



Legislation Review Committee

Correspondence received in response to the Legislation Review Committee
Digest No. 33 – 7 September 2021



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The Honourable Victor Dominello MP
Minister for Digital
Minister for Customer Service

Our reference: COR-06476-2021
Your reference: LAC21/035.09

Mr David Layzell MP
Chair
Legislative Review Committee
Parliament of New South Wales
By email: legislation.review@parliament.nsw.gov.au

Dear Mr Layzell

Thank you for your correspondence dated 9 September 2021 about the State Insurance Regulatory Authority's (SIRA) power to delegate functions to authorised officers.

Under section 26 of the *State Insurance and Care Governance Act 2015*, the Chief Executive of SIRA may delegate to an authorised person any of the Chief Executive's functions under the Act (other than the power of delegation). Clause 4 of the *State Insurance and Care Governance Regulation 2021* provides that an authorised person includes a statutory officer and/or a Public Service employee within the meaning of the *Government Sector Employment Act 2013*.

The Committee noted that there are no restrictions on the power to delegate, for example qualifications or expertise of the authorised person. The Committee also noted that clarity about who can perform certain functions may be warranted, particularly for significant tasks such as collecting and analysing information on prudential matters related to insurers, and confidential information about individuals and workers compensation or motor accidents.

Where a delegation of a Chief Executive function is granted, the function is delegated to specific roles. The person performing the role has been assessed and has demonstrated the capabilities and expertise to perform the duties and responsibilities required by the role. The functions involving tasks with greater significance are delegated to more senior roles. These delegations are reviewed regularly. The exercise of delegations is also subject to governance and operational policies and procedures.

While some functions are delegated, SIRA's Chief Executive retains significant delegations, including determining the amount to be paid to the funds in the compensation schemes, cancellation of licences, rejection of insurer premium filings, and recovering debt. I am satisfied that SIRA has delegated the Chief Executive's functions appropriately.

I thank you for the opportunity to respond to the issues raised by the Committee.

Yours sincerely

Victor Dominello MP
Minister for Digital
Minister for Customer Service

Date: 20/10/21



The Honourable Kevin Anderson MP
Minister for Better Regulation and Innovation

Our reference: COR-07262-2021
Your reference: LAC21/035.09

Mr David Layzell MP
Chair
Legislation Review Committee
Parliament of New South Wales
By email: legislation.review@parliament.nsw.gov.au

Dear Chair

Thank you for your correspondence on behalf of the Legislation Review Committee regarding Legislation Review Digest No 33/57. I write in response to the Committee's comments in relation to legislative changes in the Better Regulation and Innovation portfolio.

Charitable Fundraising Regulation 2021

As the Committee notes, the *Charitable Fundraising Regulation 2021* introduced enhanced transparency and accountability measures to improve public confidence in the charity sector.

The regulation forms a key part of the NSW Government's response to the 2017 Public Inquiry into the NSW RSL and related entities, which found widespread failures in relation to the governance and transparency of financial activities connected to charitable donations.

Industry stakeholders were consulted extensively throughout the development and implementation of the laws. They have indicated strong support for the laws which enable charities to balance their obligations and increased donor expectations through greater legislative certainty, clarity, and harmonisation.

Fair Trading Amendment (Code of Conduct for Short-term Rental Accommodation Industry) Regulation 2021

The *Fair Trading Amendment (Code of Conduct for Short-term Rental Accommodation Industry) Regulation 2021* (STRA Regulation 2021) prescribes a new revised Code of Conduct for the Short-term Rental Accommodation Industry (the Code). Changes to the Code were required to reflect a delayed commencement of the relevant planning instruments and premises register.

The Code, which was initially declared in December 2020 under the *Fair Trading Amendment (Code of Conduct for Short-term Rental Accommodation Industry) Regulation 2020* (STRA Regulation 2020), applies minimum standards of behaviour and requirements on industry participants. It also creates new disciplinary actions that NSW Fair Trading can take, including issuing a warning or direction, issuing penalty notices, or listing non-compliant participants on an exclusion register.

The Code was developed following extensive industry consultation as part of a larger regulatory framework to mitigate the impacts of short-term rental accommodation (STRA) on communities across NSW.

The Government has committed to reviewing the whole STRA regulatory framework, including the Code, after 12 months of operation. Feedback from the Committee will be considered as part of that process.

Retirement Villages (Asset Management Plans and Exit Entitlements) Amendment Regulation 2021

I note the Committee's comments recognising the amended clause 26AA under the regulation will only apply in certain circumstances. The Committee's comments also recognise that the additional obligation for operators to obtain the written opinion of an auditor or independent qualified quantity surveyor contributes to protecting the rights of occupants and potential occupants of retirement villages.

I trust that this addresses the Committee's concerns.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. Anderson', with a long horizontal flourish extending to the right.

Kevin Anderson MP
Minister for Better Regulation and Innovation

Date: 9.11.2021



The Hon. Rob Stokes MP
Minister for Planning and Public Spaces
Minister for Transport and Roads

IM21/26983

Your ref: LAC21/035.09

Mr Dave Layzell MP
Chair
Legislation Review Committee
Parliament House
Macquarie St
SYDNEY NSW 2000

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

Dear Mr Layzell

Thank you for your correspondence regarding the *Crown Land Management (Plan of Management) Regulation 2021* (Regulation). I have noted the Legislation Review Committee's comments and provide the following response:

The regulation trespasses unduly on personal rights and liberties

The need for public hearings was not a uniform requirement for Crown reserves managed by Crown Land Managers. The exemption aligned these requirements. Under the new Regulation, Councils must still give public notice of a draft Plan of Management (PoM) and make it available for public inspection.

Ministerial consent is required for all PoMs on reserved Crown land before they are adopted by a council. This ensures ongoing lawful use and occupation of the reserve in accordance with the legislation.

The objective of the regulation could have been achieved by alternative and more effective means

There was a need for a timely and efficient regulatory response to ensure that councils can manage reserved or dedicated Crown land beyond 30 June 2021. This was able to be achieved by regulation, which remains subject to Parliamentary oversight, as regulations are tabled in Parliament and subject to disallowance.

Should you have any further questions, you are welcome to contact Ms Liz Moore, Executive Director Strategy, Policy & Transformation, at the Department of Planning, Industry and Environment, on [REDACTED]

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Rob Stokes'.

The Hon. Rob Stokes MP
Minister for Planning and Public Spaces
Minister for Transport and Roads