



LEGISLATIVE COUNCIL

DELEGATED LEGISLATION COMMITTEE

Delegated Legislation Monitor No. 12 of 2025

14 October 2025



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Delegated Legislation Committee

Delegated Legislation Monitor No. 12 of 2025

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New South Wales Parliament Legislative Council Delegated Legislation Committee

Delegated Legislation Monitor No. 12 of 2025

'October 2025'

Chair: Hon Natasha Maclaren-Jones MLC

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Committee details

Committee members

Hon Natasha Maclaren-Jones MLC	Liberal Party	<i>Chair</i>
Ms Abigail Boyd MLC	The Greens	<i>Deputy Chair</i>
Hon Susan Carter MLC	Liberal Party	
Hon Greg Donnelly MLC	Australian Labor Party	
Hon Dr Sarah Kaine MLC	Australian Labor Party	
Hon Tania Mihailuk MLC	Independent	
Hon Cameron Murphy MLC	Australian Labor Party	
Hon Bob Nanva MLC	Australian Labor Party	

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Hon Natasha Maclaren-Jones MLC
Committee Chair

Secretariat

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Madeleine Dowd, Director

Recommendations

Recommendation 1

4

That:

- (a) the Chair of the Delegated Legislation Committee give notice of motion in the House, on or before 11 November 2025, that under the *Interpretation Act 1987*, section 41 the Legislative Council disallows the *National Parks and Wildlife Act 1974—Erratum*, as published in the Government Gazette on 18 July 2025,
- (b) the Chair of the Delegated Legislation Committee move the notice of motion for disallowance within the six sittings day that the notice remains listed on the Notice Paper as business of the House, within the meaning of Standing Order 42(2), and
- (c) the Minister for the Environment correct the National Parks and Wildlife Act 1974, Proclamation published in the Government Gazette on 4 April 1996, on pages 1651 and 1652 by appropriate means, that this undertaking be published on the Committee’s webpage, and that the entry be updated when the relevant undertaking has been implemented.

Overview of the Delegated Legislation Monitor

Operation of the Committee's technical scrutiny function

- 1.1 The Regulation Committee was first established on a trial basis on 23 November 2017 in the 56th Parliament.¹ The Committee was reappointed in the 57th Parliament on 8 May 2019 and in the 58th Parliament on 10 May 2023.²
- 1.2 On 19 October 2023, the Legislative Council amended the resolution of the House establishing the Regulation Committee to consider all instruments of a legislative nature that are subject to disallowance while they are so subject, against the scrutiny principles set out in Legislation Review Act 1987, section 9(1)(b) on a 12-month trial basis from the first sitting day in 2024.³
- 1.3 On 12 February 2025, the Legislative Council resolved to amend the resolution establishing the Regulation Committee to permanently expand the Committee to include the technical review of delegated legislation against the scrutiny principles set out in the *Legislation Review Act 1987*, section 9(1)(b). The House also resolved to change the name of the Regulation Committee to the Delegated Legislation Committee to more accurately reflect the Committee's role and remit.
- 1.4 Paragraph (3) of the amended resolution requires that:
- The committee is:
- (a) to consider all instruments of a legislative nature that are subject to disallowance while they are so subject, against the scrutiny principles set out in section 9(1)(b) of the *Legislation Review Act 1987*.
 - (b) may report on such instruments as it thinks necessary, including setting out its opinion that an instrument or portion of an instrument ought to be disallowed and the grounds on which it has formed that opinion, and
 - (c) may consider and report on an instrument after it has ceased to be subject to disallowance if the committee resolves to do so while the instrument is subject to disallowance."
- 1.5 In accordance with paragraph (3), the Committee considers any instrument that is disallowable, during the period within which it may be disallowed. This includes 'statutory rules', within the meaning of the *Interpretation Act 1987*, that are disallowable by virtue of section 41 of that Act. It also includes other instruments to which section 41 applies indirectly, i.e., where the Act under which an instrument is made provides it is to be treated as if it were a statutory rule for the purposes of section 41.
- 1.6 A list of instruments that are subject to disallowance is published on the Parliament's website on the first Tuesday of each month and each Tuesday when the Legislative Council is sitting.

¹ *Minutes*, NSW Legislative Council, 23 November 2017, pp 2327-2329.

² *Minutes*, NSW Legislative Council, 10 May 2023, pp 37-39.

³ *Minutes*, NSW Legislative Council, 19 October 2023, pp 639-640.

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- 1.7** With regard to the scrutiny principles the Committee is required to assess instruments against, the *Legislation Review Act 1987*, section 9(1)(b) sets out eight grounds of scrutiny as follows:
- (i) that the regulation trespasses unduly on personal rights and liberties
 - (ii) that the regulation may have an adverse impact on the business community
 - (iii) that the regulation may not have been within the general objects of the legislation under which it was made
 - (iv) that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made
 - (v) that the objective of the regulation could have been achieved by alternative and more effective means
 - (vi) that the regulation duplicates, overlaps or conflicts with any other regulation or Act
 - (vii) that the form or intention of the regulation calls for elucidation, or
 - (viii) that any of the requirements of sections 4, 5 and 6 of the *Subordinate Legislation Act 1989*, or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation.
- 1.8** The Committee has published guidelines on its webpage that provide an overview of its intended approach to its technical scrutiny function and specific guidance in respect of each of these eight grounds.
- 1.9** Each sitting week, the Committee publishes a Delegated Legislation Monitor setting out its progress and conclusions relating to the technical scrutiny of disallowable instruments. The monitor sets out matters where the Committee has sought further information from the responsible minister, department or other body, the Committee's conclusions in relation to instruments where concerns have been raised and a list of those instruments the Committee has reviewed which have not raised scrutiny concerns.
- 1.10** In addition to the regular publication of monitors the Committee may, from time to time and under paragraph (2) of the resolution establishing it, inquire into and report on:
- (a) any instrument of a legislative nature regardless of its form, including the policy or substantive content of the instrument,
 - (b) draft delegated legislation, and
 - (c) trends or issues in relation to delegated legislation.

