA's functions carried out for petroleum and mining tenure holders respectively; and
- Apportion the annual levy amongst the relevant classes of mining tenure holders.⁴

The committee notes that consultation on the Regulatory Impact Statement supported the two preferred options, which are being implemented in the amendment regulation.⁵

4.1 Fundamental legislative principle issues

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

4.2 Explanatory notes

The committee notes that the explanatory notes comply with part 4 of the LSA.

³ Human Rights Act 2019, s 41.

⁴ Explanatory notes for SL 2019 No. 242, pp 1-2.

⁵ Explanatory notes for SL 2019 No. 242, p 2.

5 Planning (Spit Master Plan and Other Matters) Amendment Regulation 2019 (SL 2019 No. 243)

The objectives are to:

- ensure future development on The Spit is in line with limits in The Spit Master Plan, such that building heights are no more than three storeys and 15 metres
- clarify that vegetation clearing for necessary firebreaks and fire management lines does not require a development approval, and
- give effect to the most current version of the Development Assessment Rules.⁶

The explanatory notes give the following details in relation to the policy objectives:

The Spit Master Plan

The Amendment Regulation will ensure development on The Spit is in line with the building height limit set out in the master plan by amending Schedule 10 of the Planning Regulation 2017 (Planning Regulation) to:

introduce a prohibition on development over three storeys and 15 metres in height within an identified area of The Spit, called 'The Spit building height control area', excepting theme park rides at Sea World and the general maintenance, upgrade and replacement of existing buildings and structures over three storeys and 15 metres; and

identify the master plan as a matter that the assessment manager must have regard to in assessing all code and impact assessable development applications within the area identified as the master plan area.

Clarify vegetation clearing exemptions for fire management activities

Schedule 6 and Schedule 7 of the Planning Regulation are amended to clarify that clearing vegetation for necessary firebreaks and fire management lines, as defined in paragraphs (a) and (b) of the definition of essential management, does not require a development approval. The amendment aligns with exempt clearing work provisions and criteria established in Schedule 21 of the Planning Regulation.

The amendment seeks to simplify land clearing requirements, which is aimed at protecting life and property in a bushfire event.

Give effect to a new version of the Development Assessment Rules (DA rules)

The Amendment Regulation gives effect to the updated version of the DA rules by amending section 44 of the Planning Regulation to reflect the date the amended DA rules was published on the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) website.⁷

5.1 Fundamental legislative principle issues

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

5.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

⁶ Explanatory notes for SL 2019 No. 243, p 1.

⁷ Explanatory notes for SL 2019 No. 243, pp 1-2.

6 Economic Development (Roma Street Cross River Rail PDA) Amendment Regulation 2019 (SL 2019 No. 246)

The policy objective is to amend the Economic Development Regulation 2013 to declare the Roma Street Cross River Rail (CRR) Priority Development Area (PDA).

Section 3 of the *Economic Development Act 2012* (EDA) provides that the main purpose of the EDA is to facilitate economic development, and development for community purposes, in the state.⁸

The stated intent of the PDA includes:

- to enable appropriate integration of development with the future Roma Street Cross River Rail station
- to help manage potential interface risks between the Roma Street Cross River Rail tunnel, station and surrounding development
- to ensure development is designed to manage high-volume pedestrian movements from the new station, and
- to facilitate economic development through job generation and increased investor confidence, especially for the future preferred proponent of the redevelopment of Brisbane Transit Centre and potential Brisbane Live Entertainment Arena projects.⁹

The committee notes that once declared, the Roma Street CRR PDA will be administered by the Minister for Economic Development Queensland or the delegated entity under s 169 of the EDA.¹⁰

6.1 Fundamental legislative principle issues

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

6.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA. The committee notes the technical detail provided in the explanatory notes and commends the Department of State Development, Manufacturing, Infrastructure and Planning.

