



Queensland

Integrated Planning and Other Legislation Amendment Act 2004

Act No. 20 of 2004



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Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Integrated Planning Act 1997	
3	Act amended in pt 2 and sch	6
4	Amendment of s 1.3.5 (Definitions for terms used in development)	6
5	Insertion of new s 2.1.8A	7
	2.1.8A Amending planning scheme to state compliance with State planning policy	7
6	Amendment of s 2.1.23 (Local planning instruments have force of law)	7
7	Amendment of s 2.5.1 (What are regions)	8
8	Insertion of new ch 2, pt 5A	8
	Division 1 Preliminary	
	2.5A.1 Application of part.	8
	2.5A.2 What is the SEQ region	8
	Division 2 SEQ regional coordination committee	
	2.5A.3 Establishment of SEQ regional coordination committee	9
	2.5A.4 Functions of SEQ regional coordination committee . .	9
	2.5A.5 Membership of SEQ regional coordination committee	10
	2.5A.6 Dissolution of SEQ regional coordination committee .	10
	2.5A.7 Quorum	10
	2.5A.8 Presiding at meetings	10
	2.5A.9 Conduct of meetings	10

	Division 3	The SEQ regional plan	
	2.5A.10	What is the SEQ regional plan	11
	2.5A.11	Key elements of the SEQ regional plan	11
	2.5A.12	The SEQ regional plan may include regulatory provisions	12
	Division 4	Preparing and making SEQ regional plan	
	2.5A.13	Regional planning Minister to prepare draft SEQ regional plan	13
	2.5A.14	Notice of and public consultation on draft SEQ regional plan	13
	2.5A.15	Making SEQ regional plan	14
	2.5A.16	Notice of making of SEQ regional plan	15
	2.5A.17	Regulatory provisions to be ratified by Parliament . . .	15
	Division 5	Amending or replacing SEQ regional plan	
	2.5A.18	Regional planning Minister may amend or replace SEQ regional plan	15
	2.5A.19	How SEQ regional plan is amended or replaced	16
	2.5A.20	Minor amendments of SEQ regional plan	16
	Division 6	Effect of the SEQ regional plan	
	2.5A.21	State interest	17
	2.5A.22	Local governments to amend planning schemes to reflect SEQ regional plan	17
	2.5A.23	Effect of SEQ regional plan on other plans, policies or codes	18
	2.5A.24	Effect of draft regulatory provisions	19
9		Amendment of s 3.1.4 (When is a development permit necessary)	20
10		Amendment of s 3.2.1 (Applying for development approval)	21
11		Amendment of s 3.3.15 (Referral agency assesses application) .	21
12		Amendment of s 3.4.2 (When the notification stage applies)	22
13		Amendment of s 3.5.4 (Code assessment)	22
14		Amendment of s 3.5.5 (Impact assessment)	22
15		Amendment of s 3.5.5A (Assessment for s 3.1.6 preliminary approvals that override a local planning instrument)	23
16		Amendment of s 3.5.11 (Decision generally)	23
17		Amendment of s 3.5.13 (Decision if application requires code assessment)	24
18		Amendment of s 3.5.14 (Decision if application requires impact assessment)	24

19	Amendment of s 3.5.14A (Decision if application under s 3.1.6 requires assessment)	24
20	Amendment of s 3.6.7 (Effect of call in)	25
21	Insertion of new s 4.3.5A	26
	4.3.5A Compliance with the SEQ regional plan.	26
22	Insertion of new s 5.6.3A	26
	5.6.3A How infrastructure charges apply for development under part 6	26
23	Amendment of s 5.7.2 (Documents local government must keep available for inspection and purchase)	26
24	Amendment of s 5.7.6 (Documents chief executive must keep available for inspection and purchase)	27
25	Amendment of s 5.7.9 (Limited planning and development certificates)	27
26	Amendment of s 5.8.1A (Delegation by Minister).	27
27	Amendment of s. 5.8.3 (Application of State Development and Public Works Organisation Act 1971)	27
28	Amendment of s 6.1.25 (Effect of commencement on certain applications in progress)	28
29	Amendment of s 6.1.35C (Future effect of approvals for applications mentioned in s 3.1.6)	29
30	Insertion of new ch 6, pt 4	29
	6.4.1 Effect of SEQ regional plan for assessing and deciding applications under transitional planning schemes	29
31	Amendment of sch 1 (Process for making or amending planning schemes)	30
32	Amendment of sch 10 (Dictionary).	31
Part 3	Amendment of Integrated Planning and Other Legislation Amendment Act 2003	
33	Act amended in pt 3	34
34	Amendment of s 94 (Insertion of new ch 5, pt 7A)	34
35	Amendment of s 115 (Amendment of s 43B (Relationship of coastal plans with Integrated Planning Act 1997))	34
Part 4	Amendment of Local Government Act 1993	
36	Act amended in pt 4	34
37	Amendment of s 854 (Local laws and subordinate local laws about development)	35
Part 5	Amendment of Queensland Heritage Act 1992	
38	Act amended in pt 5	35
39	Amendment of s 35 (Application for exemption certificate)	35

40	Amendment of pt 7 (Discovery and protection of objects and areas)	36
41	Amendment of s 44 (Study must be reported)	36
42	Amendment of s 51 (Applying for permit to enter a protected area)	37
43	Amendment of s 55 (Functions of authorised persons)	37
44	Amendment of s 57H (Issue of warrant)	37
45	Insertion of new s 67B	37
	67B Delegation by Minister	38
46	Insertion of new pt 10	38
	69 Assessing and deciding applications made before 28 November 2003	38
	70 Compliance with approval given under pt 5 of previous Act	39
47	Amendment of sch (Dictionary)	39
Part 6	Amendment of Primary Industries and Other Legislation Amendment Act 2003	
48	Act amended in pt 6	40
49	Amendment of s 80 (Amendment of sch 8)	40
50	Amendment of s 81 (Amendment of sch 8A(Assessment manager for development applications))	40
Schedule	Minor amendments	42
	Integrated Planning Act 1997	42
	Schedule 8 Assessable development and self-assessable development	



Queensland

Integrated Planning and Other Legislation Amendment Act 2004

Act No. 20 of 2004

**An Act to amend the *Integrated Planning Act 1997*, and for
other purposes**

[Assented to 3 September 2004]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Integrated Planning and Other Legislation Amendment Act 2004*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Integrated Planning Act 1997

3 Act amended in pt 2 and sch

This part and the schedule amend the *Integrated Planning Act 1997*.¹

4 Amendment of s 1.3.5 (Definitions for terms used in development)

(1) Section 1.3.5, definition *operational work*, item 1(f), after vegetation—

insert—

‘, including vegetation’.