Conclusions and structure of Monitor No. 12 of 2025

- 1.11** For this monitor, the Committee has reviewed 14 instruments published on the NSW legislation website or in the NSW Government Gazette between 27 June 2025 and 22 August 2025. The Committee has:
- concluded its scrutiny of two instruments, as set out in Chapter 1,
 - concluded that six instruments raise no scrutiny concerns, as set out in Chapter 2, and
 - raised scrutiny concerns in relation to six instruments, for consideration in a future monitor, as set out in Chapter 3.
- 1.12** A further 52 instruments notified between 15 August 2025 and 3 October 2025 remain under review, for consideration in a future monitor.

Chapter 1 Concluded scrutiny matters

This chapter details the Committee's concluding comments on statutory instruments which raise scrutiny concerns relating to the grounds set out in the *Legislation Review Act 1987*, section 9(1)(b).

National Parks and Wildlife Act 1974 —Erratum

Government Gazette reference	NSWGG-2025-291-2
Published in the Government Gazette	18/07/2025
Tabled in Legislative Council	05/08/2025
Last date of notice for disallowance motion	11/11/2025

Overview

- 1.1 The [National Parks and Wildlife Act 1974 —Erratum](#) (the Erratum) amends the *National Parks and Wildlife Act 1974*, Proclamation published in the Government Gazette on 4 April 1996 on pages [1651](#) and [1652](#), by replacing the description of land for Tarawi Nature Reserve, reserved by the Governor of the State of New South Wales.
- 1.2 The Erratum commenced on publication in the Government Gazette on 18 July 2025.
- 1.3 The Committee raised scrutiny concerns under the *Legislation Review Act 1987*, section 9(1)(b)(vii) in relation to the Erratum by letter sent to the Minister for the Environment, the Honourable Penny Sharpe MLC, on 15 August 2025. The Minister for the Environment responded on 2 September 2025. The Committee sent further correspondence to the Minister on 5 September 2025. The Minister provided a further response on 19 September 2025. The Committee sent further correspondence on 13 October 2025 noting that a response was not required. All correspondence is included in Appendix 2.
- 1.4 The Committee's initial concern with the Erratum was that it purported to amend a proclamation originally published almost 30 years ago. In the course of the Committee's correspondence with the Minister, it also became apparent that the error the Erratum was intended to fix could not be appropriately fixed by erratum. For that reason, the Committee recommends that the Erratum be disallowed.

Scrutiny concerns

The objective of the regulation could have been achieved by alternative and more effective means, and the form or intention of the regulation calls for elucidation⁴

1.5 Under these grounds, the Committee is generally concerned with:

- whether the legislative 'means' of a regulation are the most appropriate legislative means to achieve its objectives, and
- clarity and certainty in delegated legislation and whether any matters require clarification.

1.6 The Committee considers that errata are generally used to correct minor errors and are given effect when read together with the original instrument. The Committee's original concern related to the length of time that had passed since the publication of the original notice of reservation of land in the Gazette (being almost 30 years). The Committee sought clarification from the Minister regarding the basis of the power to make this amendment in the form of an erratum.

1.7 In response to the Committee, the Minister stated the following:

While I am advised it is unlikely limitations apply to the timeframe within which an erratum may be published, through investigating your enquiry the National Parks and Wildlife Service (NPWS) has identified that an erratum may not be the appropriate mechanism to resolve the description of Tarawi Nature Reserve.

I have asked NPWS to seek advice on other mechanisms which may more appropriately correct the description of Tarawi Nature Reserve.

1.8 In response to the Minister, noting that advice was being sought from NPWS, the Committee requested the following additional information:

- (a) What are the reasons that it is 'unlikely limitations apply to the timeframe within which an erratum may be published'?
- (b) Why is it that an erratum may not be the appropriate mechanism to resolve the description of Tarawi Nature Reserve?
- (c) What is the appropriate mechanism to resolve the description of Tarawi Nature Reserve, and why?

1.9 In response to the Committee's further request, the Minister advised that:

- (a) The Department is not aware of any law, policy or other guidance materials that specify a time limit for publishing an erratum.

⁴ The Committee's original letter to the Minister stated that the Committee had scrutiny concerns under the *Legislation Review Act 1987*, section 9(1)(b)(vii) (that the form or intention of the regulation calls for elucidation). Based on the information provided by the Minister, the Committee's primary concern is now under the *Legislation Review Act 1987*, section 9(1)(b)(v) (that the objective of the regulation could have been achieved by alternative and more effective means).

- (b) The error being corrected by the Erratum was in the description of the land to be reserved as part of Tarawi Nature Reserve. Unbeknownst to the National Parks and Wildlife Service (NPWS), the 1996 gazette notice included land that had been dedicated as public roads in 1982 and 1983 (Western Division Roads WDR 142 and WDR 151). There was no way for NPWS to know this because, at time of reservation, the titles for the land or its associated title diagrams, had not been updated to reflect that the roads had been dedicated as public roads. If the titles had been accurately updated to reflect this, the roads would have been excluded from the reservation, as is the usual approach.

I have been advised that after further consideration of the above information, the Erratum may not have been the best mechanism for correcting the error in the description of land, because the error was in the information that supported the decision to reserve the land, rather than in the gazette notice itself.

- (c) I am advised that, in this case, a more appropriate mechanism to correct the error would have been to revoke the reservation over the two roads therefore removing the roads from Tarawi Nature Reserve. Revocation of the reservation requires an Act of Parliament. If the Erratum is disallowed, this is the intended approach.

I am also advised that NPWS is preparing a set of internal guidelines to inform the preparation of future errata.

