

Queensland



**LOCAL GOVERNMENT AND
OTHER LEGISLATION
AMENDMENT ACT 2001**

Act No. 29 of 2001

Queensland



LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT ACT 2001

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Queensland



**Local Government and Other Legislation
Amendment Act 2001**

Act No. 29 of 2001

**An Act to amend certain local government legislation, and for other
purposes**

[Assented to 25 May 2001]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Local Government and Other Legislation Amendment Act 2001*.

2 Commencement

(1) Part 3, other than sections 12 to 14, is taken to have commenced on 30 March 1998.

(2) Sections 5 and 10 commence on 30 June 2001.

(3) Section 9 commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF LOCAL GOVERNMENT ACT 1993

3 Act amended in pt 2 and schedule

(1) This part amends the *Local Government Act 1993*.

(2) The schedule also includes amendments of the *Local Government Act 1993*.

4 Amendment of s 3 (Definitions)

(1) Section 3—

insert—

‘ **“joint board”** means the Townsville-Thuringowa Water Supply Joint Board established under chapter 2A.’

(2) Section 3, definition **“member”**, paragraphs (b) to (d)—

renumber as paragraphs (c) to (e).

(3) Section 3, definition “**member**”—

insert—

‘(b) for the joint board—see section 60A; or’.

5 Insertion of new ch 2A

After chapter 2—

insert—

‘CHAPTER 2A—TOWNSVILLE-THURINGOWA WATER SUPPLY JOINT BOARD

‘PART 1—PRELIMINARY

‘60A Definitions for ch 2A

‘In this chapter—

“**applied provision**” means a provision of this Act that, under section 60R, applies to the joint board.

“**conclusion date**”, for quadrennial elections of the Townsville and Thuringowa City Councils, means—

- (a) if the elections conclude on the same day—the day the elections conclude; or
- (b) if the elections conclude on different days—the later of the days.

“**dam**” means a barrier, and its associated works, for the storage, control or diversion of water.

“**headworks**” means a dam (including any pipes in outlet works or laid under a dam), reservoir, structure, tunnel or equipment used for, or in connection with, the storage, control or diversion of water.

“**joint board**” means the Townsville-Thuringowa Water Supply Joint Board.

“**member**” means a member of the joint board.

“operational area”, for the Townsville-Thuringowa Water Supply Joint Board, means the local government areas for Townsville and Thuringowa City Councils.

“qualified person”, for appointment as chairperson of the joint board, means a person—

- (a) who lives in the local government area for the Townsville or Thuringowa City Council; and
- (b) who is, under the *Electoral Act 1992*, an elector for an electoral district, or a part of an electoral district, included in the local government area for the Townsville or Thuringowa City Council; and
- (c) who has the appropriate qualifications, skills or experience to perform the chairperson’s role.¹

“reservoir” means an artificial lake, pond or basin formed by the construction of a dam.

“treatment works” means any building, storage tank, mechanical or electrical equipment or other part of any works used mainly for the quality control or purification of water, including any associated trunk mains.

“trunk main” means a pipe, aqueduct, structure or equipment used for, or in connection with, the prechlorination or conveyance of water from headworks, or to or from treatment works.

‘PART 2—ESTABLISHMENT, JURISDICTION AND POWERS

‘Division 1—Establishment of joint board

‘60B Establishment

‘The Townsville-Thuringowa Water Supply Joint Board is established.

¹ The chairperson’s role is provided for by the application of section 60R (to the extent it relates to sections 229 and 231) and section 60S.

‘60C Legal status

‘The joint board—

- (a) is a body corporate; and
- (b) has a common seal; and
- (c) may sue and be sued in its corporate name.

‘60D Joint board’s seal

‘(1) The joint board’s seal must include its name.

‘(2) The seal must be kept in the custody directed by the joint board and may be used only as authorised by it.

‘(3) The attaching of the seal to a document must be witnessed as authorised by the joint board.

‘(4) Judicial notice must be taken of the imprint of the seal appearing on a document and the document must be presumed to have been properly sealed unless the contrary is proved.

‘Division 2—Jurisdiction and powers of joint board

‘60E Jurisdiction of joint board

‘(1) The joint board’s jurisdiction is as follows—

- (a) obtaining, conserving and storing treated, or untreated, water in bulk in the operational area;
- (b) treating water in bulk in the operational area;
- (c) supplying treated, or untreated, water in bulk to—
 - (i) Townsville and Thuringowa City Councils; and
 - (ii) consumers in the operational area;
- (d) selling to its consumers treated, or untreated, water in bulk on conditions the joint board considers appropriate;
- (e) investigating and planning for headworks, treatment works and trunk mains the joint board considers appropriate to meet the present and future bulk water requirements of its consumers;

- (f) doing all things the joint board considers appropriate to ensure and maintain the quality and quantity of present and future supplies of water in the operational area;
- (g) constructing, operating and maintaining and, if necessary, improving or extending headworks, treatment works and trunk mains under the joint board's control;
- (h) providing roads and communications, offices, stores, depots, houses and other accommodation the joint board considers appropriate to carry out its jurisdiction;
- (i) providing, operating, protecting and maintaining recreational facilities the joint board considers appropriate at headworks or on any other land or property owned by, or under the control of, the joint board;
- (j) entering into commercial arrangements for the operation of the recreational facilities;
- (k) doing anything incidental to the proper carrying out of its jurisdiction.