(2) Section 1.3.5, definition *operational work*, item 2(b)—

¹ Before the amendments in part 2 and the schedule commence, the *Integrated Planning Act 1997* will be further amended by certain sections of the *Integrated Planning and Other Legislation Amendment Bill 2003* that have not yet commenced.

omit, insert—

‘(b) clearing vegetation on—

- (i) a forest reserve under the *Nature Conservation Act 1992*; or
- (ii) a protected area under the *Nature Conservation Act 1992*, section 28; or
- (iii) an area declared as a state forest or timber reserve under the *Forestry Act 1959*; or
- (iv) a forest entitlement area under the *Land Act 1994*.’.

5 Insertion of new s 2.1.8A

Chapter 2, part 1, division 3, after section 2.1.8—

insert—

‘2.1.8A Amending planning scheme to state compliance with State planning policy

- ‘(1) This section applies if the Minister gives written notice to a local government identifying a State planning policy, or part of a State planning policy, the Minister is satisfied is appropriately reflected in the planning scheme.
- ‘(2) The local government may amend the planning scheme by stating in the planning scheme the State planning policy, or part of a State planning policy, identified under subsection (1).
- ‘(3) Schedule 1 does not apply for making the amendment.
- ‘(4) An amendment under this section, has effect on and from the day the amendment is adopted by the local government.’.

6 Amendment of s 2.1.23 (Local planning instruments have force of law)

Section 2.1.23(4)—

insert—

‘(e) include guidelines or advice about satisfying assessment criteria in the planning scheme.’.

7 Amendment of s 2.5.1 (What are regions)

Section 2.5.1(a), ‘regions’—

omit, insert—

‘regions, other than the SEQ region’.

8 Insertion of new ch 2, pt 5A

Chapter 2—

insert—

‘Part 5A Regional planning in the SEQ region

‘Division 1 Preliminary

‘2.5A.1 Application of part

‘This part only applies to the SEQ region.

‘2.5A.2 What is the SEQ region

‘(1) The *SEQ region* is the local government areas of the following local governments—

- Beaudesert Shire Council;
- Boonah Shire Council;
- Brisbane City Council;
- Caboolture Shire Council;
- Caloundra City Council;
- Esk Shire Council;
- Gatton Shire Council;
- Gold Coast City Council;

- Ipswich City Council;
- Kilcoy Shire Council;
- Laidley Shire Council;
- Logan City Council;
- Maroochy Shire Council;
- Noosa Shire Council;
- Pine Rivers Shire Council;
- Redcliffe City Council;
- Redland Shire Council;
- Toowoomba City Council.

‘(2) The SEQ region also includes Queensland waters adjacent to any of the local government areas mentioned in subsection (1).

‘Division 2 SEQ regional coordination committee

‘2.5A.3 Establishment of SEQ regional coordination committee

‘The regional planning Minister must establish an SEQ regional coordination committee.

‘2.5A.4 Functions of SEQ regional coordination committee

‘The SEQ regional coordination committee’s function is to advise the Government, through the regional planning Minister, about the development and implementation of the SEQ regional plan.

‘2.5A.5 Membership of SEQ regional coordination committee

- ‘(1) The SEQ regional coordination committee has the membership decided by the regional planning Minister and published in the gazette.
- ‘(2) A member of the SEQ regional coordination committee must be—
 - (a) a Minister; or
 - (b) a mayor or councillor of a local government of the region; or
 - (c) an appropriately qualified person.

‘2.5A.6 Dissolution of SEQ regional coordination committee

‘The regional planning Minister may dissolve the SEQ regional coordination committee at any time.

‘2.5A.7 Quorum

‘A quorum for a meeting of the SEQ regional coordination committee is 1 more than half the number of members of the committee.

‘2.5A.8 Presiding at meetings

- ‘(1) The regional planning Minister presides at all meetings of the SEQ regional coordination committee.
- ‘(2) If the regional planning Minister is absent, the member nominated by the Minister must preside.

‘2.5A.9 Conduct of meetings

- ‘(1) Meetings of the SEQ regional coordination committee must be conducted at the time and place the regional planning Minister decides.

- ‘(2) The SEQ regional coordination committee must conduct its business and proceedings at meetings in the way it decides from time to time.

‘Division 3 The SEQ regional plan

‘2.5A.10 What is the SEQ regional plan

- ‘(1) The SEQ regional plan is the instrument made by the regional planning Minister under section 2.5A.15(2).
- ‘(2) The SEQ regional plan is a statutory instrument under the *Statutory Instruments Act 1992* and has the force of law.

‘2.5A.11 Key elements of the SEQ regional plan

‘The regional planning Minister must be satisfied that the SEQ regional plan—

- (a) identifies—
- (i) the desired regional outcomes for the SEQ region; and
 - (ii) the policies and actions for achieving the desired regional outcomes; and
- (b) identifies the desired future spatial structure of the region including—
- (i) a future regional land use pattern; and
 - (ii) provision for regional infrastructure to service the future regional land use pattern, to inform—
 - (A) local governments when preparing priority infrastructure plans; and
 - (B) the State, local governments and other entities about infrastructure plans and investments; and
 - (iii) key regional environmental, economic and cultural resources—

- (A) to be preserved, maintained or developed;
and
- (B) the way the resources are to be preserved,
maintained or developed; and
- (iv) for paragraph (b)(iii), regional landscape areas;
and
- (c) includes any other relevant regional planning matter for
this Act.