Committee conclusion

- 1.10** The Committee appreciates the Minister's considered engagement with the identified scrutiny concerns, particularly the seeking of advice from the NPWS to address these concerns.
- 1.11** As noted in paragraph 1.9, the Committee is of the view that errata are generally used to correct minor errors and are given effect when read together with the original instrument. In the limited case law that the Committee is aware of on the use of errata, the Courts appear to treat errata as an exercise of an implied power to both amend and make, and in turn, an erratum is to be read together with the original notice to determine the validity of that notice.⁵
- 1.12** In this case, the implied power arguably cannot be exercised in the same way because, as the Minister advised, the error existed in the decision-making stage and was not reflected in the notice itself. Therefore, reading the Erratum and original notice together cannot rectify that error. The Committee's view is, broadly, that the use of errata is more appropriate to correct minor errors contained in a notice, where the notice does not accurately reflect the decision that has been made. However, if the error was made in the decision-making process (for example, the decision was made on the basis of incorrect information or inappropriate processes), it is not appropriate to purport to fix that error by erratum. In this case, a more substantive remedy will be needed.
- 1.13** In relation to revocation under the Act, section 52, the Committee agrees with the Minister that revoking the original notice appears to be a more appropriate and substantive mechanism to rectify an error of this nature. The Committee notes that the power to revoke under section 52

⁵ See, for example, [Olofsson v Minister for Primary Industries \(No 2\) \[2011\] NSWLEC 181](#), [113], [119] and [127].

is arguably the only available avenue to be taken, as no other provisions appear to exist in the Act, or other related material, that provide for an amendment to an existing notice or revocation. Additionally, the power to revoke a notice of reservation of land under the Act, section 52, which can only take place by an Act of Parliament, could potentially weigh against interpreting the power to include the ability to alter an existing notice by methods not contained in the Act, including delegated legislation and errata.

- 1.14** The Committee also noted that the Minister intends to revoke the reservation over the two roads therefore removing the roads from Tarawi Nature Reserve if the Erratum is disallowed. The Committee will treat this as an undertaking to correct the original notice by appropriate means if the Erratum is disallowed.
- 1.15** Given the Minister's advice to the Committee about the nature of the original problem with the notice, the Committee concludes that the Erratum was not the appropriate means to address that problem. The Committee therefore recommends that on or before 11 November 2025, being the last date for a notice of motion to be given to disallow this instrument, the Chair give notice of motion in the House that the Legislative Council disallow the *National Parks and Wildlife Act 1974—Erratum*, under the *Interpretation Act 1987*, section 41.
- 1.16** The Committee further recommends that the Minister take appropriate action to correct the problem with the original notice that has been illuminated in the Minister's correspondence with the Committee, whether that be by the introduction of legislation in either House of Parliament in accordance with the *National Parks and Wildlife Act 1974*, section 52, to revoke the *National Parks and Wildlife Act 1974, Proclamation* published in the Government Gazette on 4 April 1996, on pages 1651 and 1652, or other means (other than an erratum) that may be identified by the Minister after further consideration. This undertaking will be published on the Committee's webpage, and the entry will be updated when the relevant undertaking has been implemented.

Recommendation 1

That:

- (a) the Chair of the Delegated Legislation Committee give notice of motion in the House, on or before 11 November 2025, that under the *Interpretation Act 1987*, section 41 the Legislative Council disallows the *National Parks and Wildlife Act 1974—Erratum*, as published in the Government Gazette on 18 July 2025,
 - (b) the Chair of the Delegated Legislation Committee move the notice of motion for disallowance within the six sittings day that the notice remains listed on the Notice Paper as business of the House, within the meaning of Standing Order 42(2), and
 - (c) the Minister for the Environment correct the National Parks and Wildlife Act 1974, Proclamation published in the Government Gazette on 4 April 1996, on pages 1651 and 1652 by appropriate means, that this undertaking be published on the Committee's webpage, and that the entry be updated when the relevant undertaking has been implemented.
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Summary Offences Regulation 2025

SI number	2025 No 394
Published on Legislation Website	08/08/2025
Tabled in Legislative Council	09/09/1995
Last date of notice for disallowance motion	18/11/2025

Overview

- 1.17** The [Summary Offences Regulation 2020](#) (the regulation) repeals and remakes, without substantial changes, the *Summary Offences Regulation 2020*, which would otherwise have been repealed on 1 September 2025, by the *Subordinate Legislation Act 1989*, section 10(2).
- 1.18** The regulation is made under various provisions of the *Summary Offences Act 1988* (the Act) signposted in the heading or body of each section of the regulation. The regulation commenced on 8 August 2025.
- 1.19** The objects of the regulation, as relevant to the committee, include procedures relating to the seizure of liquor from a minor and the keeping and return of seized liquor.
- 1.20** The Committee raised scrutiny concerns under the *Legislation Review Act 1987*, section 9(1)(b)(vii), on the basis that the form or intention of the regulation calls for elucidation. These scrutiny concerns were conveyed to the Attorney General, the Hon Michael Daley MP, on 28 August 2025. The Attorney General responded on 18 September 2025. This correspondence is included in Appendix 2.

Scrutiny concerns

That the form or intention of the regulation calls for elucidation

- 1.21** Under this ground, the Committee is generally concerned with clarity and certainty in delegated legislation and whether any matters require clarification.
- 1.22** The Act, section 11(2) provides that:
- (2) A police officer may seize liquor in the possession of a person in a public place, if the officer suspects, on ***reasonable grounds***, that--
 - (a) the person is under the age of 18 years, and
 - (b) the person is not under the supervision of a responsible adult, and
 - (c) the person does not have a reasonable excuse for possessing the liquor.