7 Land, Explosives and Other Legislation Amendment (Postponement) Regulation 2019 (SL 2019 No. 249)

The regulation postpones the commencement of Part 6 of the *Land, Explosives and Other Legislation Amendment (Postponement) Regulation 2019* until 1 July 2020, for these reasons:

- enable the amendments made to the *Foreign Ownership of Land Register Act 1988* in the *Land, Explosives and Other Legislation Amendment Act 2019* Part 6 to commence on 1 July 2020 as this aligns with the start of the financial year and provides a logical commencement for provisions that require financial year reporting, and
- as consultation with stakeholders indicated that commencement on 1 July 2019 was too soon to allow effective implementation and that 1 July 2020 would be an appropriate commencement date.¹¹

⁸ Explanatory notes for SL 2019 No. 246, p 1.

⁹ Explanatory notes for SL 2019 No. 246, p 2.

¹⁰ Explanatory notes for SL 2019 No. 246, p 3.

¹¹ Explanatory notes for SL 2019 No. 249, p 1.

7.1 Fundamental legislative principle issues

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

7.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

8 Water Plan (Moreton) (Supply Scheme Arrangements) Amendment Plan 2019 (SL 2019 No. 251)

Section 42 of the *Water Act 2000* provides for the Minister to prepare a water plan for any part of Queensland to advance the sustainable management of water. A water plan for the Moreton plan area was developed in 2007.¹²

The stated objective of the Water Plan (Moreton) (Supply Scheme Arrangements) Amendment Plan 2019 is to provide a framework for the allocation and sustainable management of surface water and underground water in the Central Lockyer Valley water supply scheme, to ensure future water requirements can be met and the supply of water to existing water users supported.¹³

The water amendment plan provides for the allocation and sustainable management of water in the plan area by:

- defining the availability of water
- providing a framework for sustainably managing water
- identifying priorities and mechanisms for dealing with future water requirements
- regulating the taking of and interference with surface water, and the taking of underground water, and
- providing a framework for establishing and managing water allocations.¹⁴

The explanatory notes outline that the implementation of the water amendment plan will provide:

- *a framework for the allocation and sustainable management of water in the Central Lockyer Valley water supply scheme.*
- *conversion of groundwater licences that do not state a nominal volume to tradeable water allocations.*
- *establishment of six groundwater trading zones and associated water sharing rules.*
- *conversion of interim water allocations in the Central Lockyer Valley water supply scheme to tradable water allocations.*
- *establishment of four water allocation security objectives in Laidley Creek, Lockyer Creek, Morton Vale Pipeline and underground water areas of the Central Lockyer Valley water supply scheme.*
- *establishment of a strategic reserve for small-scale, low risk and short term water needs in the Lower Brisbane and Cabbage Tree Creek sub-catchment areas.*
- *a mechanism to collect and analyse relevant information about groundwater in implementation area 1 of the Lockyer Valley groundwater management area to monitor for any emerging risks to the sustainable management of water.*¹⁵

¹² Explanatory notes for SL 2019 No. 251, p 1.

¹³ Explanatory notes for SL 2019 No. 251, p 1.

¹⁴ Explanatory notes for SL 2019 No. 251, pp 1-2.

¹⁵ Explanatory notes for SL 2019 No. 251, p 2.

8.1 Fundamental legislative principle issues

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

8.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA. The committee notes the technical detail provided in the explanatory notes and commends the Department of Natural Resources, Mines and Energy for this useful information.

9 Rural and Regional Adjustment (Wheelchair Accessible Taxi Grants Scheme) Amendment Regulation 2019 (SL 2019 No. 262)

The explanatory notes outline that the policy objectives of the subordinate legislation are to modernise, and reduce the average age of, the wheelchair accessible taxis (WAT) being used to provide taxi services in Queensland; and to provide the opportunity to replace taxis that are not WAT with new WAT. The assistance is in response to industry concerns about an ageing WAT fleet, and the need to ensure continuity of accessible taxi services to those with reduced mobility throughout Queensland.¹⁶

The objective is to establish the Wheelchair Accessible Taxi Grants Scheme as an approved scheme under the *Rural and Regional Adjustment Act 1994*.