‘(2) The joint board may, under arrangements entered into by it with a non-participating local government, supply water in bulk, whether treated or untreated, to—

- (a) a part of the local government's area; or
- (b) a consumer located in the local government's area.

‘(3) In this section—

“non-participating local government” means a local government other than Townsville City Council or Thuringowa City Council.

‘60F Powers of joint board

‘(1) The joint board has, in the exercise of its jurisdiction, all the powers of an individual.

‘(2) The joint board may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, deal with and dispose of property; and
- (c) make charges for services and facilities it supplies; and

(d) do anything else necessary or convenient to be done for, or in connection with, the exercise of its jurisdiction.

‘(3) Without limiting subsection (1), the joint board also has the powers given to it under this or another Act.

‘(4) The joint board may exercise its powers inside and outside its operational area.

‘PART 3—MEMBERSHIP

‘Division 1—Composition of joint board

‘60G Composition

‘(1) The joint board consists of the following members—

- (a) 2 councillors of the Townsville City Council;
- (b) 2 councillors of the Thuringowa City Council;
- (c) a qualified person appointed by the Townsville and Thuringowa City Councils.

‘(2) The member mentioned in subsection (1)(c) is the chairperson of the joint board.

‘Division 2—Provisions about chairperson

‘60H Appointment

‘(1) The Townsville and Thuringowa City Councils must—

- (a) agree, between the councils, on a qualified person who is to be appointed to be a member, and the chairperson, of the joint board; and
- (b) by resolution, appoint the person to be a member, and the chairperson, of the joint board.

‘(2) The appointment of the chairperson must be made within 1 month after the conclusion date for the last quadrennial elections of the Townsville and Thuringowa City Councils.

‘(3) If the Townsville and Thuringowa City Councils do not appoint the chairperson within 1 month after the conclusion date, the Governor in Council may appoint a qualified person to be the chairperson.²

‘60I Duration of appointment

‘(1) If the chairperson is appointed by the Townsville and Thuringowa City Councils, the term of office of the chairperson starts on—

- (a) if the resolutions by which the chairperson is appointed are passed on the same day (the “**resolution day**”)—the day after the resolution day; or
- (b) if the resolutions by which the chairperson is appointed are passed on different days—the day after the later of the days.

‘(2) If the chairperson is appointed by the Governor in Council, the term of office of the chairperson starts on the day stated in the instrument of appointment.

‘(3) The term of office of the chairperson ends on—

- (a) if another person (the “**incoming chairperson**”) is appointed as chairperson—the day before the day on which the term of office of the incoming chairperson starts; or
- (b) the day the chairperson’s office otherwise becomes vacant.

‘60J Casual vacancies

‘(1) If a vacancy happens in the office of the chairperson, the Townsville and Thuringowa City Councils must—

- (a) agree, between the councils, on a qualified person to fill the vacancy; and
- (b) by resolution, appoint the person to fill the vacancy.

² See also section 1264 (Appointment of chairperson).

‘(2) If the Townsville and Thuringowa City Councils do not appoint a chairperson, within 2 months after the vacancy happens, the Governor in Council may appoint a qualified person to be the chairperson.

‘60K Vacation of office

‘(1) The office of the chairperson becomes vacant if³—

- (a) the chairperson resigns; or
- (b) the chairperson is in prison; or
- (c) the chairperson ceases to be a qualified person; or
- (d) the chairperson is an undischarged bankrupt under the *Bankruptcy Act 1966* (Cwlth); or
- (e) the chairperson has executed a deed of arrangement as a debtor under the *Bankruptcy Act 1966* (Cwlth), part X and the terms of the deed have not been fully complied with; or
- (f) the chairperson’s creditors have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part X and a final payment has not been made under the composition; or
- (g) the chairperson’s appointment is ended under subsection (2).

‘(2) The chairperson’s appointment ends if, at any time, both the Townsville City Council and Thuringowa City Council resolve to end the appointment for any reason or none.

‘60L Resignation

‘(1) The chairperson may resign by signed notice of resignation given to the chief executive officer of the joint board.

‘(2) The resignation takes effect when it is given to the chief executive officer unless it is expressed to take effect on a later date.

3 Vacation of the office of the chairperson is also dealt with in section 222 which is a provision applied to the joint board under section 60R.