- 1.23 The Act, section 11(6)(a) allows for the regulations to make provision for or with respect to 'the procedure to be followed as regards the seizure of liquor under this section and the procedure to be followed after its seizure'.
- 1.24 The *Summary Offences Regulation 2025*, section 4 requires a police officer seizing liquor from a person under the Act, section 11(2) to give reasons for seizing the liquor. The provision states:
- (2) A police officer seizing liquor from a person under the Act, section 11(2) must tell the person that the officer suspects, **on reasonable grounds**, the person—
 - (a) is less than 18 years of age, and
 - (b) is not under the supervision of a responsible adult, and
 - (c) does not have a reasonable excuse for possessing the liquor.
- 1.25 The Committee noted that the police officer's suspicion of the matters in paragraphs (a)-(c) must be based on reasonable grounds regardless of whether the words 'on reasonable grounds' are included in the regulation, section 4 because this requirement is already contained in the Act, section 11(2).
- 1.26 The Committee therefore sought confirmation from the Attorney General as to the purpose of including the words 'on reasonable grounds' in the regulation, section 4. In particular, the Committee queried whether these words have been included for the purpose of requiring the police officer to:
- tell the person, in addition to the matters in paragraphs (a)-(c), the basis for the police officer's suspicion (for example, by pointing out specifics of the person's appearance or demeanour), or
 - specifically use the words 'I suspect **on reasonable grounds** that...' when telling the person the information specified in the regulation, section 4(a)-(c).
- 1.27 The Committee suggested to the Attorney General that, if either of the above circumstances is to be the case, an amendment to the regulation, section 4 should be made in order to make this clear. However, if the inclusion of the words 'on reasonable grounds' is not intended to add to the requirement already included in the Act, section 11(2), the Committee suggests that section 4 be amended to remove these words to avoid confusion. The Committee also noted that the equivalent provision in the *Summary Offences Regulation 2020* did not include these words.
- 1.28 In response to the Committee's concerns, the Attorney General advised that:
- As the Committee notes, section 11(2) of the Summary Offences Act 1988 (the Act) provides that a police officer may seize liquor in the possession of a person in a public place if the police officer suspects on reasonable grounds that the person is under the age of 18, is not under the supervision of a responsible adult, and does not have a reasonable excuse for possessing the liquor.
- Section 4 of the Summary Offences Regulation 2025 (the Regulation) requires a police officer to give a reason for the seizure. This provision operates to ensure the police officer explains to the person from whom the liquor is being seized the suspicions that have given rise to the use of the power to seize the liquor. Section 4 of the Regulation refers to 'reasonable grounds' to ensure consistency with section 11(2) of the Act, which provides the power to seize the liquor. What a police officer actually says pursuant to

section 4 of the Regulation will depend on the specific circumstances of a particular matter. It is important to note that the Regulation was drafted in consultation with the NSW Police Force (NSWPF), and the NSWPF did not raise any concerns with the drafting of section 4.

Committee conclusion

- 1.29** The Committee appreciates the Attorney General's engagement with the scrutiny concerns raised by the Committee.
- 1.30** The Committee acknowledges that the inclusion of 'on reasonable grounds' in the regulation, section 4 was intended to align the provision with the Act. Given the confirmation by the Attorney General that its inclusion was not intended to supplement the existing requirement in the Act, section 11(2), the Committee reiterates its position that duplication of the obligation in the regulation may therefore be unnecessary. For this reason, the Committee maintains its suggestion that the regulation, section 4, be amended to omit the words 'on reasonable grounds' in order to avoid potential confusion. However, the Committee also notes that any potential confusion caused by the inclusion of these words would likely be to the detriment of NSW Police rather than an individual, and the Attorney General has advised that NSW Police are comfortable with the drafting of the provision.
- 1.31** Therefore, whilst the Committee maintains its view, as set out above, the Committee has no further comments or concerns. Therefore, the Committee concludes its scrutiny of the *Summary Offences Regulation 2025*.

Chapter 2 Instruments with no scrutiny concerns

The Committee has reviewed the following instruments and raised no scrutiny concerns:

Instrument	SI number/ GG reference
Motor Accident Guidelines Version 10	2025 No 341
Food Regulation 2025	2025 No 429
Health Practitioner Regulation (New South Wales) Regulation 2025	2025 No 430
Property (Relationships) Regulation 2025	2025 No 433
Protection of the Environment Operations (Waste) Amendment (Waste Facility Contributions) Regulation 2025	2025 No 435
Motor Accidents (Lifetime Care and Support) Act 2006—Lifetime Care and Support Guidelines	NSWGG-2025-259-8

Chapter 3 Instruments raising scrutiny concerns

The Committee has identified scrutiny concerns, and is engaging with the responsible minister or body, in relation to the instruments set out in the table below. The Committee will set out its conclusion on those scrutiny concerns in a future monitor, having regard to that engagement.

Responsible minister or body	Instrument	SI number / GG reference
Minister for the Environment	National Parks and Wildlife Amendment Regulation 2025	2025 No 329
Minister for Police and Counter-terrorism	Law Enforcement (Controlled Operations) Regulation 2025	2025 No 431
Minister for Mental Health	Mental Health Regulation 2025	2025 No 432
Minister for Better Regulation and Fair Trading	Retirement Villages Regulation 2025	2025 No 436
Minister for Water	Sydney Water Regulation 2025	2025 No 437
Minister for Water	Water Management (Water Supply Authorities) Regulation 2025	2025 No 439

Appendix 1 Minutes

Draft minutes no. 29

Monday 13 October 2025

Delegated Legislation Committee

Room 1136, Parliament House, Sydney, 12.32 pm

1. Members present

Mrs Maclaren-Jones, *Chair*

Ms Boyd, *Deputy Chair (via teleconference)*

Mrs Carter

Mr Donnelly

Dr Kaane

Ms Mihailuk (*via teleconference*)

Mr Murphy

Mr Nanva (*via teleconference*)

2. Previous minutes

Resolved, on the motion of Mr Murphy: That draft minutes no. 28 be confirmed.

