



Queensland

Sustainable Planning and Other Legislation Amendment Act 2012

Act No. 3 of 2012



Queensland

Sustainable Planning and Other Legislation Amendment Act 2012

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Queensland

Sustainable Planning and Other Legislation Amendment Act 2012

Act No. 3 of 2012

An Act to amend the Animal Management (Cats and Dogs) Act 2008, the Building Act 1975, the City of Brisbane Act 2010, the Coastal Protection and Management Act 1995, the Land Sales Act 1984, the Local Government Act 2009, the Local Government Electoral Act 2011, the Plumbing and Drainage Act 2002, the Sustainable Planning Act 2009 and the Urban Land Development Authority Act 2007 for particular purposes

[Assented to 17 February 2012]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Sustainable Planning and Other Legislation Amendment Act 2012*.

2 Commencement

- (1) Part 3, other than sections 5 to 9, 16, 17, and 19(2) and (3), and part 6 commence on—
 - (a) 1 November 2012; or
 - (b) if a day before 1 November 2012 is fixed by proclamation—that day.
- (2) Part 4A is taken to have commenced on 15 February 2012.

Part 2 Amendment of Animal Management (Cats and Dogs) Act 2008

3 Act amended

This part amends the *Animal Management (Cats and Dogs) Act 2008*.

4 Insertion of new s 207A

After section 207—
insert—

‘207A Chief executive (transport) must disclose information

- ‘(1) This section applies if—
- (a) an authorised person is reasonably satisfied that vehicle registry information may be used, in an investigation under this Act about a prescribed offence, to identify the relevant person for a dog; and
 - (b) the authorised person asks the chief executive (transport) for the information.
- ‘(2) The chief executive (transport) must disclose the information to the authorised person if—
- (a) the chief executive (transport) reasonably considers that the information may be used to identify the relevant person; or
 - (b) the disclosure is authorised by the person to whom the information relates.

- ‘(3) In this section—

chief executive (transport) means the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.

prescribed offence means an offence under section 194 or 195 involving an attack by a dog if the attack causes—

- (a) the death of, or grievous bodily harm to, a person or another animal; or
- (b) bodily harm to a person or another animal.

relevant person, for a dog, means the owner of the dog or any responsible person for the dog.

vehicle registry information means information kept in the register of registered vehicles under a regulation under the *Transport Operations (Road Use Management) Act 1995*.’.

[s 5]

Part 3 Amendment of Building Act 1975

5 Act amended

This part amends the *Building Act 1975*.

Note—

See also the amendments in the schedule.

6 Amendment of s 30 (Relevant laws and other documents for assessment of building work)

Section 30(1)(f), from ‘planning scheme’—

omit, insert—

‘local planning instrument or resolution made under section
32 or any relevant provision under section 33;’.

7 Amendment of s 31 (Building assessment provisions form a code for IDAS)

(1) Section 31(4)—

renumber as section 31(6).

(2) Section 31(3)—

omit, insert—

‘(3) Each of the building assessment provisions mentioned in
section 30(1)(b), (c), (d), (e), (g) or (h) is a code that can not
be changed under a local law, local planning instrument or
local government resolution.

‘(4) A local law, local planning instrument or local government
resolution must not include provisions about building work, to
the extent the building work is regulated under a code under
subsection (3).

‘(5) To the extent a local law, local planning instrument or local
government resolution does not comply with subsection (4),

the local law, local planning instrument or local government resolution is of no effect.’.

- (3) Section 31(6), as renumbered under this section, ‘Subsection (3) is’—

omit, insert—

‘Subsections (3) to (5) are’.

8 Amendment of s 32 (Local laws, planning schemes and local government resolutions that may form part of the building assessment provisions)

- (1) Section 32, heading, ‘planning schemes’—

omit, insert—

‘local planning instruments’.

- (2) Section 32(2)—

omit.

9 Amendment of s 33 (Alternative planning scheme provisions to QDC boundary clearance and site cover provisions for particular buildings)

- (1) Section 33, heading, ‘planning scheme’—

omit.