‘Division 3—Provisions about other members

‘60M Appointment

‘(1) The Townsville City Council must, by resolution, appoint 2 of its councillors as members of the joint board.

‘(2) The Thuringowa City Council must, by resolution, appoint 2 of its councillors as members of the joint board.

‘(3) The appointment of the members must be made within 1 month after the conclusion date for the last quadrennial elections of the Townsville and Thuringowa City Councils.

‘(4) If a council does not appoint 2 of its councillors as members within 1 month after the conclusion date, the Governor in Council may, by gazette notice, appoint the number of councillors of the council necessary to make up the required number of members.⁴

‘60N Delegate members

‘(1) The Townsville City Council must, by resolution, appoint from its councillors 1 person as a delegate member for the joint board.

‘(2) The Thuringowa City Council must, by resolution, appoint from its councillors 1 person as a delegate member for the joint board.

‘(3) In the absence of a member appointed by a council, the delegate member of the council may act as the member.

‘60O Casual vacancies

‘(1) If a vacancy happens in the office of a member, or delegate member, appointed by the Townsville City Council, the council must, by resolution, appoint from its councillors a new member, or new delegate member, to fill the vacancy.

‘(2) If a vacancy happens in the office of a member, or delegate member, appointed by the Thuringowa City Council, the council must, by resolution, appoint from its councillors a new member, or new delegate member, to fill the vacancy.

⁴ See also section 1264 (Appointment of other members).

‘(3) The appointment must be made within 2 months after the vacancy happens.

‘Division 4—Duties of joint members

‘60P Overriding duty of joint board member

‘In taking part in the exercise of the joint board’s jurisdiction, a member of the joint board must act in the best interests of—

- (a) the whole of the operational area; and
- (b) the responsible exercise of the joint board’s jurisdiction in the area.

‘PART 4—PROCEEDINGS

‘60Q Presiding at meetings in absence of chairperson

‘If the chairperson is absent from a meeting of the joint board, the member chosen by the members present at the meeting presides.

‘PART 5—APPLICATION OF ACT TO JOINT BOARD

‘60R Provisions of Act applying to joint board

‘(1) The following provisions of this Act apply to the joint board in exercising its jurisdiction—

- section 22
- sections 24 to 27
- sections 30 and 31
- sections 160 to 163
- sections 167 to 177

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- section 222
- section 224
- section 226
- sections 228 to 231
- sections 237 to 240
- sections 243 to 250
- sections 443 to 473
- sections 481 to 492
- sections 494 to 537
- section 543
- section 545
- sections 571 to 583
- section 769
- section 772
- section 783
- sections 784 to 788
- sections 790 to 848
- sections 850 to 899D
- sections 974 (other than subsection (1)(f)) and 975
- sections 1060 to 1065
- sections 1069 to 1077
- sections 1080 to 1104
- sections 1106 to 1113
- section 1115
- section 1117
- sections 1119 to 1123
- sections 1126 to 1136
- sections 1138 to 1193.

‘(2) Also, the following apply to the joint board in exercising its jurisdiction—

- (a) any definition in this Act relevant to a provision mentioned in subsection (1);
- (b) a regulation made under a provision mentioned in subsection (1).

‘60S How applied provisions apply to the joint board

‘(1) In an applied provision—

- (a) a reference to a local government area or a local government’s territorial unit includes a reference to the joint board’s operational area; and
- (b) a reference to a local government includes a reference to the joint board; and
- (c) a reference to the mayor of a local government includes a reference to the chairperson of the joint board; and
- (d) a reference to a councillor of a local government includes a reference to a member of the joint board; and
- (e) a reference to the chief executive officer of a local government includes a reference to the chief executive officer of the joint board; and
- (f) a reference to a significant business activity of a local government is a reference to the joint board’s jurisdiction.

‘(2) Despite subsection (1)(d), in section 228⁵ a reference to a councillor of a local government does not include a reference to the member who is the chairperson of the joint board.

‘(3) An applied provision applies to the joint board with all necessary changes.

5 Section 228 (Resignation from office as a councillor)

‘60T Application of ch 8, pt 6 and ch 10

‘(1) For applying chapter 8, part 6⁶—

- (a) the joint board’s jurisdiction is taken to have been identified as a new type 2 business activity; and
- (b) the joint board is taken to have resolved to implement commercialisation of its jurisdiction.

‘(2) For applying chapter 10⁷—

- (a) the joint board’s jurisdiction is taken to have been identified as a new type 2 business activity under chapter 8 in the financial year ending 30 June 2002; and
- (b) a reference to a consumer of a service includes a reference to the following—
 - (i) Townsville City Council;
 - (ii) Thuringowa City Council;
 - (iii) an entity under the *Local Government Finance Standard 1994*, part 11.⁸

‘PART 6—MISCELLANEOUS

‘60U Site of public office

‘(1) The joint board must keep premises for use as its public office.