3. Correspondence

The Committee noted the following items of correspondence:

Sent:

- 16 September 2025 – Letter from Chair to Attorney General, the Hon Michael Daley MP, regarding scrutiny concerns concluded in Delegated Legislation Monitor No. 11 of 2025
- 16 September 2025 – Letter from Chair to Minister for Natural Resources, the Hon Courtney Houssos MLC, regarding scrutiny concerns concluded in Delegated Legislation Monitor No. 11 of 2025
- 25 September 2025 – Letter from Chair to Minister for Police and Counter-terrorism, the Hon Yasmin Catley MP, regarding scrutiny concerns identified in the Law Enforcement (Controlled Operations) Regulation 2025
- 26 September 2025 – Letter from Chair to Minister for Mental Health, the Hon Rose Jackson MLC, regarding scrutiny concerns identified in the *Mental Health Regulation 2025*
- 29 September 2025 – Letter from Chair to Minister for Water, the Hon Rose Jackson MLC, regarding scrutiny concerns identified in the *Sydney Water Regulation 2025*
- 1 October 2025 – Letter from Chair to Minister for Better Regulation and Fair Trading, the Hon Anoulack Chanthivong MP, regarding scrutiny concerns identified in the *Retirement Villages Regulation 2025*
- 1 October 2025 – Letter from Chair to Minister for Water, the Hon Rose Jackson MLC, regarding scrutiny concerns identified in the *Water Management (Water Supply Authorities) Regulation 2025*

Received:

- 11 September 2025 – Letter from Minister for the Environment, the Hon Penny Sharpe MLC, regarding scrutiny concerns identified in the *National Parks and Wildlife Amendment Regulation 2025*
- 18 September 2025 – Letter from Attorney General, the Hon Michael Daley MP, regarding scrutiny concerns identified in the *Summary Offences Regulation 2025*
- 19 September 2024 – Letter from Minister for the Environment, the Hon Penny Sharpe MLC, regarding *National Parks and Wildlife Act 1974 – Erratum*.

4. Consideration of Chair's draft report

The Chair submitted her draft report entitled Delegated Legislation Monitor No. 12 of 2025, which having been previously circulated, was taken as being read.

Resolved, on the motion of Mrs Carter: That:

The draft report be the report of the Committee and that the Committee present the report to the House;

The Committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

The Committee secretariat be authorised to update the report where necessary to reflect changes to Committee conclusions or new Committee conclusions resolved by the Committee;

Correspondence sent to, and received from, relevant ministers or bodies that is referred to in the Monitor, will be published as an appendix to the Monitor;

The report be tabled in the House on Tuesday 14 October 2025.

Subsequent to the report being adopted, the Committee noted that in accordance with Recommendation 1, the Chair would proceed to give notice of motion in the House, on or before 11 November 2025, that under the *Interpretation Act 1987*, section 41 the Legislative Council disallows the *National Parks and Wildlife Act 1974—Erratum*, as published in the Government Gazette on 18 July 2025.

6. Correspondence to the Minister for the Environment relating to the National Parks and Wildlife Act 1974—Erratum and Delegated Legislation Monitor No. 12 of 2025

The Committee considered draft correspondence proposed to be sent to the Minister for the Environment before the tabling of the Monitor on 14 October 2025, advising the Minister that the Committee will include a recommendation that the *National Parks and Wildlife Act 1974—Erratum* be disallowed in that Monitor.

Resolved, on the motion of Mrs Carter: That the Chair's draft correspondence relating to the recommended disallowance of the *National Parks and Wildlife Act 1974 – Erratum* be sent to the Minister for the Environment on Monday 13 October 2025, ahead of the tabling of Delegated Legislation Monitor No. 12 of 2025 in the House on 14 October 2025.

7. Legislative Reform Community of Practice

Dr Rock updated the Committee on her presentation at the Legislative Reform Community of Practice, NSW Department of Climate Change, Energy, the Environment and Water.

The Committee discussed other potential educational opportunities where the committee could similarly engage with other bodies, particularly those that draft their own delegated legislation, to provide insight into the Committee's technical scrutiny function.

Resolved, on the motion of Mrs Carter: That the Committee secretariat engage with the Legal Profession Admissions Board, the Supreme Court and the District Court to offer a presentation on the Committee's technical scrutiny function.

8. Adjournment

The Committee adjourned at 12.46 pm.

9. Next Meeting

Monday 20 October 2025, 12.30 pm, Room 1136 (consideration of the Committee report entitled 'Delegated Legislation Monitor No. 12 of 2025').

Madeleine Dowd
Committee Clerk

Appendix 2 Correspondence

Appendix 2 contains the following items of correspondence sent to, and received from, ministers or bodies regarding instruments referred to in this monitor:

- Sent 15 August 2025 – Letter from Chair to Minister for the Environment, the Hon Penny Sharpe MLC, regarding the *National Parks and Wildlife Act 1974—Erratum* (NSWGG-2025-291-2)
- Sent 28 August 2025 – Letter from Chair to Attorney General, the Hon Michael Daley MP, regarding the *Summary Offences Regulation 2025*
- Sent 5 September 2025 – Follow up letter from Chair to Minister for the Environment, the Hon Penny Sharpe MLC, regarding the *National Parks and Wildlife Act 1974—Erratum* (NSWGG-2025-291-2)
- Sent 13 October 2025 – Further follow up letter from Chair to Minister for the Environment, the Hon Penny Sharpe MLC, regarding the *National Parks and Wildlife Act 1974—Erratum* (NSWGG-2025-291-2)
- Received 2 September 2025 – Letter from Follow up letter from Minister for the Environment, the Hon Penny Sharpe MLC, regarding *National Parks and Wildlife Act 1974—Erratum* (NSWGG-2025-291-2)
- Received 18 September 2025 – Letter from Attorney General, the Hon Michael Daley MP, regarding the *Summary Offences Regulation 2025*
- Received 19 September 2024 – Follow up letter from Minister for the Environment, the Hon Penny Sharpe MLC, regarding *National Parks and Wildlife Act 1974—Erratum* (NSWGG-2025-291-2)



LEGISLATIVE COUNCIL

DELEGATED LEGISLATION COMMITTEE

15 August 2025

The Hon Penny Sharpe, MLC
Minister for Climate Change
Minister for Energy
Minister for the Environment
Minister for Heritage

D25/046936

By email: office@sharpe.minister.nsw.gov.au

Dear Minister

National Parks and Wildlife Act 1974—Erratum (NSWGG-2025-291-2)

As you are aware, on 19 October 2023 the Legislative Council adopted a resolution expanding the functions of the Regulation Committee to incorporate systematic review of delegated legislation against the scrutiny principles set out in the *Legislation Review Act 1987*, section 9(1)(b). On 12 February 2025, the Legislative Council resolved to further amend the resolution establishing the Committee to permanently expand the functions of the Committee to include the technical review of delegated legislation against the aforementioned scrutiny principles, and to change the name of the Committee.

