

Queensland Reconstruction Authority Regulation 2022

Explanatory notes for SL 2022 No. 28

made under the

Queensland Reconstruction Authority Act 2011

General Outline

Short title

Queensland Reconstruction Authority Regulation 2022

Authorising law

Sections 96 and 138 of the *Queensland Reconstruction Authority Act 2011* (QRA Act)

Policy objectives and the reasons for them

The objectives of the *Queensland Reconstruction Authority Regulation 2022* (Regulation) are to:

- authorise the Queensland Reconstruction Authority (QRA) to undertake, pursuant to the powers provided for under the QRA Act, initial stabilisation and removal of the Drift Restaurant Pontoon structure from the Bicentennial Bikeway, and any other works that are considered necessary to effectively and efficiently protect the safety of the public; and
- ensure the protection, rebuilding and recovery of affected communities is effectively and efficiently carried out and is appropriate having regard to the nature of the relevant disaster (Section 10(1)(g) QRA Act).

Achievement of policy objectives

The policy objectives are achieved by:

- authorising the QRA to exercise its powers to undertake reconstruction or development works in order to rebuild disaster-affected areas of the State (Part 7 of the QRA Act);

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the QRA Act to provide for appropriate measures to ensure Queensland and its communities effectively and efficiently recover from the impacts of events; and improve the resilience of communities for potential disaster events.

As DTMR does not hold relevant legislative powers to remove the structure from the Bicentennial Bikeway, it was determined that the most timely course of action is for the QRA to make a regulation under section 96(2) of the QRA Act to remediate the site and remove the present risk of immediate and sudden collapse noted in the structural engineering report of 10 March 2022.

The QRA Act includes powers to, by regulation, declare reconstruction areas and critical infrastructure projects and to direct the relevant authority to undertake works where it is necessary to facilitate, amongst other reasons, the protection, rebuilding and recovery of an affected community.

Section 96 of the QRA Act allows the Authority to undertake works. This section applies if the Minister is satisfied that, for the effective and efficient carrying out of the Authority's reconstruction function, it is necessary or desirable for the particular works to be undertaken by the Authority. A regulation may direct the Authority to undertake the works.

The works require entry to the land, and it is proposed that this is provided under section 105 Application of provisions of the SDPWO Act about entry to land, that would enable a person authorised to undertake authorised works to exercise a power stated in the *State Development Act*, section 136(1)(a) to (f) in relation to land. Specifically, this would utilise subsections (a)-(e).

Inconsistency with policy objectives of other legislation law

The Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The Regulation to authorise the QRA to exercise its powers under Section 96 of the QRA Act is the only identified way to meet the policy objectives in an efficient and timely manner.

Benefits and costs of implementation

The Regulation ensures that the rebuilding and recovery of the Brisbane area from the recent flooding event is able to be effectively and efficiently carried out, and reflects the objectives and intent of the QRA Act. The Regulation will ensure:

- necessary works are able to be undertaken to stabilise and then remove the Drift Restaurant Pontoon and mitigate the serious public safety risks outlined in the Structural Engineering Report; and

- public safety remains as the highest priority and the removal of the Drift Restaurant Pontoon is the only way to achieve this.

Consistency with fundamental legislative principles

The Regulation is in accordance with section 4 (3) of the *Legislative Standards Act 1992*, in making the Regulation, sufficient regard has been had to the rights and liberties of individuals, including:

- the regulation is consistent with the principles of natural justice, as the Lessee has been given an appropriate opportunity to remediate the issue prior to the consideration of emergency action by the State; and
- the regulation allows the delegation of administrative power only in this particular case, where urgent rectification is required to ensure the safety of the public.

In making the regulation, sufficient regard has been had to the institution of Parliament in accordance with section 4(5) of the *Legislative Standards Act 1992* as the Regulation:

- is within the power of the QRA Act, which allows for the subordinate legislation to be made;
- is consistent with the policy objectives of the QRA Act; and
- allows the sub-delegation of a power delegated by an Act only in appropriate cases.

Consultation

The lessee was provided with the structural engineering report dated 10 March 2022 regarding the structural assessment of the Drift Floating Restaurant, and letters requesting the lessee provide to the CEO of the QRA details of any steps and/or solutions that they had taken, or would immediately be taking, to address the concerns and recommendations set out in the report. The letters advised the lessee that if a satisfactory response was not received, that responsible State agencies may decide to take emergency action to address the risks outlined in the Report.

A self-assessment by QRA determined that further regulatory impact analysis in relation to *Queensland Reconstruction Authority Regulation 2022* is not required as the proposal is excluded under category (g) Regulatory proposals that are of a machinery nature as no substantive policy change has been made, and *State Development and Public Works Organisation Act 1971* provides for the delegation of powers.