The scheme will provide 50 per cent co-contribution grants to taxi service licence holders of up to \$45,000 per taxi service licence. The grants will assist with the costs of purchasing and making eligible modifications to eligible vehicles to operate as wheelchair accessible taxis.¹⁷

9.1 Fundamental legislative principle issues

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

9.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

10 Water Plan (Cooper Creek) (Postponement of Expiry) Notice 2019 (SL 2019 No. 264)

The notice postpones the expiry of the Water Plan (Cooper Creek) 2011 to 1 September 2031. The explanatory notes state:

*The Water Plan (Cooper Creek) 2011 continues to be appropriate for the plan area and the water plan outcomes in general are being achieved. Postponing the expiry of the water plan until 1 September 2031 will ensure that sustainable water management arrangements remain in place for Cooper Creek water users.*¹⁸

10.1 Fundamental legislative principle issues

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

10.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

¹⁶ Explanatory notes for SL 2019 No. 262, p 1.

¹⁷ Explanatory notes for SL 2019 No. 262, p 2.

¹⁸ Explanatory notes for SL 2019 No. 264, p 1.

11 Water Plan (Baffle Creek Basin) (Postponement of Expiry) Notice 2019 (SL 2019 No. 267)

The notice postpones the expiry of the Water Plan (Baffle Creek Basin) 2010 to 1 September 2030.

The explanatory notes state:

The Water Plan (Baffle Creek Basin) 2010 continues to be appropriate for the plan area and the water plan outcomes in general are being achieved.¹⁹

11.1 Fundamental legislative principle issues

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

11.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

12 Rural and Regional Adjustment (2019-2020 Extraordinary Bushfires Disaster Recovery Funding) Amendment Regulation 2020 (SL 2020 No. 5)

The objective is to amend approved assistance schemes under the Rural and Regional Adjustment Regulation 2011, to expand assistance available for eligible Queensland primary producers affected by bushfires during the 2019-2020 financial year, in accordance with the Emergency Bushfire Response in Primary Industries Grants.²⁰

The explanatory notes outline that:

The amendment regulation will achieve its objectives by amending Schedule 23 – Special Disaster Assistance Recovery Grants Scheme (SPDARGS) of the Rural and Regional Adjustment Regulation 2011 to reflect the Federal scheme, and enable the additional assistance to be administered by QRIDA.

Due to the nature of assistance exceeding what the standard grant amount would be available under the SPDARGS, an exceptional circumstances grant of up to \$75,000 will be available for eligible primary producers.²¹

12.1 Fundamental legislative principle issues

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

12.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

12.3 Consideration of human rights compatibility

Section 8 of the *Human Rights Act 2019* (Human Rights Act) provides that a statutory provision is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of that Act.

Section 13 of the Human Rights Act provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

¹⁹ Explanatory notes for SL 2019 No. 267, p 1.

²⁰ Explanatory notes for SL 2020 No. 5, p 1.

²¹ Explanatory notes for SL 2020 No. 5, p 2.

In the human rights certificate accompanying the subordinate legislation, the Minister states that the Rural and Regional Adjustment (2019–2020 Extraordinary Bushfires Disaster Recovery Funding) Amendment Regulation 2020, is compatible with the human rights protected by the Human Rights Act.²²

The committee considers that the subordinate legislation raises no human rights issues.

12.4 Human rights certificate

Section 41 of the Human Rights Act requires that the responsible minister for the subordinate legislation must prepare a human rights certificate for the legislation.

A human rights certificate was tabled with the subordinate legislation. The certificate contained a sufficient level of information to facilitate understanding of the legislation in relation to its compatibility with human rights.

13 Recommendation

The committee recommends that the Legislative Assembly notes this report.



Chris Whiting MP

Chair

May 2020

State Development, Natural Resources and Agricultural Industry Development Committee

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

²² Rural and Regional Adjustment (2019–2020 Extraordinary Bushfires Disaster Recovery Funding) Amendment Regulation 2020, Human Rights Certificate, p 1.