The Committee is now required to review all statutory rules and other instruments that are subject to disallowance while they are so subject and has reviewed the following instrument, notice of the making of which is to be tabled in Parliament on 5 August 2025:

- *National Parks and Wildlife Act 1974—Erratum (NSWGG-2025-291-2)*

The Committee has identified issues under the *Legislation Review Act 1987*, section 9(1)(b)(vii) on the basis that the form or intention of the regulation calls for elucidation. I am writing to you as the responsible minister to seek clarification on the issues outlined below.

The Committee will consider your response and publish its conclusions regarding the instrument in a future Delegated Legislation Monitor. Consistent with its establishing resolution, the Committee may, if it has outstanding concerns, draw the instrument to the attention of the House or recommend to the House that the instrument, or part of the instrument, be disallowed. In certain circumstances, the Committee may seek further clarification.

Further information about the Committee's work practices and the application of the scrutiny principles is available in the *Guidelines for the operation of the Delegated Legislation Committee's technical scrutiny function*, on the [NSW Parliament website](https://www.parliament.nsw.gov.au).

Scrutiny concerns

	Provision	Issue
1	Erratum	The <i>National Parks and Wildlife Act 1974—Erratum</i> (NSWGG-2025-291-2) amends the <i>National Parks and Wildlife Act 1974, Proclamation</i> published in the New South Wales Government Gazette on 4 April 1996 on pages 1651 and 1652, by replacing the description of land for Tarawi Nature Reserve reserved by the Governor of the State of New South Wales. The Committee acknowledges that errata are generally used to correct minor errors and are read together with the original notice in determining validity. However, given the length of the time that has passed since the publication of the original notice, being almost 30 years, the Committee would appreciate clarification regarding the basis of a power to issue the erratum at this point in time. The Committee also suggests that it would be helpful for ease of reference in similar situations where there is an extensive length of time between the publication of an erratum and the original notice, which is published in historic versions of the Gazette, for the original notice to be attached to the erratum.

Please provide a response to the issue identified as no 1 by **29 August 2025**, noting a copy of your return correspondence will be annexed to a future Delegated Legislation Monitor.

If you have any questions about this correspondence, please contact Madeleine Dowd, Director – Delegated Legislation Committee, on 9230 3050 or dlc@parliament.nsw.gov.au.

Kind regards

The Hon Natasha Maclaren-Jones MLC
Committee Chair



LEGISLATIVE COUNCIL

DELEGATED LEGISLATION COMMITTEE

28 August 2025

The Hon Michael Daley MP
Attorney General

D25/049666

By email: office@daley.minister.nsw.gov.au

Dear Attorney General

Summary Offences Regulation 2025

As you are aware, on 19 October 2023 the Legislative Council adopted a resolution expanding the functions of the Regulation Committee to incorporate systematic review of delegated legislation against the scrutiny principles set out in the *Legislation Review Act 1987*, section 9(1)(b). On 12 February 2025, the Legislative Council resolved to further amend the resolution establishing the Committee to permanently expand the functions of the Committee to include the technical review of delegated legislation against the aforementioned scrutiny principles, and to change the name of the Committee.

The Committee is now required to review all statutory rules and other instruments that are subject to disallowance while they are so subject and has reviewed the following instrument, notice of the making of which is to be tabled in Parliament on 9 September 2025:

1. Summary Offences Regulation 2025

The Committee has identified issues under the *Legislation Review Act 1987*, section 9(1)(b)(vii), on the basis that the form or intention of the regulation calls for elucidation. I am writing to you as the responsible minister to seek clarification on the issues outlined below.

The Committee will consider your response and publish its conclusions regarding the instrument in a future Delegated Legislation Monitor. Consistent with its establishing resolution, the Committee may, if it has outstanding concerns, draw the instrument to the attention of the House or recommend to the House that the instrument, or part of the instrument, be disallowed. In certain circumstances, the Committee may seek further clarification.

Further information about the Committee's work practices and the application of the scrutiny principles is available in the *Guidelines for the operation of the Delegated Legislation Committee's technical scrutiny function*, on the [NSW Parliament website](https://www.parliament.nsw.gov.au).

Scrutiny concerns

	Provision	Issue
1	Section 4	The <i>Summary Offences Act 1988</i>, section 11(2) provides that: (2) A police officer may seize liquor in the possession of a person in a public place, if the officer suspects, on <i>reasonable grounds</i>, that-- (a) the person is under the age of 18 years, and (b) the person is not under the supervision of a responsible adult, and (c) the person does not have a reasonable excuse for possessing the liquor. Section 11(6)(a) allows for the regulations to make provision for or with respect to 'the procedure to be followed as regards the seizure of liquor under this section and the procedure to be followed after its seizure'. The <i>Summary Offences Regulation 2025</i>, section 4 requires a police officer seizing liquor from a person under the Act, section 11(2) to give reasons for seizing the liquor. The provision states: A police officer seizing liquor from a person under the Act, section 11(2) must tell the person that the officer suspects, <i>on reasonable grounds</i>, the person— (a) is less than 18 years of age, and (b) is not under the supervision of a responsible adult, and (c) does not have a reasonable excuse for possessing the liquor. The Committee notes that the police officer's suspicion of the matters in paragraphs (a)-(c) must be based on reasonable grounds regardless of whether the words 'on reasonable grounds' are included in the regulation, section 4 because this requirement is already contained in the Act, section 11(2). The Committee therefore seeks confirmation of the purpose of including the words 'on reasonable grounds' in the regulation, section 4. In particular, the Committee queries whether these words have been included for the purpose of requiring the police officer to: (a) tell the person, in addition to the matters in paragraphs (a)-(c), the basis for the police officer's suspicion (for example, by pointing out specifics of the person's appearance or demeanour), or (b) specifically use the words 'I suspect <i>on reasonable grounds</i> that...' when telling the person the information specified in the regulation, section 4(a)-(c). If either (a) or (b) is the case, the Committee suggests amending section 4 to make this clear. If the inclusion of 'on reasonable grounds' is not intended to add to the requirement already included in the Act, section 11(2), the Committee suggests removing these words to avoid confusion. The Committee notes that the equivalent provision in the <i>Summary Offences Regulation 2020</i> did not include these words.