‘(2) The public office must be in the joint board’s operational area.

6 Chapter 8 (National competition reform of significant business activities), part 6 (Commercialisation of significant business activities)

7 Chapter 10 (Reform of certain water and sewerage services)

8 *Local Government Finance Standard 1994*, part 11 (Reform of certain water and sewerage services)

‘60V Contribution by local governments

‘(1) Townsville and Thuringowa City Councils must pay to the joint board’s operating fund the proportion prescribed under a regulation of the amount required in each financial year for the joint board’s operations.

‘(2) If a council does not pay the required amount by the date stated in the regulation—

- (a) the unpaid amount bears interest at the rate stated in the regulation; and
- (b) the joint board may recover the unpaid amount and interest as a debt in a court of competent jurisdiction.

‘60W Disbursement of surplus in operating fund of joint board

‘(1) If, at the end of a financial year, there is a surplus in the operating fund of the joint board, the surplus may be disbursed to any purpose (an “**approved purpose**”) within the jurisdiction of local government approved by the Townsville and Thuringowa City Councils.

‘(2) Despite section 523,⁹ a purpose to which the surplus is disbursed need not be a purpose within the jurisdiction of the joint board.

‘(3) For making a disbursement under subsection (1) for an approved purpose, the disbursement may be made—

- (a) to the Townsville and Thuringowa Councils for the purpose; or
- (b) directly by the joint board for the purpose.

‘60X Application of certain Acts

‘(1) The joint board is—

- (a) a constructing authority under the *Acquisition of Land Act 1967*; and
- (b) a public sector entity under the *Financial Administration and Audit Act 1977*; and
- (c) an agency under the *Freedom of Information Act 1992*; and

⁹ Section 523 (Councillors’ liability for disbursements)

- (d) a local government authority under the *Judicial Review Act 1991*; and
- (e) an agency under the *Parliamentary Commissioner Act 1974*; and
- (f) a public sector entity under the *Public Sector Ethics Act 1994*; and
- (g) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*; and
- (h) a public sector entity under the *Whistleblowers Protection Act 1994*.

‘(2) In the application of the *Public Sector Ethics Act 1994* in relation to the joint board, a reference to a public official does not include a reference to a member.

‘(3) To remove doubt, it is declared that the joint board is a unit of public administration under the *Criminal Justice Act 1989*.

‘60Y No power to make or levy rate

‘To remove doubt, it is declared that the joint board can not make or levy a rate on land.

‘60Z Concurrent employment of local government employees

‘(1) An employee of the joint board, other than its chief executive officer—

- (a) may hold more than 1 position under the joint board; and
- (b) may, with the agreement of the joint board and a local government, be employed by the joint board and the local government.

‘(2) The chief executive officer of the joint board may not—

- (a) hold more than 1 position under the joint board; or
- (b) be employed by a local government.

‘(3) The chief executive officer of the Townsville or Thuringowa City Council may hold a position under the joint board.

‘60ZA Inconsistency between local laws

‘If there is an inconsistency between a local law made by the Townsville or Thuringowa City Council (a “**council local law**”) and a local law made by the joint board (whether made before or after the council local law), the joint board’s local law prevails over the council local law to the extent of the inconsistency.

‘60ZB Dissolution of Townsville or Thuringowa City Council

‘(1) This section applies if the Townsville or Thuringowa City Council is dissolved under section 164 and an administrator appointed.

‘(2) For section 60M,¹⁰ the administrator and 1 further nominee whose name has been submitted by the administrator to the Minister and approved by the Minister are taken to be members appointed by the dissolved local government to the joint board.’.

6 Insertion of new s 224A

After section 224—

insert—

‘224A Councillor ceases to be councillor on becoming candidate for an Australian Parliament

‘A councillor ceases to be a councillor if—

- (a) under the *Electoral Act 1992*, section 88(3), the councillor becomes a candidate for an election as a member of the Legislative Assembly; or
- (b) under the *Commonwealth Electoral Act 1918* (Cwlth), section 176, the councillor is declared to be a candidate for an election.¹¹’.

¹⁰ Section 60M (Appointment)

¹¹ The *Electoral Act 1992*, section 88(3) (Announcement of nominations) and the *Commonwealth Electoral Act 1918* (Cwlth), section 176 (Declaration of nominations)

7 Amendment of s 298 (Qualification for nomination)

(1) Section 298(1), ‘A’—

omit, insert—

‘Subject to subsection (3), a’.

(2) Section 298(3)—

renumber as section 298(4).