'2.5A.12 The SEQ regional plan may include regulatory provisions

- '(1) The SEQ regional plan may include regulatory provisions.
- '(2) The regulatory provisions may—
 - (a) declare development to be assessable or self-assessable development; and
 - (b) require impact or code assessment, or both impact and code assessment, for assessable development, including assessable development mentioned in paragraph (a); and
 - (c) include a code for IDAS; and
 - (d) otherwise regulate development by, for example, stating aspects of development that may not occur in stated localities; and
 - (e) state transitional arrangements for development applications affected by the regulatory provisions.
- '(3) To the extent the regulatory provisions do any of the matters mentioned in subsection (2)(a) to (c), the regulatory provisions—
 - (a) are taken to be a temporary local planning instrument; and
 - (b) despite section 2.1.10(1), continue to apply for a local government area until the planning scheme, or an amendment of the planning scheme, reflecting the

matters mentioned in subsection (2)(a) to (c) takes effect.²

‘Division 4 Preparing and making SEQ regional plan

‘2.5A.13 Regional planning Minister to prepare draft SEQ regional plan

- ‘(1) The regional planning Minister must prepare a draft SEQ regional plan.
- ‘(2) The regional planning Minister must consult the SEQ regional coordination committee about preparing the draft SEQ regional plan.

‘2.5A.14 Notice of and public consultation on draft SEQ regional plan

- ‘(1) When the regional planning Minister has prepared the draft SEQ regional plan, the regional planning Minister must publish a notice—
 - (a) in the gazette; and
 - (b) at least once in a newspaper circulating generally in the SEQ region.
- ‘(2) The notice must state the following—
 - (a) that the draft SEQ regional plan is available for inspection and purchase;
 - (b) where copies of the draft SEQ regional plan are available for inspection and purchase;
 - (c) a contact telephone number for information about the draft SEQ regional plan;
 - (d) that written submissions about any aspect of the draft SEQ regional plan may be given to the regional planning Minister by any person;

² See also section 2.5A.24 (Effect of draft regulatory provisions).

- (e) the period (the *consultation period*) during which the submissions may be made;
 - (f) the requirements for a properly made submission for this section.
- ‘(3) The consultation period must be for at least 60 business days after the day the notice is published in the gazette.
 - ‘(4) The regional planning Minister must send a copy of the notice and the draft SEQ regional plan to each local government in the SEQ region.
 - ‘(5) The regional planning Minister may send a copy of the notice and the draft SEQ regional plan to any other entity the regional planning Minister considers appropriate.
 - ‘(6) For all of the consultation period, the regional planning Minister must keep a copy of the draft SEQ regional plan available for inspection and purchase.
 - ‘(7) The regional planning Minister may, during the consultation period, amend, replace or remove the draft regulatory provisions.

‘2.5A.15 Making SEQ regional plan

- ‘(1) The regional planning Minister must—
 - (a) consider every properly made submission about the draft SEQ regional plan; and
 - (b) consult with the SEQ regional coordination committee about making the SEQ regional plan.
- ‘(2) After the regional planning Minister has acted under subsection (1), the regional planning Minister may—
 - (a) make the SEQ regional plan as provided for in the draft SEQ regional plan as published; or
 - (b) make the SEQ regional plan and include any amendments of the draft SEQ regional plan the regional planning Minister considers appropriate.

‘2.5A.16 Notice of making of SEQ regional plan

- ‘(1) After the regional planning Minister has made the SEQ regional plan, the regional planning Minister must publish a notice about the making of the plan—
- (a) in the gazette; and
 - (b) at least once in a newspaper circulating generally in the region.
- ‘(2) The notice must state the following—
- (a) the day the SEQ regional plan was made;
 - (b) where a copy of the plan may be inspected and purchased.
- ‘(3) The SEQ regional plan has effect on and from—
- (a) the day the making of the SEQ regional plan is published in the gazette; or
 - (b) if a later day for the commencement of the SEQ regional plan is stated in the SEQ regional plan—the later day.

‘2.5A.17 Regulatory provisions to be ratified by Parliament

- ‘(1) The regional planning Minister must table a copy of the regulatory provisions in the Legislative Assembly within 14 sitting days of the making of the SEQ regional plan.
- ‘(2) If the regulatory provisions are not ratified by Parliament within 14 sitting days after the day the copy is tabled, the regulatory provisions cease to have effect.

‘Division 5 Amending or replacing SEQ regional plan**‘2.5A.18 Regional planning Minister may amend or replace SEQ regional plan**

- ‘The regional planning Minister may—
- (a) amend the SEQ regional plan; or

- (b) replace the SEQ regional plan with a new SEQ regional plan.

‘2.5A.19 How SEQ regional plan is amended or replaced

- ‘(1) Division 4 applies for amending the SEQ regional plan—
 - (a) as if a reference in the sections to the draft SEQ regional plan were a reference to the amendment; and
 - (b) and a reference to 60 business days were a reference to 30 business days; and
 - (c) with any other necessary changes.
- ‘(2) Division 4 also applies for making a new SEQ regional plan.
- ‘(3) If the SEQ regional plan is replaced by a new SEQ regional plan, the new SEQ regional plan has effect on and from—
 - (a) the day the making of the new SEQ regional plan was published in the gazette; or
 - (b) if a later day for the commencement of the new SEQ regional plan is stated in the new SEQ regional plan—the later day.
- ‘(4) However, when acting under section 2.5A.15, the regional planning Minister may also decide not to proceed with the amendment or replacement.
- ‘(5) If the regional planning Minister makes a decision under subsection (4), the regional planning Minister must publish a notice in the gazette stating the regional planning Minister has decided not to proceed with the amendment or replacement.