Please provide a response to the issue identified as no 1 by **11 September 2025**, noting a copy of your return correspondence will be annexed to a future Delegated Legislation Monitor.

If you have any questions about this correspondence, please contact Madeleine Dowd, Director – Delegated Legislation Committee, on 9230 3050 or dlc@parliament.nsw.gov.au.

Kind regards

The Hon Natasha Maclaren-Jones MLC
Committee Chair



LEGISLATIVE COUNCIL

DELEGATED LEGISLATION COMMITTEE

5 September 2025

The Hon Penny Sharpe, MLC
Minister for Climate Change
Minister for Energy
Minister for the Environment
Minister for Heritage

D25/050996

By email: office@sharpe.minister.nsw.gov.au

Dear Minister

National Parks and Wildlife Act 1974—Erratum (NSWGG-2025-291-2)

Thank you for your letter of 2 September 2025, and for your considered engagement with the scrutiny concerns identified by the Committee in relation to the *National Parks and Wildlife Act 1974—Erratum (NSWGG-2025-291-2)*.

The Committee acknowledges that you have sought further information from the National Parks and Wildlife Service (NPWS) regarding alternative mechanisms which may more appropriately correct the description of Tarawi Nature Reserve in the *National Parks and Wildlife Act 1974, Proclamation* published in the New South Wales Government Gazette on 4 April 1996 on pages 1651 and 1652.

However, your letter raises further questions for the Committee. The Committee notes that, to finalise its review of this instrument, the Committee must be satisfied that either its scrutiny concerns have been resolved, or that steps will be taken to appropriately resolve those concerns (for example, by way of an undertaking to the Committee).

Therefore, the Committee seeks a response to the below questions, and any other helpful information that may be provided to you by the NPWS:

- (a) What are the reasons that it is 'unlikely limitations apply to the timeframe within which an erratum may be published'?
- (b) Why is it that an erratum may not be the appropriate mechanism to resolve the description of Tarawi Nature Reserve?
- (c) What is the appropriate mechanism to resolve the description of Tarawi Nature Reserve, and why?

The Committee will consider your response and publish its conclusions regarding the instrument in a future Delegated Legislation Monitor. Consistent with its establishing resolution, the Committee may, if it has outstanding concerns, draw the instrument to the attention of the House

or recommend to the House that the instrument, or part of the instrument, be disallowed. In certain circumstances, the Committee may seek further clarification.

Further information about the Committee's work practices and the application of the scrutiny principles is available in the Guidelines for the operation of the Delegated Legislation Committee's technical scrutiny function, on the [NSW Parliament website](#).

Please provide a response by **19 September 2025, noting a copy of your return correspondence will be annexed to a future Delegated Legislation Monitor.**

If you have any questions about this correspondence, please contact Madeleine Dowd, Director – Delegated Legislation Committee, on 9230 3050 or dlc@parliament.nsw.gov.au.

Kind regards

The Hon Natasha Maclaren-Jones MLC
Committee Chair



LEGISLATIVE COUNCIL

DELEGATED LEGISLATION COMMITTEE

13 October 2025

The Hon Penny Sharpe, MLC
Minister for Climate Change
Minister for Energy
Minister for the Environment
Minister for Heritage

D25/063225

By email: office@sharpe.minister.nsw.gov.au

Dear Minister

National Parks and Wildlife Act 1974—Erratum

Thank you for your further letter of 19 September 2025, and for your considered engagement with the scrutiny concerns identified by the Committee in relation to the *National Parks and Wildlife Act 1974—Erratum* (NSWGG-2025-291-2) (the **Erratum**), particularly, the seeking of advice from the National Parks and Wildlife Service (NPWS).

The Committee notes your advice that:

- 'the Erratum may not have been the best mechanism for correcting the error in the description of land, because the error was in the information that supported the decision to reserve the land, rather than in the gazette notice itself', and
- 'in this case, a more appropriate mechanism to correct the error would have been to revoke the reservation over the two roads therefore removing the roads from Tarawi Nature Reserve.'

The Committee considers that, since the error did not exist in the gazette notice itself, an erratum is not the appropriate mechanism for rectifying the error, and the Erratum should be disallowed.

Next steps

In the first instance, the Committee will conclude its scrutiny on the Erratum in Delegated Legislation Monitor No. 12 of 2025, which is to be tabled in the House tomorrow, Tuesday 14 October 2025. In its conclusion, the Committee will recommend that the Erratum be disallowed under the *Interpretation Act 1987*, section 41.

The Committee acknowledges your intention to introduce legislation into Parliament under the *National Parks and Wildlife Act 1974*, section 52, to revoke the original reservation of land published in the Gazette on 4 April 1996 (the **original notice**) if the Erratum is disallowed, by specifically stating 'if the Erratum is disallowed, this is the intended approach'. The Committee will treat this as an undertaking to correct the original notice by appropriate means if the Erratum is disallowed.

This undertaking will form part of the recommendation, will be published on the Committee's webpage, and the entry will be updated when the relevant undertaking has been implemented.

Regarding the process for disallowance, following the tabling of the Monitor, a notice of motion will be given in the House and subsequently moved within the six sittings day that the notice remains listed on the Notice Paper as business of the House. Once moved, the question will be put before the House that the Erratum be disallowed. If the motion passes, the Erratum will be disallowed and will cease to have legal effect, as if it were repealed.