(3) Section 298—

insert—

‘(3) A person who is a candidate for election as a member of an Australian Parliament, is not qualified to be nominated for election or appointed as a councillor of a local government until—

- (a) for an election under the *Electoral Act 1992*—the day the Electoral Commission is notified, under section 122(1) of that Act, of the candidate elected for the electoral district for which the person is a candidate; or
- (b) for an election under the *Commonwealth Electoral Act 1918* (Cwlth)—
 - (i) the day the result of the election and the candidates elected are declared under section 283 of that Act; or
 - (ii) the day the candidate elected for the division for which the person is a candidate is declared under section 284 of that Act.¹².

8 Insertion of new s 854A

Chapter 12, part 1, division 2—

insert—

12 *Commonwealth Electoral Act 1918*, (Cwlth) sections 283 (Return of writ for election of Senators) and 284 (Declaration of poll and return of writs for House of Representatives)

‘854A No jurisdiction to make local laws and subordinate local laws about distributing how-to-vote cards

‘(1) A local government has no jurisdiction to make a local law or subordinate local law prohibiting or regulating the distribution of how-to-vote cards for an election under this Act or the *Electoral Act 1992*.

‘(2) A local law or subordinate local law, to the extent that it is contrary to subsection (1), is of no effect.

‘(3) In this section—

“**how-to-vote card**” includes a how-to-vote card under the *Electoral Act 1992*, section 161A.’.

9 Insertion of new ch 13, pt 6

Chapter 13—

insert—

‘PART 6—KURANDA RAIL LINE

‘Division 1—Preliminary

‘955A Definitions for pt 6

‘In this part—

“**free of charge**”, for a journey on the Kuranda rail line, means a journey provided without any of the following—

- (a) payment or other consideration;
- (b) requiring, or asking for, a donation, levy or other monetary contribution for the journey including, for example, the purchase of a ticket in a raffle;
- (c) displaying a receptacle, whether on the train used for the journey or elsewhere, in a way that suggests a donation is expected or required to travel on the rail line.

“**Kuranda rail line**” means the rail line between Cairns and Kuranda.

“Kuranda rail operator” means a person who, under the *Transport Infrastructure Act 1994*, section 81, is accredited to operate rolling stock under that Act on the Kuranda rail line.

“tourist infrastructure levy” see section 955B(1).

‘Division 2—Tourist infrastructure levy

‘955B Imposition of levy

‘(1) A levy (the **“tourist infrastructure levy”**) is imposed on each Kuranda rail operator for the period from the commencement of this section to 1 April 2014.

‘(2) The levy is at the rate of \$1.00 for each passenger journey to or from Kuranda on the Kuranda rail line provided by the operator during the period, other than a journey provided free of charge.

‘(3) For subsection (2), a return journey is taken to be a single journey.

‘955C Payment of levy

‘Each Kuranda rail operator must, within 3 weeks after the end of each quarter year for which the tourist infrastructure levy is imposed, pay the State the amount of the levy imposed on it during the quarter.

‘955D Unpaid levy interest

‘(1) A Kuranda rail operator must pay interest on an amount owing under section 955C unpaid from time to time.

‘(2) Interest accrues daily at the rate of 10% per annum on the unpaid amount on and from the day after it is owing until it is paid in full.

‘955E Recovery of unpaid amounts

‘If a Kuranda rail operator does not pay an amount owing under section 955C or 955D, the State may recover it from the operator as a debt.

‘Division 3—Miscellaneous provisions

‘955F Obligation to give annual statements

‘(1) Each Kuranda rail operator must, within 4 months after each financial year ends, give the chief executive a written statement for the year that complies with subsection (2).

Maximum penalty—20 penalty units.

‘(2) The statement must—

- (a) state how many passenger journeys on the Kuranda rail line were provided by the operator during the financial year, other than journeys provided free of charge; and
- (b) if a form is approved for the statement—be in the approved form.

‘(3) For subsection (1), the period from the commencement of section 955B to 30 June 2001 is taken to be a financial year.

‘(4) The approved form may require the statement to be made or verified by statutory declaration.

‘955G How levy is to be applied

‘Amounts received by the State for payment of the tourist infrastructure levy must be paid to the Mareeba Shire Council in the way, and on the conditions, decided by the Minister.

‘Division 4—Expiry of pt 6

‘955H Expiry

‘This part expires on 30 June 2015.’.

10 Insertion of new ch 19, pt 6

After section 1244—

insert—

**‘PART 6—TRANSITIONAL PROVISIONS FOR LOCAL
GOVERNMENT AND OTHER LEGISLATION
AMENDMENT ACT 2001**

‘Division 1—Preliminary

‘1245 Interpretation for pt 6

‘(1) In this part—

“commencing day” means the day on which the provision in which the term is used commences.

“former board” means the Townsville/Thuringowa Water Supply Board established under the repealed Act.

“repealed Act” means the *Townsville/Thuringowa Water Supply Board Act 1987*.

‘(2) Another term used in this part that is defined for chapter 2A, has the meaning given for the chapter.¹³

‘Division 2—Transitional provisions for Townsville–Thuringowa water supply joint board

‘1246 Former board

‘On the commencing day, the former board is abolished and its members go out of office.