‘2.5A.20 Minor amendments of SEQ regional plan

- ‘(1) If the SEQ regional plan requires a minor amendment—
 - (a) division 4 does not apply; and
 - (b) the regional planning Minister may make the amendment.

- ‘(2) If the regional planning Minister makes a minor amendment, the regional planning Minister must publish a notice about the making of the amendment—
- (a) in the gazette; and
 - (b) at least once in a newspaper circulating generally in the region.
- ‘(3) The notice must state the following—
- (a) the day the minor amendment was made;
 - (b) where a copy of the SEQ regional plan, as amended, may be inspected and purchased.
- ‘(4) However, for a minor amendment of the regulatory provisions section 2.5A.17 does not apply.

‘Division 6 Effect of the SEQ regional plan

‘2.5A.21 State interest

‘For this Act, the SEQ regional plan is taken to be a State interest.

‘2.5A.22 Local governments to amend planning schemes to reflect SEQ regional plan

- ‘(1) This section applies to a local government mentioned in section 2.5A.2(1) unless the regional planning Minister gives the local government a written direction to the contrary.
- ‘(2) The local government must amend its planning scheme under schedule 1 to reflect the SEQ regional plan as made, amended or replaced.
- ‘(3) The regional planning Minister may amend the planning scheme if—
- (a) the regional planning Minister is satisfied a local government must amend its planning scheme under subsection (2); and

- (b) the local government has not, within 90 business days of the day notice of the making of the SEQ regional plan was published in the gazette, complied with schedule 1, section 9(3) for the amendment.
- ‘(4) Schedule 1, sections 12 to 17 and 19 to 21 apply for amending the planning scheme under subsection (3).
- ‘(5) However, for subsection (4), and if the context requires, a reference in schedule 1 to—
 - (a) the local government is a reference to the regional planning Minister; and
 - (b) a decision of the local government is a reference to a decision of the regional planning Minister; and
 - (c) a local government’s chief executive officer is a reference to the chief executive of the department; and
 - (d) the local government’s public office is a reference to the department’s State office.
- ‘(6) Anything done by the regional planning Minister under subsection (3) is taken to have been done by the local government and has the same effect as it would have had if the local government had done it.
- ‘(7) An expense reasonably incurred by the regional planning Minister in taking an action under subsection (3) may be recovered from the local government as a debt owing to the State.
- ‘(8) The regional planning Minister may, in writing, extend the period mentioned in subsection (3)(b).
- ‘(9) Nothing in this section affects or is affected by part 3.

‘2.5A.23 Effect of SEQ regional plan on other plans, policies or codes

- ‘(1) An entity responsible for preparing or amending a plan, policy or code under this or another Act that may affect a matter under section 2.5A.11 must—

-
- (a) in preparing the plan, policy or code, or the amendment of the plan, policy or code, take account of the SEQ regional plan; and
 - (b) state in the plan, policy or code how the plan, policy or code, or the amendment of the plan, policy or code, will reflect the SEQ regional plan for the matters under section 2.5A.11.
- ‘(2) For this Act, to the extent there is an inconsistency between the SEQ regional plan and any other plan, policy or code under this or another Act, including any other planning instrument, the SEQ regional plan prevails.

‘2.5A.24 Effect of draft regulatory provisions

- ‘(1) When a notice is published under section 2.5A.14(1)(a), any proposed regulatory provisions of the draft SEQ regional plan (the *draft regulatory provisions*) have effect until the SEQ regional plan comes into effect.
- ‘(2) If the regulatory provisions of the SEQ regional plan are proposed to be amended under division 5, the proposed amendments of the regulatory provisions (also the *draft regulatory provisions*) have effect from the day the notice for the proposed amendments is published under section 2.5A.14(1)(a) until—
- (a) if the amendments come into effect under section 2.5A.16(3)—the day the amendments come into effect; or
 - (b) if the regional planning Minister decides under section 2.5A.19(4) not to proceed with the amendments—the day the notice is published in the gazette under section 2.5A.19(5).
- ‘(3) If the existing SEQ regional plan is proposed to be replaced by a new SEQ regional plan, the proposed regulatory provisions of the proposed new SEQ regional plan (also the *draft regulatory provisions*) have effect from the day the notice under section 2.5A.16(2)(a) is published for the proposed new SEQ regional plan until—

- (a) if the new SEQ regional plan comes into effect under section 2.5A.16(3)—the day the plan comes into effect; or
 - (b) if the regional planning Minister decides under section 2.5A.19(4) not to proceed with the proposed new SEQ regional plan—the day the notice is published in the gazette under section 2.5A.19(5).
- ‘(4) During the consultation period the Minister may, by gazette notice, amend the draft regulatory provisions.
- ‘(5) To remove doubt it is declared that—
- (a) if subsection (2)(b) or (3)(b) applies, the regulatory provisions of the SEQ regional plan that applied before subsection (2) or (3) applied again apply after the day mentioned in subsection (2)(b) or (3)(b); and
 - (b) draft regulatory provisions may state transitional arrangements for development applications affected by the draft regulatory provisions.’.

9 Amendment of s 3.1.4 (When is a development permit necessary)

- (1) Section 3.1.4(3)(b), after ‘instruments’—
- insert—*
- ‘, other than the regulatory provisions or the draft regulatory provisions’.³
- (2) Section 3.1.4—
- insert—*
- ‘(4) Nothing in subsection (3)(b) stops a planning instrument or a development approval affecting exempt development if—
- (a) the development is the natural and ordinary consequence of another aspect of development that is assessable or self-assessable development; and

3 See section 2.5A.12 (The SEQ regional plan may include regulatory provisions).

- (b) the effect mitigates impacts of the assessable or self-assessable development.

Example for subsection (4)—

A development approval for a material change of use may include conditions, including, for example, conditions about landscaping, parking or buildings that are the natural and ordinary consequence of the material change of use if the conditions would mitigate impacts, including, for example, visual amenity, noise or traffic generation, of the material change of use.’.