- (2) Section 33(2), (3) and (5), after ‘scheme’—

insert—

‘or ULDA instrument’.

- (3) Section 33(6)—

insert—

‘*ULDA instrument* means an interim land use plan or development scheme made under the *Urban Land Development Authority Act 2007*.’.

[s 10]

10 Amendment of s 151 (Levels)

Section 151(a) to (c)—

omit, insert—

- ‘(a) building certifier–level 1;
- (b) building certifier–level 2;
- (c) building certifier–level 3.’.

11 Amendment of s 152 (Role of building surveyor)

Section 152, ‘building surveyor’—

omit, insert—

‘building certifier–level 1’.

12 Amendment of s 153 (Role of assistant building surveyor)

- (1) Section 153, heading, ‘assistant building surveyor’—

omit, insert—

‘building certifier–level 2’.

- (2) Section 153, ‘An assistant building surveyor’—

omit, insert—

‘A building certifier–level 2’.

- (3) Section 153(a) and (b), ‘a building surveyor’—

omit, insert—

‘a building certifier–level 1’.

13 Replacement of s 154 (Role of building surveying technician)

Section 154—

omit, insert—

‘154 Role of building certifier–level 3

‘A building certifier–level 3 may only perform building certifying functions on class 1 buildings or class 10 buildings or structures.’.

14 Amendment of s 155 (Who may apply)

- (1) Section 155(a), ‘building surveyor or assistant building surveyor’—

omit, insert—

‘building certifier–level 1 or building certifier–level 2’.

- (2) Section 155(b)—

omit, insert—

‘(b) for a licence at the level of building certifier–level 3—

- (i) the individual holds a current accreditation issued by an accreditation standards body; and
- (ii) the individual has at least 1 year’s experience carrying out level 3 work under the supervision of a person licensed as a building certifier–level 1 or a building certifier–level 2; and
- (iii) the period of experience mentioned in subparagraph (ii) was completed not more than 2 years before the application for the licence is made.’.

- (3) Section 155—

insert—

- ‘(2) In this section—

level 3 work means work usually carried out by a building certifier–level 3 working as a building certifier–level 3.’.

15 Amendment of s 163 (Restrictions on making endorsement)

- (1) Section 163(2)—

[s 16]

omit.

- (2) Section 163(3)—
renumber as section 163(2).

16 Amendment of s 246CY (Decision after investigation or audit completed)

Section 246CY(4)(f), after ‘PSC’—
insert—
‘, within a reasonable stated period.’.

17 Amendment of s 291 (When s 232 applies to particular regulated pools)

Section 291(3)(a), ‘subsection (1)(a)’—
omit, insert—
‘subsection (1)’.

18 Insertion of new ch 11, pt 15

Chapter 11—
insert—

‘Part 15 Transitional provisions for Sustainable Planning and Other Legislation Amendment Act 2012

‘311 Definitions for pt 15

‘In this part—
assistant building surveyor means a building certifier who, under previous section 151, is licensed as an assistant building surveyor.

building surveying technician means a building certifier who, under previous section 151, is licensed as a building surveying technician.

building surveyor means a building certifier who, under previous section 151, is licensed as a building surveyor.

commencement means the commencement of this section.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

‘312 Existing accreditations

- ‘(1) This section applies to a current accreditation issued by an accreditation standards body that, immediately before the commencement, was a current accreditation for an application under previous section 155 for a licence as a building surveyor, an assistant building surveyor or a building surveying technician.
- ‘(2) On the commencement, the accreditation is taken to be a current accreditation for—
- (a) if the accreditation is for a licence as a building surveyor—an application under section 155 for a licence as a building certifier–level 1; or
 - (b) if the accreditation is for a licence as an assistant building surveyor—an application under section 155 for a licence as a building certifier–level 2; or
 - (c) if the accreditation is for a licence as a building surveying technician—an application under section 155 for a licence as a building certifier–level 3.