‘1247 Assets

‘On the commencing day—

- (a) the assets of the former board vest in the joint board; and
- (b) any property that, immediately before the commencing day, was held in trust by the former board vests in the joint board on the same trusts.

¹³ See section 60A (Definitions for ch 2A).

‘1248 Exemption from State tax

‘(1) State tax and fees are not payable in relation to anything done for—

- (a) establishing the joint board; or
- (b) vesting assets or property of the former board in the joint board.

‘(2) The reference in subsection (1)(b) to the vesting of assets or property includes a reference to the recording of the vesting of the assets or property.

‘1249 Rights and liabilities

‘On the commencing day, the rights and liabilities of the former board, whether vested or contingent, become the rights and liabilities of the joint board.

‘1250 Existing entitlement to take water

‘(1) This section applies to the entitlement to take water given to the former board under the repealed Act and in force immediately before the commencing day.

‘(2) The entitlement is taken to have been given to the joint board and continues under the repealed Act as if that Act had not been repealed until the entitlement is replaced with a water entitlement under the *Water Act 2000*.

‘1251 Existing contracts

‘A contract, agreement or arrangement entered into by or for the former board that is in force immediately before the commencing day—

- (a) is taken to have been entered into by the joint board; and
- (b) may be enforced against or by the joint board accordingly.

‘1252 Contracts and tendering—application of ch 6, pt 3

‘(1) This section applies if, before the commencing day, the former board—

(a) had invited tenders or quotations, or started similar action, for contracts for carrying out work, or supplying goods or services, for or by the joint board; but

(b) had not entered into the contracts.

‘(2) Chapter 6, part 3 does not apply to the joint board for the contracts.

‘1253 Guarantees, undertakings and securities

‘A guarantee, undertaking or security given by, for, or to, the former board that is in force immediately before the commencing day—

(a) is taken to have been given by or to the joint board; and

(b) may be enforced against or by the joint board accordingly.

‘1254 Proceedings

‘A proceeding that could have been started or continued by or against the former board before the commencing day may be started or continued by or against the joint board.

‘1255 Discontinuance or lessening of supply of water

‘(1) This section applies if—

(a) before the commencing day the former board entered into an agreement or arrangement (a **“water supply agreement”**) with another person providing for the supply of a quantity of water to the person; and

(b) the water supply agreement is an agreement that is taken to have been entered into by the joint board; and

(c) the joint board reasonably believes it is necessary or appropriate to discontinue, or lessen, the supply of water because of—

(i) a breakdown of, or damage, repairs, alterations or additions to, headworks, treatment works or trunk mains; or

(ii) drought or another natural occurrence; or

(iii) an emergency.

‘(2) The joint board may direct the discontinuance, or lessening, of the supply of water for the period it considers appropriate.

‘(3) The direction may be given even if it affects the quantity of water to be supplied under the water supply agreement.

‘(4) The direction may be given either with the prior notice the joint board considers appropriate, or without prior notice.

‘(5) As soon as practicable after the direction is given, the joint board must give written notice of the direction to—

- (a) the other party to the water supply agreement; and
- (b) the Townsville and Thuringowa City Councils.

‘(6) It is lawful to give effect to a direction of the joint board given under this section.

‘(7) The joint board’s power to give the direction may only be exercised by resolution of the joint board.

‘(8) However, if the joint board has, by resolution, delegated appropriate authority to the chairperson or chief executive officer of the joint board, or to a committee of the joint board, the power to give the direction may also be exercised by a decision made by the chairperson or chief executive officer, or by resolution of the committee.

‘1256 Former board’s manager

‘(1) The person who, immediately before the commencing day, was the manager of the former board is taken to be the chief executive officer of the joint board.

‘(2) The person is taken to be employed by the joint board on the same conditions on which the person was employed by the former board.

‘(3) The person remains entitled to all existing rights of employment held by the person, and all rights of employment accruing to the person, as the manager of the former board, including existing and accruing rights to—

- (a) remuneration; and
- (b) recreation, long service, sick or other leave; and
- (c) superannuation or other benefits and entitlements.

‘1257 Employees

‘(1) A person who, immediately before the commencing day, was an employee of the former board becomes an employee of the joint board.

‘(2) The person is taken to be employed by the joint board on the same conditions on which the person was employed by the former board.

‘(3) The person remains entitled to all existing rights of employment held by the person, and all rights of employment accruing to the person, as an employee of the former board, including existing and accruing rights to—

- (a) remuneration; and
- (b) recreation, long service, sick or other leave; and
- (c) superannuation or other benefits and entitlements.

‘1258 Superannuation options for continuing employees

‘(1) This section applies to an employee of the former board who—

- (a) becomes an employee of the joint board under section 1256 or 1257; and
- (b) is a member of a superannuation scheme (the “**former scheme**”) as an employee of the former board.