In the event that the question resolves in the negative and the Erratum is not disallowed, the Committee is of the view that there is a risk that the Erratum may nonetheless be invalid, meaning that the errors in the original notice will remain in the Gazette. Accordingly the Committee considers that it is best practice for appropriate action to continue to be taken to correct the problem with the original notice, whether that be by the introduction of legislation in either House of Parliament in accordance with the *National Parks and Wildlife Act 1974*, section 52, to revoke the original notice, or other means (other than an erratum) that may be identified by the Minister after further consideration.

Whilst a response is welcome, this letter is for noting only and a response is not required to be provided.

Further information about the Committee's work practices and the application of the scrutiny principles is available in the Guidelines for the operation of the Delegated Legislation Committee's technical scrutiny function, on the [NSW Parliament website](#).

If you have any questions about this correspondence, please contact Madeleine Dowd, Director – Delegated Legislation Committee, on 9230 3050 or dlc@parliament.nsw.gov.au.

Kind regards

The Hon Natasha Maclaren-Jones MLC
Committee Chair

The Hon Penny Sharpe MLC

Minister for Climate Change, Minister for Energy,
Minister for the Environment, Minister for Heritage,
Leader of the Government in the Legislative Council



Your ref: D25/046936
Our ref: MD25/4886

The Hon Natasha Maclaren-Jones MLC
Chair
Delegated Legislation Committee
Legislative Council

Email: natasha.maclaren-jones@parliament.nsw.gov.au

Dear Ms Maclaren-Jones

Thank you for your correspondence regarding the erratum intended to revise the description of land in a 1996 gazette notice reserving Tarawi Nature Reserve under the *National Parks and Wildlife Act 1974* (NPW Act), and your question regarding the ability to correct the description published in 1996.

While I am advised it is unlikely limitations apply to the timeframe within which an erratum may be published, through investigating your enquiry the National Parks and Wildlife Service (NPWS) has identified that an erratum may not be the appropriate mechanism to resolve the description of Tarawi Nature Reserve.

I have asked NPWS to seek advice on other mechanisms which may more appropriately correct the description of Tarawi Nature Reserve.

I appreciate you bringing this issue to my attention.

Sincerely

Penny Sharpe MLC

Minister for Climate Change, Minister for Energy,
Minister for the Environment, Minister for Heritage

The Hon Michael Daley MP
Attorney General



Ref: EAP25/14551

The Hon. Natasha Maclaren-Jones MLC
Chair
Delegated Legislation Committee
Parliament House
Macquarie Street
SYDNEY NSW 2000

By email: dlc@parliament.nsw.gov.au

Dear Ms Maclaren-Jones, *Natasha*

Summary Offences Regulation 2025

Thank you for your letter on behalf of the Delegated Legislation Committee received 28 August regarding the Summary Offences Regulation 2025.

As the Committee notes, section 11(2) of the *Summary Offences Act 1988* (**the Act**) provides that a police officer may seize liquor in the possession of a person in a public place if the police officer suspects on reasonable grounds that the person is under the age of 18, is not under the supervision of a responsible adult, and does not have a reasonable excuse for possessing the liquor.

Section 4 of the Summary Offences Regulation 2025 (**the Regulation**) requires a police officer to give a reason for the seizure. This provision operates to ensure the police officer explains to the person from whom the liquor is being seized the suspicions that have given rise to the use of the power to seize the liquor. Section 4 of the Regulation refers to 'reasonable grounds' to ensure consistency with section 11(2) of the Act, which provides the power to seize the liquor. What a police officer actually says pursuant to section 4 of the Regulation will depend on the specific circumstances of a particular matter. It is important to note that the Regulation was drafted in consultation with the NSW Police Force (**NSWPF**), and the NSWPF did not raise any concerns with the drafting of section 4.

Thank you for taking the time to write to me.

Sincerely, *M*

Michael Daley MP
Michael Daley MP
Attorney General

17 SEP 2025

The Hon Penny Sharpe MLC

Minister for Climate Change, Minister for Energy,
Minister for the Environment, Minister for Heritage,
Leader of the Government in the Legislative Council



Your ref: D25/050996
Our ref: MD25/5343

The Hon Natasha Maclaren-Jones MLC

By email: natasha.maclaren-jones@parliament.nsw.gov.au

Dear Ms Maclaren-Jones

Thank you for your letter regarding Erratum (NSWGG-2025-291-2). I appreciate you following up on my previous response to this matter.

In relation to your follow up questions, I am advised:

- a) The Department is not aware of any law, policy or other guidance materials that specify a time limit for publishing an erratum.
- b) The error being corrected by the Erratum was in the description of the land to be reserved as part of Tarawi Nature Reserve. Unbeknownst to the National Parks and Wildlife Service (NPWS), the 1996 gazette notice included land that had been dedicated as public roads in 1982 and 1983 (Western Division Roads WDR 142 and WDR 151). There was no way for NPWS to know this because, at time of reservation, the titles for the land or its associated title diagrams, had not been updated to reflect that the roads had been dedicated as public roads. If the titles had been accurately updated to reflect this, the roads would have been excluded from the reservation, as is the usual approach.

I have been advised that after further consideration of the above information, the Erratum may not have been the best mechanism for correcting the error in the description of land, because the error was in the information that supported the decision to reserve the land, rather than in the gazette notice itself.

- c) I am advised that, in this case, a more appropriate mechanism to correct the error would have been to revoke the reservation over the two roads therefore removing the roads from Tarawi Nature Reserve. Revocation of the reservation requires an Act of Parliament. If the Erratum is disallowed, this is the intended approach.

I am also advised that NPWS is preparing a set of internal guidelines to inform the preparation of future errata.

Sincerely

Penny Sharpe MLC

Minister for Climate Change, Minister for Energy,
Minister for the Environment, Minister for Heritage

18/9/20.