‘313 Existing building surveyors, assistant building surveyors and building surveying technicians

- ‘(1) A person who, immediately before the commencement, was licensed as a building surveyor is taken to be licensed as a building certifier–level 1.

[s 18]

- ‘(2) A person who, immediately before the commencement, was licensed as an assistant building surveyor is taken to be licensed as a building certifier—level 2.
- ‘(3) A person who, immediately before the commencement, was licensed as a building surveying technician is taken to be licensed as a building certifier—level 3.

‘314 References in existing accreditation standards and professional development schemes

- ‘(1) This section applies to an existing accreditation standard or an existing professional development scheme.
- ‘(2) From commencement, a reference in the standard or scheme to—
 - (a) a building surveyor—level 1 is taken to be a reference to a building certifier—level 1; or
 - (b) a certifier level 1 (building surveyor) is taken to be a reference to a building certifier—level 1; or
 - (c) an assistant building surveyor—level 2 is taken to be a reference to a building certifier—level 2; or
 - (d) a certifier level 2 (assistant building surveyor) is taken to be a reference to a building certifier—level 2; or
 - (e) a building surveying technician is taken to be a reference to a building certifier—level 3; or
 - (f) a certifier level 3 (building surveying technician) is taken to be a reference to a building certifier—level 3.
- ‘(3) An accreditation standards body may amend an existing accreditation standard or an existing professional development scheme to change a reference to—
 - (a) a building surveyor—level 1 to a reference to a building certifier—level 1; or
 - (b) a certifier level 1 (building surveyor) to a reference to a building certifier—level 1; or

-
- (c) an assistant building surveyor–level 2 to a reference to a building certifier–level 2; or
 - (d) a certifier level 2 (assistant building surveyor) to a reference to a building certifier–level 2; or
 - (e) a building surveying technician to a reference to a building certifier–level 3; or
 - (f) a certifier level 3 (building surveying technician) to a reference to a building certifier–level 3.
- ‘(4) An existing accreditation standard amended under subsection (3) is taken to be approved by the chief executive for section 185(2)(a).
- ‘(5) An existing professional development scheme amended under subsection (3) is taken to be approved by the chief executive for section 185(2)(c).

‘(6) In this section—

existing accreditation standard means an educational and experiential standard set by an accreditation standards body under section 185(2)(a) and in effect immediately before the commencement.

existing professional development scheme means a professional development scheme established by an accreditation standards body under section 185(2)(c) and in effect immediately before the commencement.

‘315 Existing applications for a licence

- ‘(1) This section applies to an application for a licence made, but not decided, before the commencement.
- ‘(2) If the application is for a licence at the level of a building surveyor, it is taken to be an application for a licence at the level of building certifier–level 1.
- ‘(3) If the application is for a licence at the level of an assistant building surveyor, it is taken to be an application for a licence at the level of building certifier–level 2.

[s 19]

- ‘(4) If the application is for a licence at the level of a building surveying technician, it is taken to be an application for a licence at the level of building certifier–level 3.
- ‘(5) Subsection (6) applies to BSA for considering and deciding an application mentioned in subsection (4).
- ‘(6) If the applicant has at least 1 year’s experience as a building surveying technician employed by a local government or under the supervision of a private certifier, the applicant is taken to have at least 1 year’s experience carrying out level 3 work under the supervision of a person licenced as a building certifier–level 1 or a building certifier–level 2.’

19 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions, *assistant building surveyor*, *building surveying technician* and *building surveyor*—
omit.
- (2) Schedule 2, definition *show cause notice*, paragraphs (b) to (d)—
renumber as paragraphs (c) to (e).
- (3) Schedule 2, definition *show cause notice*—
insert—
‘(b) chapter 6, part 4—see section 206(1); or’.
- (4) Schedule 2—
insert—
‘*assistant building surveyor*, for chapter 11, part 15, see section 311.
commencement, for chapter 11, part 15, see section 311.
building certifier–level 1 means a building certifier who, under section 151, is licensed as a building certifier–level 1.
building certifier–level 2 means a building certifier who, under section 151, is licensed as a building certifier–level 2.’

building certifier–level 3 means a building certifier who, under section 151, is licensed as a building certifier–level 3.

building surveying technician, for chapter 11, part 15, see section 311.

building surveyor, for chapter 11, part 15, see section 311.

previous, for chapter 11, part 15, see section 311.’.