10 **Amendment of s 3.2.1 (Applying for development approval)**

- (1) Section 3.2.1(7)—

insert—

‘(f) the development would not be contrary to the regulatory provisions or the draft regulatory provisions.’.

- (2) Section 3.2.1(10)—

omit, insert—

- ‘(10) Subsection (9) does not apply to an application—

- (a) unless the application contains—

- (i) the written consent of the owner of any land to which the application applies; or
(ii) any evidence required under subsection (5); or

- (b) if the development would be contrary to the regulatory provisions or the draft regulatory provisions.’.

11 **Amendment of s 3.3.15 (Referral agency assesses application)**

Section 3.3.15(1)(b)(ii)—

omit, insert—

‘(ii) each of the following, if they are not identified in the planning scheme as being appropriately reflected in the planning scheme—

- (A) State planning policies, or parts of State planning policies;⁴
- (B) for the planning scheme of a local government in the SEQ region—the SEQ regional plan.’.

12 Amendment of s 3.4.2 (When the notification stage applies)

Section 3.4.2(3)(b)(ii)—

omit, insert—

- ‘(ii) seeks only to change development requiring code assessment to self-assessable development; or
- (iii) seeks only to increase the level of assessment for the development; and’.

13 Amendment of s 3.5.4 (Code assessment)

Section 3.5.4(2)(c)—

omit, insert—

- ‘(c) if they are not identified in the planning scheme as being appropriately reflected in the planning scheme—
- (i) State planning policies, or parts of State planning policies;⁵ and
- (ii) for the planning scheme of a local government in the SEQ region—the SEQ regional plan; and’.

14 Amendment of s 3.5.5 (Impact assessment)

Section 3.5.5(2)(c)—

omit, insert—

4 See schedule 1, section 18(6) (Reconsidering proposed planning scheme for adverse effects on State interests).

5 See schedule 1, section 18(6) (Reconsidering proposed planning scheme for adverse effects on State interests).

- ‘(c) if they are not identified in the planning scheme as being appropriately reflected in the planning scheme—
 - (i) State planning policies, or parts of State planning policies;⁶ and
 - (ii) for the planning scheme of a local government in the SEQ region—the SEQ regional plan;’.

15 Amendment of s 3.5.5A (Assessment for s 3.1.6 preliminary approvals that override a local planning instrument)

Section 3.5.5A(2)(e)—

omit, insert—

- ‘(e) if they are not identified in the planning scheme as being appropriately reflected in the planning scheme—
 - (i) State planning policies, or parts of State planning policies;⁷ and
 - (ii) for the planning scheme of a local government in the SEQ region—the SEQ regional plan;
- (f) the matters prescribed under a regulation (to the extent they apply to a particular proposal).’.

16 Amendment of s 3.5.11 (Decision generally)

Section 3.5.11—

insert—

- ‘(4A) Despite subsections (2) and (3), the assessment manager’s decision must not be contrary to the regulatory provisions or the draft regulatory provisions.’.

⁶ See schedule 1, section 18(6) (Reconsidering proposed planning scheme for adverse effects on State interests).

⁷ See schedule 1, section 18(6) (Reconsidering proposed planning scheme for adverse effects on State interests).

17 Amendment of s 3.5.13 (Decision if application requires code assessment)

Section 3.5.13(3)(b)—

omit, insert—

‘(b) if they are not identified in the planning scheme as being appropriately reflected in the planning scheme—

- (i) State planning policies, or parts of State planning policies;⁸ and
- (ii) for the planning scheme of a local government in the SEQ region—the SEQ regional plan.’.

18 Amendment of s 3.5.14 (Decision if application requires impact assessment)

Section 3.5.14(4)—

omit, insert—

‘(4) Subsections (2)(a) and (3) do not apply if compromising the achievement of the desired environmental outcomes is necessary to further the outcomes of any of the following if they are not identified in the planning scheme as being appropriately reflected in the planning scheme—

- (a) State planning policies, or parts of State planning policies;⁹
- (b) for the planning scheme of a local government in the SEQ region—the SEQ regional plan.’.

19 Amendment of s 3.5.14A (Decision if application under s 3.1.6 requires assessment)

Section 3.5.14A(2)(c)—

omit, insert—

⁸ See schedule 1, section 18(6) (Reconsidering proposed planning scheme for adverse effects on State interests).

⁹ See schedule 1, section 18(6) (Reconsidering proposed planning scheme for adverse effects on State interests).

- ‘(c) subsection (1)(a) and (b) does not apply if compromising the achievement of the desired environmental outcomes is necessary to further the outcomes of any of the following if they are not identified in the planning scheme as being appropriately reflected in the planning scheme—
- (i) State planning policies, or parts of State planning policies;¹⁰
 - (ii) for the planning scheme of a local government in the SEQ region—the SEQ regional plan.’.

20 Amendment of s 3.6.7 (Effect of call in)

Section 3.6.7—

insert—

- ‘(4) Subsection (5) applies despite subsection (1)(b) and (c), for an application called in by the regional planning Minister.
- ‘(5) The regional planning Minister may, by written notice given to the applicant and the relevant local government, suspend the IDAS process until the number of days stated in the notice after—
 - (a) publication of a notice under section 2.5A.14 about the draft SEQ regional plan; or
 - (b) publication of a notice under section 2.5A.16 about the SEQ regional plan.
- ‘(6) Despite subsection (1), the regional planning Minister may by written notice, at the end of the suspension of the IDAS process, refer the application to the original assessment manager to assess and decide.
- ‘(7) The notice mentioned in subsection (6) must state the point in the IDAS process from which, and the day on which, the process must restart for the application.

10 See schedule 1, section 18(6) (Reconsidering proposed planning scheme for adverse effects on State interests).

- ‘(8) For assessing the application, whether by the regional planning Minister after acting under subsection (5) or the original assessment manager, section 3.5.3 does not apply to the SEQ regional plan or a planning scheme amendment reflecting the SEQ regional plan.’

