



Legislation Review Committee

Correspondence received in response to the Legislation Review Committee
Digest No. 29 – 4 May 2021



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The Honourable Kevin Anderson MP
Minister for Better Regulation and Innovation

Our reference: COR-02774-2021
Your reference: LAC21/035.05

Ms Felicity Wilson
Chair
Legislative Review Committee
By email: legislation.review@parliament.nsw.gov.au

Dear Ms Wilson

Thank you for your letter on 5 May 2021 concerning the Legislative Review Committee's views on the *Greyhound Racing Amendment (Miscellaneous) Regulation 2020*, the *Retirement Villages Amendment (Asset Management Plans) Regulation 2021*, and the *Retirement Villages Amendment (Exit Entitlement) Regulation 2021*.

Greyhound Racing Amendment (Miscellaneous) Regulation 2020

While noting the Committee's comment that this Regulation trespasses unduly on personal rights and liberties in relation to freedom of contract and property rights, the NSW Government does not propose to make any changes to this Regulation.

Retirement Villages Amendment (Asset Management Plans) Regulation 2021

I note the Committee's comment that the Retirement Villages Amendment (Asset Management Plans) Regulation 2021 (the AMP Regulation) creates a barrier to access documents as the provisions do not require the operator to provide the asset management plan to residents directly or make it publicly available.

The Government undertook extensive consultation with representative groups of operators and residents before making the AMP Regulation, where there was agreement that this new obligation would create additional costs but would create greater transparency in the sector. In response to your particular concerns, section 20 of the *Retirement Villages Act 1999* was amended by the Government to require operators to have their asset management plan available at the village (or other suitable place of business within NSW) at all times for inspection by residents, prospective residents or someone acting on their behalf. In addition, the three-year capital maintenance report created from the asset management plan is provided to residents as part of the budget process, where residents are required to provide their consent on expenditure.

I note the Committee's comment that the AMP Regulation increases the onus on operators through the provision of several record-keeping requirements, including the preparation and maintenance of asset management plans. The Government agrees with the concession made by the Committee that such operators often already have these records in place for taxation purposes. Further, to reduce the administrative burden on operators, under the *Retirement Villages (Asset Management Plans and Exit Entitlements) Amendment Regulation 2021*, clause 26C(6)-(8) provides for transitional provisions to allow time for operators to develop and review asset management plans. Accordingly, operators will not be required to develop a plan until after 1 July 2021 and the offence provisions will not commence until 1 July 2022.

Retirement Villages Amendment (Exit Entitlement) Regulation 2021

I note the Committee's comment that Schedule 5A of this Regulation may impact a resident's economic right to the payment of their exit entitlement where it has been unreasonably delayed by the operator. As the policy was based on operators "delaying" a sale, it was

equitable to recognise the differences between metropolitan and non-metropolitan property markets.

I note the Committee's comment that clause 26AA may impact on freedom of contract and retrospectivity for residents, although in limited circumstances. The AMP Regulation 2021 clarifies the circumstances in which operators of retirement villages may increase recurrent charges payable by residents and applies a cut-off date, 1 January 2021, addressing retrospectivity issues.

With respect to the particular issue of entry into a residential premises, I agree with the Committee's finding that the operators right of entry is available only under limited circumstances and subject to safeguards. These safeguards require that written notice must be provided to residents at least 24 hours prior to entry – unless otherwise arranged by agreement with the resident.

Thank you again for bringing these matters to my attention. Should you have any further questions please contact Angus Abadee, Director, Policy & Strategy, on (02) 8276 8987.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kevin Anderson', followed by a long horizontal flourish.

Kevin Anderson MP
Minister for Better Regulation and Innovation

Date: 21.6.2021



The Hon. Matt Kean MP
Treasurer
Minister for Energy and Environment

MD21/2820
LAC21/035.05

Mr Dave Layzell MP
Chair
Legislation Review Committee

By email: legislation.review@parliament.nsw.gov.au

Dear Mr Layzell *Dave*

I refer to a letter from the former Chair of the Legislation Review Committee about the Committee's assessment of the National Parks and Wildlife Amendment Regulation 2021. I apologise for the delay in responding.

I note the issues and comments provided by the Committee, which focus on implications of the Regulation for freedom of movement, the ability for a person to have offences and relevant penalties determined by a Court, and the relative size of penalties for offences.

The potential implications for public use and enjoyment of national parks and reserves was considered during the preparation of the Regulation.

The Regulation achieves a balance between supporting sustainable public access, including by vehicle, and ensuring appropriate controls are in place to protect park visitor safety and the environmental values of national parks.

I note that the Committee has carefully considered the issues and, in each case, has observed the proportionate approach applied in the Regulations.

The National Parks and Wildlife Regulation 2019 was further amended by the National Parks and Wildlife Amendment (Assets of Intergenerational Significance) Regulation 2021, which commenced on 23 July 2021. The Regulation provides for managing declared assets, including protection from risks and in response to emergencies such as bushfires, by preparing conservation action plans.

I thank the Committee for bringing this matter to my attention.

Yours sincerely

Matt Kean MP
Treasurer
Minister for Energy and Environment

28.10.21



The Hon. Adam Marshall MP
Minister for Agriculture
Minister for Western New South Wales

OM21/4349
Your Ref: LAC21/035.05

Ms Felicity Wilson MP
Chair, Legislation Review Committee
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Dear Ms Wilson

A handwritten signature in blue ink that reads 'Felicity'.

Thank you for your letter of 5 May 2021, in your capacity as Chair of the Legislation Review Committee, regarding the *Biosecurity Order (Permitted Activities) Amendment (Cattle Tick Carriers) Order 2020*.

Cattle tick is a significant animal health pest in Australia, causing direct production losses as well as being the vector of tick fever, a major cause of death and illness in cattle herds. It is endemic in parts of Queensland, Western Australia and the Northern Territory. NSW is currently a cattle tick free area. However, if cattle tick became endemic in NSW, it is estimated that the cost to the industry would be approximately \$30 million annually.

The Department of Primary Industries (DPI) acknowledges the seriousness of this biosecurity risk entering NSW and considers the regulated measures of notification, movement and treatment conditions on carriers of cattle tick, including horses, are necessary for the control and eradication of cattle tick entering NSW.

Given the potential for the pest to cause significant economic damage to the beef cattle and dairy industries, the NSW Government has established a Cattle Tick Program (the Program). Costing approximately \$4 million per annum, the Program works to keep NSW tick-free through movement controls on animals from tick infested areas, implementing strategies to eradicate outbreaks of ticks and tick fever, and updating industry on developments in cattle tick control.

The Program was developed with industry oversight under the former Cattle Tick Ministerial Advisory Committee. These arrangements worked to ensure that the regulated measures for cattle tick remain proportionate in the management of the biosecurity risk. DPI regularly assesses the appropriateness of the management arrangements for cattle tick, in consultation with land holders, industry and monitoring arrangements in other jurisdictions.

I trust this is of assistance, however, if you require any further information, I have asked Mr Peter Day, Director Compliance & Integrity Systems within DPI, to be available to answer any questions you may have. Mr Day can be contacted on (02) 6391 3100.

Yours sincerely

A handwritten signature in blue ink that reads 'Adam Marshall'.

Adam Marshall
MINISTER