Part 4 **Amendment of Coastal Protection and Management Act 1995**

20 **Act amended**

This part amends the *Coastal Protection and Management Act 1995*.

21 **Amendment of s 100A (Removal of quarry material is subject to other approvals)**

Section 100A(3)(a)(ii), ‘tidal works or’—
omit.

22 **Amendment of s 123 (Right to occupy and use land on which particular tidal works were, or are to be, carried out)**

Section 123(5)—

insert—

‘*development permit* includes a UDA development permit under the *Urban Land Development Authority Act 2007*.’.

[s 22A]

Part 4A **Amendment of Land Sales Act 1984**

22A Act amended

This part amends the *Land Sales Act 1984*.

22B Amendment of s 27 (Purchaser's rights if not given a registrable instrument of transfer within a certain period)

Section 27(1)(b), after 'made'—

insert—

' , other than as a result of the purchaser's default'.

22C Insertion of new s 37

After section 36—

insert—

'37 Transitional provision for Sustainable Planning and Other Legislation Amendment Act 2012

'(1) Section 27 as amended by the *Sustainable Planning and Other Legislation Amendment Act 2012*, section 22B applies to an instrument relating to the sale of a proposed lot if—

- (a) the instrument is in force, and settlement has not been effected, immediately before commencement; or
- (b) the instrument is made on or after commencement.

'(2) Subsection (1)(a) applies—

- (a) regardless of whether the sunset period ended or ends before, on or after commencement; and
- (b) even if an action for specific performance of the purchaser's obligations under the instrument has been started by the vendor, but not completed, before commencement.

‘(3) Subsections (1)(a) and (2) apply despite the *Acts Interpretation Act 1954*, section 20.

‘(4) In this section—

commencement means the commencement of the *Sustainable Planning and Other Legislation Amendment Act 2012*, section 22B.

sunset period means the 3½ year period mentioned in section 27(1)(b) or, if that period is extended by a regulation made under section 28, the extended period.’.

Part 5

Amendment of Local Government Act 2009

23 Act amended

This part amends the *Local Government Act 2009*.

24 Amendment of s 8 (Local government’s responsibility for local government areas)

Section 8(2)—

insert—

‘*Note—*

The Brisbane City Council is the local government for the City of Brisbane. For the local government area of the Brisbane City Council, see the *City of Brisbane Act 2010*, section 7.’.

25 Amendment of s 132 (Entering under an application, permit or notice)

Section 132(1)(d), ‘was carried out under’—

omit, insert—

‘is the subject of, or was carried out under,’.

[s 26]

26 Amendment of s 217 (LG super scheme)

(1) Section 217(4)—

renumber as section 217(5).

(2) Section 217—

insert—

‘(4) The super board may include particular other matters in the trust deed under section 220B or 220C.’.

27 Amendment of s 220 (Amount of yearly contributions—particular employers)

(1) Section 220—

insert—

‘(10) Subsections (3) and (5) are subject to section 220B.’.

28 Amendment of s 220A (Amount of yearly contributions—permanent employees and prescribed employees)

Section 220A—

insert—

‘(7) Subsection (3) is subject to sections 220B and 220C.

‘(8) Subsection (4) is subject to section 220B.’

