



Queensland

Southern Moreton Bay Islands Development Entitlements Protection Act 2004

Act No. 32 of 2004



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Southern Moreton Bay Islands Development Entitlements Protection Act 2004

Act No. 32 of 2004

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

[Assented to 12 October 2004]

The Parliament of Queensland enacts—

1 Short title

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

2 Definitions

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

3 Application of Act

This Act applies for a SMBI application.

4 What is a SMBI application

A *SMBI application* is a development application (superseded planning scheme)—

- (a) in relation to a class 1 building, as defined by the *Standard Building Regulation 1993*, on prescribed land; and
- (b) made by or on behalf of an owner of the prescribed land; and
- (c) for which the applicant states the owner wishes this Act to apply for its assessment.

5 What is prescribed land

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

- (a) included in the Residential A, Comprehensive Development or Rural Non Urban zone immediately

before the Redland's IPA planning scheme has effect;¹
and

- (b) located entirely in the Conservation zone under the scheme; and
- (c) prescribed under a regulation.

6 Who is an owner

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

7 Modified application of Integrated Planning Act 1997

- (1) The *Integrated Planning Act 1997*, sections 3.2.5(1)(b) and (3)(b) do not apply for a SMBI application.²
- (2) Despite the *Integrated Planning Act 1997*, section 3.5.28,³ any development approval in relation to a SMBI application lapses if the land, the subject of the application, is sold or transferred to an individual other than another owner of the land before a final inspection certificate, under the *Standard Building Regulation 1993*, is issued for the building for which the development approval was issued.

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

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

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

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

8 Certain IPA rights unaffected

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

9 Council may buy land at any time

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

10 Regulation-making power

The Governor in Council may make regulations under this Act.

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

Schedule Dictionary

section 2

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

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

council means the Redland Shire Council.

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

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

development application (superseded planning scheme) means—

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

Schedule (continued)

(iii) made within 10 years after the day the Redland's IPA planning scheme has effect.

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

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

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

owner see section 6.

prescribed land see section 5.

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

SMBI application see section 4.

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

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