



Queensland

# **Southern Moreton Bay Islands Development Entitlements Protection Act 2004**

**Reprinted as in force on 15 March 2008**

**Reprint No. 1B**

**This reprint is prepared by  
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Warning—This reprint is not an authorised copy**

# Information about this reprint

This Act is reprinted as at 15 March 2008. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



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# Southern Moreton Bay Islands Development Entitlements Protection Act 2004

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# **Southern Moreton Bay Islands Development Entitlements Protection Act 2004**

[as amended by all amendments that commenced on or before 15 March 2008]

## **An Act to establish development entitlements for particular land on the Southern Moreton Bay Islands**

### **1 Short title**

This Act may be cited as the *Southern Moreton Bay Islands Development Entitlements Protection Act 2004*.

### **2 Definitions**

The dictionary in the schedule defines particular words used in this Act.

### **3 Application of Act**

This Act applies for a SMBI application.

### **4 What is a SMBI application**

A *SMBI application* is a development application (superseded planning scheme)—

- (a) in relation to a class 1 building, as defined by the *Building Act 1975*, on prescribed land; and
- (b) made by or on behalf of an owner of the prescribed land; and
- (c) for which the applicant states the owner wishes this Act to apply for its assessment.

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## 5 What is prescribed land

**Prescribed land** is land on the Southern Moreton Bay Islands that is—

- (a) included in the Residential A, Comprehensive Development or Rural Non Urban zone immediately before the Redland's IPA planning scheme has effect;<sup>1</sup> and
- (b) located entirely in the Conservation zone under the scheme; and
- (c) prescribed under a regulation.

## 6 Who is an owner

- (1) An **owner**, of prescribed land, means an individual who is solely or as a joint tenant or as a tenant in common, legally or beneficially entitled to an estate of freehold in possession in the land immediately before the end of the consultation period for the Redland's IPA planning scheme.
- (2) The term does not include—
  - (a) a person who is an executor, administrator or trustee in relation to the individual; or
  - (b) a mortgagee in possession of the land.

## 7 Modified application of Integrated Planning Act 1997

- (1) The *Integrated Planning Act 1997*, sections 3.2.5(1)(b) and (3)(b) do not apply for a SMBI application.<sup>2</sup>
- (2) Despite the *Integrated Planning Act 1997*, section 3.5.28,<sup>3</sup> any development approval in relation to a SMBI application lapses if the land, the subject of the application, is sold or transferred to an individual other than another owner of the land before a

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1 For when a planning scheme has effect, see *Integrated Planning Act 1997*, section 2.1.7 (Effects of planning schemes and amendments).

2 *Integrated Planning Act 1997*, section 3.2.5 (Acknowledgment notices for applications under superseded planning schemes.)

3 *Integrated Planning Act 1997*, section 3.5.28 (Approval attaches to land)

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final inspection certificate, under the *Building Act 1975*, is issued for the building for which the development approval was issued.

- (3) Prescribed land may not be taken under the *Integrated Planning Act 1997*, section 5.5.1 unless all owners of the land agree.

**8 Certain IPA rights unaffected**

This Act does not stop an owner of prescribed land from claiming compensation under the *Integrated Planning Act 1997*, section 5.4.3,<sup>4</sup> if a SMBI application has not been made for the land.

**9 Council may buy land at any time**

This Act does not stop the council from buying prescribed land at any time.

**10 Regulation-making power**

The Governor in Council may make regulations under this Act.

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<sup>4</sup> *Integrated Planning Act 1997*, section 5.4.3 (Compensation for interest in land being changed to public purpose)

## Schedule Dictionary

### section 2

**assessment manager** see *Integrated Planning Act 1997*, section 3.1.7.

**consultation period** see *Integrated Planning Act 1997*, schedule 10.

**council** means—

- (a) in relation to any matter arising before the commencement of this definition—the Redland Shire Council; or
- (b) otherwise—the Redland City Council.

**development** see *Integrated Planning Act 1997*, schedule 10.

**development application** see *Integrated Planning Act 1997*, schedule 10.

**development application (superseded planning scheme)** means—

- (a) for development that would not have required a development permit under a superseded planning scheme but requires a development permit under the Redland's IPA planning scheme, a development application—
  - (i) in which the applicant advises that the applicant proposes to carry out development under the superseded planning scheme; and
  - (ii) made only to the council as assessment manager; and
  - (iii) made within 10 years after the day the Redland's IPA planning scheme has effect; or
- (b) for any other development, a development application—



Schedule (continued)

- (i) in which the applicant asks the assessment manager to assess the application under a superseded planning scheme; and
- (ii) made only to the council as assessment manager; and
- (iii) made within 10 years after the day the Redland's IPA planning scheme has effect.

***development approval*** see *Integrated Planning Act 1997*, schedule 10.

***development permit*** see *Integrated Planning Act 1997*, schedule 10.

***IPA planning scheme*** see *Integrated Planning Act 1997*, section 6.1.1.

***owner*** see section 6.

***prescribed land*** see section 5.

***Redland's IPA planning scheme*** means the first IPA planning scheme for the council.

***SMBI application*** see section 4.

***Southern Moreton Bay Islands*** means Karragarra Island, Lamb Island, Macleay Island, Perulpa Island and Russell Island.

***superseded planning scheme*** see *Integrated Planning Act 1997*, schedule 10.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 March 2008. Future amendments of the Southern Moreton Bay Islands Development Entitlements Protection Act 2004 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

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### 3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	12 October 2004	
1A	2006 Act No. 36	1 September 2006	
1B	2007 Act No. 59	15 March 2008	

### 5 List of legislation

**Southern Moreton Bay Islands Development Entitlements Protection Act 2004 No.**

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date of assent 12 October 2004

commenced on date of assent

amending legislation—

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**Building and Other Legislation Amendment Act 2006 No. 36 pt 1, s 101 sch**

date of assent 10 August 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 2006 (2006 SL No. 226)

**Local Government and Other Legislation (Indigenous Regional Councils)  
Amendment Act 2007 No. 59 ss 1–2, 152 sch**

date of assent 22 November 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 15 March 2008 (2007 SL No. 336)

## **6 List of annotations**

**What is a SMBI application**

s 4 amd 2006 No. 36 s 101 sch

**Modified application of Integrated Planning Act 1997**

s 7 amd 2006 No. 36 s 101 sch

**SCHEDULE—DICTIONARY**

def “**council**” sub 2007 No. 59 s 152 sch