29 Insertion of new ss 220B and 220C

After section 220A—

insert—

‘220B Reduction in contributions to prevent them exceeding concessional contributions cap

‘(1) Subsection (2) applies if the total of the following (the *pre-agreement contributions*) would, but for subsection (2), be more than an employee’s concessional contributions cap for a financial year—

-
- (a) the yearly contribution to the LG super scheme made under section 220(3) or (5) by an employer for the employee;
 - (b) the yearly contribution to the LG super scheme, if any, made under section 220A(4) by an employer for the employee.
- ‘(2) The employer and employee may agree in writing—
- (a) to reduce the pre-agreement contributions to the amount equal to the employee’s concessional contributions cap for the financial year; and
 - (b) if a yearly contribution made under section 220A(4) is part of the pre-agreement contributions—on the extent, if any, to which a contribution mentioned in subsection (1)(a) or (b) will be reduced to achieve the reduction.
- ‘(3) If the pre-agreement contributions are reduced under subsection (2)—
- (a) the amount of the reduction must be paid by the employer to the employee as salary; and
 - (b) no contribution is payable under section 220(3) or (5) by the employer because of salary paid under paragraph (a); and
 - (c) no contribution is payable under section 220A(3) by the employee because of salary paid under paragraph (a) other than to the extent, if any, to which the salary amount relates to a reduction of a yearly contribution under section 220A(4).
- ‘(4) The employer or employee must give the super board a copy of the agreement within 2 months after the agreement is made.
- ‘(5) The super board may include the matters set out in subsections (1) and (2) in the trust deed.
- ‘(6) In this section—

concessional contributions cap, for an employee, means the employee’s concessional contributions cap within the meaning of the *Income Tax Assessment Act 1997* (Cwlth),

[s 29A]

section 292-20(2), subject to the *Income Tax (Transitional Provisions) Act 1997* (Cwlth) section 292-20(2).

'220C Exemption from payment of yearly contributions on grounds of financial hardship

- '(1) A prescribed employee of the Brisbane City Council who is an accumulation benefit member and his or her employer may agree in writing—
 - (a) that the employee is exempt, on the grounds of the employee's financial hardship, from paying all, or a stated part, of the contributions payable under section 220A(3) by the employee; and
 - (b) on the period, of not more than 1 year, of the exemption.
- '(2) Subsection (1)(b) does not limit the number of times the employer and prescribed employee may agree to an exemption under subsection (1) for the employee.
- '(3) The employer or prescribed employee must give the super board a copy of the agreement within 2 months after the agreement is made.
- '(4) The super board may include the matters set out in subsections (1) and (2) in the trust deed.
- '(5) In this section—
prescribed employee, of the Brisbane City Council, see section 220A(2).'

Part 5A Amendment of Local Government Electoral Act 2011

29A Act amended

This part amends the *Local Government Electoral Act 2011*.

29B Insertion of new s 210

Part 11—

insert—

‘210 Cut-off day for compiling voters roll for quadrennial election for 2012

‘Despite section 18(1), a voters roll for the quadrennial election for 2012 must be compiled at 25 February 2012.’.

Part 6 Amendment of Plumbing and Drainage Act 2002

30 Act amended

This part amends the *Plumbing and Drainage Act 2002*.

Note—

See also the amendments in the schedule.

31 Amendment of s 6 (Functions of council)

(1) Section 6(1)—

insert—

‘(da) approve audit programs and audit licensees to monitor and enforce compliance with part 4; and’.

(2) Section 6(1)(da) to (g)—

renumber as section 6(1)(e) to (h).

32 Amendment of s 9 (Membership of council)

(1) Section 9(3)(a)(ii), ‘*Training and Employment Act 2000*’—

omit, insert—

‘*Vocational Education, Training and Employment Act 2000*’.

[s 33]

(2) Section 9(3)(a)(iv)—

omit, insert—

‘(iv) Local Government Association of Queensland Ltd
ACN 142 783 917;’.

33 Amendment of s 32 (Revenue from fees)

Section 32(3), from ‘toward’—

omit, insert—

‘toward the administration of this Act, including monitoring
and enforcing compliance with this Act.’.

34 Insertion of new pt 2, div 8, sdiv 3A

Part 2, division 8—

insert—

‘Subdivision 3A Council audit programs and auditing licensees

‘33TA Definitions for sdiv 3A

‘In this subdivision—

approved audit program means an audit program approved by
the council under section 33TB.

employed licensee see section 33TD(1)(c).

relevant person see section 33TD(1)(c).