21 Insertion of new s 4.3.5A

After section 4.3.5—

insert—

‘4.3.5A Compliance with the SEQ regional plan

‘Subject to chapter 1, part 4, a person must not carry out development contrary to the regulatory provisions or the draft regulatory provisions.

Maximum penalty—1 665 penalty units.’

22 Insertion of new s 5.6.3A

After section 5.6.3—

insert—

‘5.6.3A How infrastructure charges apply for development under part 6

If the State, or a statutory body representing the State, proposes or starts development under this part, the State or body is not required to pay any infrastructure charge under chapter 5, part 1 for the development.’

23 Amendment of s 5.7.2 (Documents local government must keep available for inspection and purchase)

Section 5.7.2(1)—

insert—

- ‘(m) for a local government in the SEQ region—a copy of the SEQ regional plan;’

24 Amendment of s 5.7.6 (Documents chief executive must keep available for inspection and purchase)

Section 5.7.6—

insert—

‘(fa) a copy of the SEQ regional plan;’.

25 Amendment of s 5.7.9 (Limited planning and development certificates)

(1) Section 5.7.9(b) and (c)—

renumber as 5.7.9(c) and (d).

(2) Section 5.7.9—

insert—

‘(b) if any of the regulatory provisions or the draft regulatory provisions apply to the premises—a description of the provisions that apply;’.

26 Amendment of s 5.8.1A (Delegation by Minister)

Section 5.8.1A(2)—

omit, insert—

‘(2) The regional planning Minister may delegate his or her powers or functions under this Act to an appropriately qualified public service officer.

‘(3) The Minister administering the *State Development and Public Works Organisation Act 1971*, if acting under chapter 3, part 6, division 2, may delegate his or her powers or functions under the division to an appropriately qualified public service officer.’.

27 Amendment of s. 5.8.3 (Application of State Development and Public Works Organisation Act 1971)

Section 5.8.3—

insert—

- ‘(2) Nothing in chapter 2, part 5A affects in any way the *State Development and Public Works Organisation Act 1971*.’

28 Amendment of s 6.1.25 (Effect of commencement on certain applications in progress)

Section 6.1.25—

insert—

- ‘(3) Subsection (4) applies if—
- (a) an approval mentioned in subsection (1)(b) or (1A)(b) implies that a person has the right to use premises, the subject of the approval, for a particular purpose; and
 - (b) when the approval was given, a material change of use for a use implied by the approval was self-assessable development or exempt development; and
 - (c) after the approval was given, but before the use started, a new planning instrument or an amendment of a planning instrument—
 - (i) declared the material change of use to be assessable development; or
 - (ii) changed an applicable code for the material change of use.
- ‘(4) The implied use is to be taken to be a use in existence immediately before the commencement of the new planning instrument or amendment if—
- (a) the rights (other than the implied right) under the approval are exercised within the time allowed for the rights to be exercised under the approval or this Act; and
 - (b) the implied use is started within 5 years after the rights mentioned in paragraph (a) are exercised.’

29 Amendment of s 6.1.35C (Future effect of approvals for applications mentioned in s 3.1.6)

Section 6.1.35C(2)(b), ‘, as that section was immediately before the commencement of this section’—

omit.

30 Insertion of new ch 6, pt 4

After section 6.3.1—

insert—

‘Part 4 Transitional provision for Integrated Planning and Other Legislation Amendment Act 2004

‘6.4.1 Effect of SEQ regional plan for assessing and deciding applications under transitional planning schemes

- ‘(1) Subsections (2) and (3) apply—
- (a) for development on premises in the SEQ region; and
 - (b) for assessing a development application to which section 6.1.29 applies.
- ‘(2) In addition to the matters mentioned in section 6.1.29(3), the SEQ regional plan also applies for assessing the application.
- ‘(3) To the extent of any inconsistency between the SEQ regional plan and a matter stated in section 6.1.29(3), the SEQ regional plan prevails.
- ‘(4) A requirement under section 6.1.30 to refuse a development application because the application conflicts with any relevant strategic plan or development control plan under a transitional planning scheme only applies to the extent the requirement is consistent with the SEQ regional plan.’

31 Amendment of sch 1 (Process for making or amending planning schemes)

(1) Schedule 1, section 3(2)—

insert—

‘(c) for a local government in the SEQ region—state how the local government anticipates the planning scheme will reflect the SEQ regional plan.’.

(2) Schedule 1, section 10(1)(b)—

omit, insert—

‘(b) the Minister is satisfied that the proposed amendment reflects 1 or more of the following, and that there has already been adequate public consultation about the matter, the subject of the proposed amendment—

- (i) the recommendation of a regional planning advisory committee on a matter;
- (ii) the SEQ regional plan;
- (iii) another standard or policy of the State;
- (iv) a decision previously made by an assessment manager on a development application.’.

(3) Schedule 1, section 18(5)—

omit, insert—

‘(5) Subsection (5A) applies if the Minister—

- (a) advises the local government under subsection (4); and
- (b) is satisfied the following are appropriately reflected in the proposed planning scheme—
 - (i) State planning policies, or parts of State planning policies;
 - (ii) for the proposed planning scheme of a local government in the SEQ region—the SEQ regional plan.

‘(5A) The Minister must also advise the local government that he or she is satisfied under subsection (5)(b).’.

(4) Schedule 1, section 18(7)(c)—

omit, insert—

- ‘(c) state in the proposed planning scheme details of the advice given by the Minister under subsection (5A).’.

32 Amendment of sch 10 (Dictionary)

- (1) Schedule 10, definitions *Minister* and *planning instrument—omit.*
- (2) Schedule 10, definitions *development offence* and *tidal works—omit.*
- (3) Schedule 10—*insert—*
‘draft regulatory provisions see section 2.5A.24.