‘(2) Despite chapter 17 and sections 1256(3)(c) and 1257(3)(c), the employee may, within 30 days after the commencing day, by written notice given to the Queensland Local Government Superannuation Board, elect to remain a member of the former scheme.

‘(3) If the employee makes the election—

- (a) chapter 17 does not apply to the employee; and
- (b) the joint board, for as long as the employee continues as an employee of the joint board, must contribute to the former scheme as required under the former scheme.

‘(4) To facilitate the payment of contributions to the former scheme by the employee, the joint board is authorised—

- (a) to deduct from the weekly, fortnightly or other periodic salary or wage of the employee an amount sufficient to meet the employee’s contribution to the former scheme; and

- (b) to remit the amount to the person authorised to receive contributions for the former scheme.

‘(5) If the employee does not make the election within 30 days after the commencing day—

- (a) for the former scheme—the employee is taken to have ceased employment with the former board; and
- (b) for chapter 17—the employee is taken to have become a new employee of the joint board.

‘1259 Transfer of property

‘(1) A certificate signed by the chief executive officer of the joint board is evidence of property having become property of, or vested in, the joint board on the commencing day if the certificate—

- (a) identifies the property; and
- (b) states the property was, immediately before the commencing day, the property of, or vested in, the former board; and
- (c) states that the property became the property of, or vested in, the joint board under section 1247 on the commencing day.

‘(2) An entity with registration functions, under a law of the State, for property of the kind to which the certificate relates must, if asked by the joint board, make in the register all entries necessary to record the vesting of the property in the joint board.

‘(3) The request must be accompanied by the certificate.

‘(4) A request or certificate under this section is not liable to fees or stamp duty.

‘1260 Corporate and operational plans

‘(1) Despite section 504(2), the joint board may prepare and adopt its first corporate plan immediately before the joint board adopts a budget for the first financial year covered by the plan.

‘(2) Despite section 508(2), for the first financial year for which the joint board is required to prepare and adopt an operational plan, the joint board may prepare and adopt the operational plan immediately before the joint board adopts a budget for the financial year.

‘1261 Corporate and operational plans

‘For the application, under section 60R, of chapter 7, part 2¹⁴ to the joint board in exercising its jurisdiction—

- (a) the first financial year to be covered by the joint board’s first corporate plan is the financial year beginning 1 July 2001; and
- (b) the first financial year for which the joint board is required to prepare and adopt an operational plan is the financial year beginning 1 July 2001.

‘1262 Annual report

‘(1) For the first annual report prepared by the joint board after the commencing day, the financial year is taken to be the period 1 July 2000 to 29 June 2001.

‘(2) The joint board must, to the extent it is reasonably practicable, prepare the first annual report in the way in which the former board would have been required to prepare the report if the former board had been a local government.

‘(3) For the next annual report, the financial year is taken to be the period 30 June 2001 to 30 June 2002.

‘1263 Remuneration of members

‘(1) The remuneration that, immediately before the commencing day, was the remuneration of the chairperson of the former board is taken to have been authorised by the joint board under this Act as the remuneration of the chairperson of the joint board.

‘(2) The remuneration that, immediately before the commencing day, was the remuneration of a member (other than the chairperson) of the former board is taken to have been authorised by the joint board under this Act as the remuneration of a member (other than the chairperson) of the joint board.

14 Chapter 7 (Financial operation and accountability of local governments), part 2 (Corporate and operational plans)

‘1264 Appointment of chairperson

‘(1) Within 1 month after the commencing day, the Townsville and Thuringowa City Councils must, by resolution, appoint a qualified person to be a member, and the chairperson, of the joint board.

‘(2) If the Townsville and Thuringowa City Councils do not appoint the chairperson within 1 month after the commencing day, the Governor in Council may appoint a qualified person to be the chairperson.

‘1265 Appointment of other members

‘(1) The Townsville City Council must, by resolution, appoint 2 of its councillors as members of the joint board.

‘(2) The Thuringowa City Council must, by resolution, appoint 2 of its councillors as members of the joint board.

‘(3) The appointment of the members must be made within 1 month after the commencing day.

‘(4) If a council does not appoint 2 of its councillors as members within 1 month after the commencing day, the Governor in Council may, by gazette notice, appoint the number of councillors of the council necessary to make up the required number of members.

‘1266 References to former board

‘A reference in an Act or document in existence immediately before the commencing day to the former board is a reference to the joint board.

‘1267 Transitional regulation-making power

‘(1) A regulation (a “**transitional regulation**”) may make provision about a matter for which—

- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the repealed Act to the operation of this Act; and

- (b) this Act does not make provision or sufficient provision.

‘(2) A transitional regulation must declare it is a transitional regulation.

‘(3) This section and any transitional regulation expire 1 year after the commencing day.