Minister means—

- (a) in chapter 2, part 6—any Minister of the Crown; and
- (b) in chapter 2, part 3, and chapter 3, part 6—
 - (i) the Minister administering those parts; or
 - (ii) for a matter the regional planning Minister is satisfied relates to chapter 2, part 5A—the regional planning Minister; and
- (c) in chapter 3, part 6, division 2, includes the Minister administering the *State Development and Public Works Organisation Act 1971*; and
- (d) in any other provision of this Act—the Minister administering the provision.¹¹

planning instrument means a State planning policy, the SEQ regional plan, draft regulatory provisions, a planning scheme, a temporary local planning instrument or a planning scheme policy.

¹¹ Copies of the administrative arrangements are available from Goprint.

regional planning Minister means the Minister administering chapter 2, part 5A.

regulatory provisions means regulatory provisions under section 2.5A.12.

SEQ region see section 2.5A.2.

SEQ regional plan see section 2.5A.10.’.

(4) Schedule 10—

insert—

‘**appropriately qualified**, for the delegation of a power, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person’s classification level in the public service

development offence means an offence against section 4.3.1, 4.3.2, 4.3.2A, 4.3.3, 4.3.4, 4.3.5 or 4.3.5A.

emergency work, for schedule 8, part 1, table 5, item 2—

1. *Emergency work* means reversible work that is necessary to give temporary support, shelter or security to a registered place, a protected area or protected object, as defined by the *Queensland Heritage Act 1992—*

(a) because it has been, or is likely to be, damaged by fire or natural disaster; or

(b) because of accidental or intentional damage.

2. *Emergency work* does not include demolition.

tidal works see the *Coastal Protection and Management Act 1995*.’.

(5) Schedule 10, definition *assessing authority*, paragraph (f)—

omit, insert—

‘(f) for development to which the regulatory provisions or draft regulatory provisions apply—the chief executive; or

(g) for any other matter—the local government.’.

-
- (6) Schedule 10, definition *consultation period*, paragraph (d)—
omit, insert—
- ‘(d) for making the SEQ regional plan—see section 2.5A.14(2)(e); or
 - (e) for amending the SEQ regional plan—see section 2.5A.19(1)(b); or
 - (f) for making a ministerial designation of land—the period for the making of submissions stated in any notice given under section 2.6.7(4).’
- (7) Schedule 10, definition *deemed refusal*, ‘means’—
omit, insert—
- ‘, for a proceeding under chapter 4, part 1 or 2, means’.
- (8) Schedule 10, definition *establishment cost*, paragraph (c)—
omit, insert—
- ‘(c) for existing infrastructure—
 - (i) the residual financing cost of the existing infrastructure; and
 - (ii) the cost of reconstructing the same works using contemporary materials, techniques and technologies; and
 - (iii) if the land acquisition for the infrastructure was completed after 1 January 1990—the present value of the amount (if any) paid by the infrastructure provider for acquiring the land.’
- (9) Schedule 10, definition *properly made submission*, paragraph (e)(iv)—
omit, insert—
- ‘(iv) if the submission is about the SEQ regional plan—to the regional planning Minister.’

37 Amendment of s 854 (Local laws and subordinate local laws about development)

(1) Section 854(3), ‘deals with development, within the meaning of the *Integrated Planning Act 1997*’—

omit, insert—

‘includes a process of the type mentioned in subsection (1)’.

(2) Section 854—

insert—

‘(3A) Subsection (3) does not apply for local laws of the type mentioned in subsection (1A) until the local government makes a decision under the *Integrated Planning Act 1997*, schedule 1, section 1 to prepare its second IPA planning scheme.’.

(3) Section 854(5), ‘subsections (1) and (3)’—

omit, insert—

‘subsection (1)’.

Part 5 Amendment of Queensland Heritage Act 1992

38 Act amended in pt 5

This part amends the *Queensland Heritage Act 1992*.

39 Amendment of s 35 (Application for exemption certificate)

(1) Section 35(1), after ‘registered place’—

insert—

‘, including the State.’.

(2) Section 35(4)—

omit, insert—

- ‘(4) An exemption certificate may be issued for development that—
- (a) is maintenance work; or
 - (b) is minor repair work; or
 - (c) is other minor work; or
 - (d) is genuinely required for a place of worship for liturgical purposes; or
 - (e) is permitted under a heritage agreement; or
 - (f) would have no impact on the cultural heritage significance of the place.’.

40 Amendment of pt 7 (Discovery and protection of objects and areas)

Part 7, heading—

omit, insert—

‘Part 7 Discovery and protection of archaeological objects and archaeological areas’.

41 Amendment of s 44 (Study must be reported)

- (1) Section 44(1)—

omit, insert—

- ‘(1) Subsection (2) applies if—
- (a) a person proposes to study land or the territorial waters of the State for the purpose of identifying archaeological objects or areas that may contain archaeological objects; and
 - (b) the objects or areas may be of cultural heritage significance.’.
- (2) Section 44(2), ‘The notice must state’—
- omit, insert—*

‘The person must give the chief executive a notice about the study stating.’.

42 Amendment of s 51 (Applying for permit to enter a protected area)

Section 51(2)(c)—

omit, insert—

‘(c) supported by the written consent of the owner of the land to be entered within the protected area; and

(d) accompanied by the fee prescribed under a regulation.’.

43 Amendment of s 55 (Functions of authorised persons)

Section 55(1)(b)—

omit, insert—

‘(b) to conduct investigations and inspections to monitor and enforce compliance with—

(i) this Act; and

(ii) the *Integrated Planning Act 1997*, so far as it relates to assessable development completely or partly for a registered place.’.

44 Amendment of s 57H (Issue of warrant)

Section 57H(1)(a), after ‘Act’—

insert—

‘or of a development offence under the *Integrated Planning Act 1997*’.

45 Insertion of new s 67B

After section 67A—

insert—

‘67B Delegation by Minister

‘(1) The Minister may delegate the Minister’s powers under this Act to—

- (a) the chairperson of the council; or
- (b) a local government; or
- (c) an appropriately qualified public service officer.

‘(2) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person’s classification level in the public service’.

46 Insertion of new pt 10

After part 9—

insert—

**‘Part 10 Transitional provisions for
Queensland Heritage and Other
Legislation Amendment Act
2003****‘69 Assessing and deciding applications made before
28 November 2003**

‘(1) Subsection (2) applies for the following—

- (a) an application lodged under section 34 of the previous Act and not decided before 28 November 2003;
- (b) an application for a review made under section 36 of the previous Act and not decided before 28 November 2003;
- (c) an appeal to the Planning and Environment Court made under section 36(6) of the previous Act and not decided before 28 November 2003.

‘(2) An application or appeal mentioned in subsection (1) must be dealt with under the previous Act.

‘70 Compliance with approval given under pt 5 of previous Act

- ‘(1) Subsection (2) applies for an approval given under part 5 of the previous Act.
- ‘(2) A person must comply with the approval, and any conditions of the approval, as required under the previous Act.’.

47 Amendment of sch (Dictionary)

- (1) Schedule, definitions *emergency work*, *excluded work* and *minor repair work*—

omit.

- (2) Schedule—

insert—

‘*minor repair work* means work of a minor nature—

- (a) that will not cause detriment to the cultural heritage significance of a registered place; and
- (b) involving repairs to the materials, features, contents and setting that comprise a registered place; and
- (c) using the same types of materials and the same construction methods as were originally used on the registered place.

***other minor work* means work that—**

- (a) is not of a significant scale; and
- (b) will not cause detriment to the cultural heritage significance of a registered place.

***previous Act* means this Act as in force before 28 November 2003.’.**

- (3) Schedule, definition *maintenance work*, item 1—

omit, insert—

1. ***Maintenance work* means work that—**

- (a) will not cause detriment to the cultural heritage significance of a registered place; and

- (2) Section 81(1), inserted items 8 and 9—
renumber as items 9 and 10.

Schedule Minor amendments

section 3

Integrated Planning Act 1997**1 Section 2.6.8(1)(b)—***omit, insert—*

‘(b) each local government the Minister is satisfied the designation affects; and’.

2 Section 2.6.18(5)—*insert—*

‘(c) the chief executive.’.

3 Section 3.2.1(6), ‘(3)(b)’—*omit, insert—*

‘(3)’.

4 Section 3.5.3A(1), ‘a development’—*omit, insert—*

‘an’.

5 Section 3.5.28(1), ‘owners’—*omit, insert—*

‘owner’s’.

Schedule (continued)

- 6 Sections 4.1.5(2) and (4), and 4.1.48 (1) and (3)(c), ‘District Courts Act 1967’—**
omit, insert—
‘District Court of Queensland Act 1967’.
- 7 Section 5.2.1, definition *infrastructure agreement*—**
insert—
• section 5.1.6’.
- 8 Section 6.1.20(4), ‘2005’—**
omit, insert—
‘2006’.
- 9 Section 6.1.26(4), after ‘repealed Act’—**
insert—
‘, part 4,’.
- 10 Section 6.1.31(3)(b)(i), ‘2005’—**
omit, insert—
‘2006’.
- 11 Chapter 6, part 1, division 11—**
omit.
- 12 Schedule 1, section 9, heading, ‘Resolution proposing’—**
omit, insert—
‘Proposing’.

Schedule (continued)

- 13** **Schedule 1, section 9(3), ‘makes a resolution’—**
omit, insert—
‘proposes a planning scheme’.
- 14** **Schedule 1, section 19, heading, ‘Resolution about adopting’—**
omit, insert—
‘Adopting’.
- 15** **Schedule 1, section 19, ‘makes a resolution’—**
omit, insert—
‘proposes a planning scheme’.
- 16** **Schedule 2, section 1, heading, ‘Resolution’—**
omit, insert—
‘Proposal’.
- 17** **Schedule 2, section 3, heading, ‘Resolution about adopting’—**
omit, insert—
‘Adopting’.
- 18** **Schedule 2, section 3(1), ‘makes a resolution under section 1 and’—**
omit.
- 19** **Schedule 2, section 3(2), ‘a copy of the resolution and’—**
omit, insert—
‘written notice of’.

Schedule (continued)

- 20** **Schedule 4, section 7, heading, ‘Resolution about adopting’—**
 omit, insert—
 ‘Adopting’.
- 21** **Schedule 8, heading—**
 omit, insert—
**‘Schedule 8 Assessable development and
 self-assessable development**
- schedule 10, definitions *assessable development* and
 self-assessable development’.
- 22** **Schedule 8, part 1, table 3, item 1—**
 insert—
 ‘(i) is for the *Transport Infrastructure Act 1994*,
 section 240.’.
- 23** **Schedule 8, part 1, table 5, item 2(b), ‘or excluded under
 that Act’—**
 omit.
- 24** **Schedule 8A, table 3, items 1 to 7, ‘table 1 or 2 does’—**
 omit, insert—
 ‘tables 1 and 2 do’.
- 25** **Schedule 8A, table 4, items 1, 2 and 3, ‘table 1, 2 or 3
 does’—**
 omit, insert—
 ‘tables 1, 2 and 3 do’.

Schedule (continued)

26 Schedule 9, table 3, item 2—*insert—*

‘(h) is for the *Transport Infrastructure Act 1994*, section 240.’.

27 Schedule 9, table 4, item 6, ‘70’—*omit, insert—*

‘134’.

28 Schedule 9, table 4, item 9(c), ‘Authority’—*omit, insert—*

‘Service’.

29 Schedule 10, definition *artificial waterway*, ‘5B’—*omit, insert—*

‘8’.

30 Schedule 10, definition *coastal management district*, ‘47(2)’—*omit, insert—*

‘54(2)’.

31 Schedule 10, definition *core matter*—*omit, insert—*

‘*core matter*, for the preparation of a planning scheme, see section 2.1.3A.’.

Schedule (continued)

32 Schedule 10, definition *development application* (superseded *planning scheme*), paragraph (a)(iii), 'adopted.'—*omit, insert—*

'adopted; or'.

33 Schedule 10, definition *State coastal land*, '12A'—*omit, insert—*

'17'.