‘Division 3—Repeal

‘1268 Repeal

‘The *Townsville/Thuringowa Water Supply Board Act 1987* is repealed.’.

PART 3—AMENDMENT OF INTEGRATED PLANNING ACT 1997

11 Act amended in pt 3

This part amends the *Integrated Planning Act 1997*.

12 Replacement of s 3.6.5 (When development application may be called in)

Section 3.6.5—

omit, insert—

‘3.6.5 When a development application may be called in

‘The Minister may, under this division, call in an application—

- (a) only if the development involves a State interest; and
- (b) at any time after the application is made until 10 business days after the later of the following—
 - (i) the day the chief executive receives notice of an appeal against the application;
 - (ii) the end of both the applicant’s appeal period and the submitter’s appeal period for the decision on the application.’.

13 Amendment of s 3.7.8 (When pt 7 does not apply)

Section 3.7.8(2), ‘the *Land Title Act 1994*, section 50(g),’—

omit, insert—

‘, the *Land Title Act 1994*, section 50(g) or 83(2),¹⁵’.

14 Insertion of new s 6.1.12A

In chapter 6, part 1, division 3—

insert—

‘6.1.12A Interim development control provisions for the shires of Wambo and Belyando

‘(1) Subsection (2) applies for the part of the shires of Wambo and Belyando for which there is no transitional planning scheme.

‘(2) The *Local Government (Planning and Environment) Regulation 1991*, section 6 and schedule 3, as in force immediately before the repeal of the regulation, and any definition or other provision of the regulation, to the extent it is relevant to section 6 or schedule 3—

- (a) is taken to be an interim development control provision under this chapter for the part of the shire; and
- (b) has effect from the commencement of this section until a planning scheme is approved for the part of the shire.

‘(3) Despite section 2 of the regulation, the consent of the local government is required for the use of land, or for the erection or use of a building or other structure, for the following purposes—

- (a) kennels used for the boarding or breeding of more than 4 dogs or cats;
- (b) lot feeding of stock;
- (c) a piggery;
- (d) a poultry farm.

‘(4) Subsections (2) and (3) apply despite the regulation having been repealed before the commencement of this section.’.

15 *Land Title Act 1994*, sections 50(g) (Requirements for registration of plan of subdivision) and 83 (Registration of easement)

15 Amendment of s 6.1.45A (Development control plans under repealed Act)

Section 6.1.45A—

insert—

‘(4) Subsection (2) applies even if the process mentioned in subsection (1)(a) is inconsistent with chapter 3 or schedule 1.¹⁶

‘(5) A transitional planning scheme that includes the development control plan may be amended under—

- (a) the provisions of this Act relating to the process for amending a planning scheme;¹⁷ or
- (b) a process mentioned in subsection (1).

‘(6) If the development control plan is amended under subsection (5)(a), subsections (2) and (3) continue to apply to the plan.’

PART 4—AMENDMENT OF LAND TITLE ACT 1994

16 Act amended in pt 4

This part amends the *Land Title Act 1994*.

17 Amendment of s 83 (Registration of easement)

Section 83—

insert—

‘(2) If, under the *Integrated Planning Act 1997*, the creation of an easement giving access to a lot from a constructed road is the reconfiguring

16 Chapter 3 (Integrated development assessment system (IDAS)) and schedule 1 (Process for making or amending planning schemes)

17 For the provisions relating to the process for amending a planning scheme, see section 2.1.5 (Process for making or amending planning schemes), section 6.1.6 (Amending transitional planning schemes), section 6.1.7 (Amending transitional planning schemes for consistency with ch 3), and schedule 1 (Process for making or amending planning schemes) of the Act.

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of a lot, the plan of survey must be approved by the local government concerned.’.

SCHEDULE

AMENDMENTS OF LOCAL GOVERNMENT ACT 1993

section 3

1 Section 3, definitions “approve” and “oppose”—

omit, insert—

‘**“approves”**, a referendum question, see section 124(2) to (4).

“opposes”, a referendum question, see section 124(5).’.

2 Chapter 8, part 6, division 6, heading, ‘of operations on’—

omit, insert—

‘on operations of’.

3 Section 581, heading, ‘of operations on’—

omit, insert—

‘on operations of’.

4 Sections 618(9) to (11), 619(3) and 620(2)(b) and (4), ‘1 July 2001’—

omit, insert—

‘1 July 2003’.

5 Section 854(5), ‘(5) A’—

omit, insert—

‘(6) A’.

SCHEDULE (continued)

6 Section 854(6), ‘(6) In subsection (5)’—

omit, insert—

‘(7) In subsection (6)’.

7 Section 1208(2), ‘section 14H (References taken to be included in citation of law).’—

omit, insert—

‘section 14H.¹⁸’.

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¹⁸ *Acts Interpretation Act 1954*, section 14H (References taken to be included in reference to law)