‘33TB Approved audit program

‘(1) The council may prepare and approve an audit program under
which it may audit licensees to find out if they have been
complying with part 4.

‘(2) The audit program takes effect as an approved audit program
when it is approved by resolution of the council.

-
- ‘(3) The council must, before the approved audit program starts, give the chief executive—
- (a) notice of the resolution; and
 - (b) a copy of the program.
- ‘(4) The approved audit program must state all of the following—
- (a) the purpose of the program;
 - (b) when the program starts;
 - (c) the period over which the program is to be carried out;
 - (d) criteria for selecting licensees who are to be the subject of audit;
 - (e) if the licensees to be audited are to be selected from licensees holding licences of a particular class—a description of the class;
 - (f) how licensees selected for audit under the program will be advised that they have been selected.
- ‘(5) The council must ensure a copy of the approved audit program is available for inspection at the council’s office.

Editor’s note—

The council’s office is located at 63 George Street, Brisbane.

‘33TC Notice of approved audit program

- ‘(1) The chief executive must publish notice of an approved audit program on the department’s website.
- ‘(2) The notice must be published before the approved audit program starts.
- ‘(3) The notice must state all of the following—
- (a) the purpose of the approved audit program;
 - (b) when the program starts;
 - (c) the period over which the program is to be carried out;
 - (d) the criteria for selecting licensees who are to be the subject of audit;

[s 34]

- (e) if the licensees to be audited are to be selected from licensees holding licences of a particular class—a description of the class;
 - (f) how licensees selected for audit under the program will be advised that they have been selected;
 - (g) the obligations to be complied with by licensees selected for audit under the program.
- ‘(4) The chief executive must ensure notice of the approved audit program is kept on the department’s website during the period over which the program is to be carried out.

‘33TD Supply of documents or information

- ‘(1) This section applies to each of the following—
- (a) a licensee selected to be audited under an approved audit program;
 - (b) if the council is satisfied, because of information received by the council, that there are reasonable grounds for concern that a licensee is not, or has not been, complying with part 4—the licensee;
 - (c) a person (a *relevant person*) who—
 - (i) conducts a business for carrying out plumbing work or drainage work; and
 - (ii) employs a licensee (an *employed licensee*) to whom paragraph (a) or (b) applies to carry out the work.
- ‘(2) The council or an investigator may give written notice to the licensee or relevant person requiring the licensee or person to give the council or investigator copies of, access to, or information about the documents described in the notice.
- ‘(3) The notice must describe only the documents the council or investigator reasonably requires to decide whether any of the following are, or have been, complying with part 4—
- (a) if the notice is given to a licensee—the licensee;

(b) otherwise—an employed licensee.

Examples of documents for subsection (3)—

invoices, receipts, bookkeeping records and statements from a financial institution

‘(4) Also, the notice must state that—

(a) the licensee or person must comply with the notice even though complying might tend to incriminate the licensee, person or an employed licensee, or expose the licensee, person or employed licensee to a penalty; and

(b) under section 33TF, there is a limited immunity against the future use of the information or document given in compliance with the notice.

‘(5) In this section—

employ includes engage on a contract for services or commission, whether or not for reward.

‘33TE Offence to contravene notice

‘(1) A licensee or relevant person who receives a notice under section 33TD must comply with the notice within 10 business days after receiving it, unless the licensee or person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(2) It is not a reasonable excuse for a licensee or relevant person to fail to comply with the notice on the basis that complying might tend to incriminate the licensee, person or an employed licensee, or expose the licensee, person or employed licensee to a penalty.

‘33TF Evidential immunity for licensees and other persons

‘(1) Subsection (3) applies to a licensee if, under section 33TE—

(a) the licensee gives the council or an investigator copies of, access to, or information about a document; or

[s 35]

- (b) a relevant person gives the council or an investigator copies of, access to, or information about a document relating to the licensee.
- ‘(2) Also, subsection (3) applies to a relevant person who is an individual if, under section 33TE, the person gives the council or an investigator copies of, access to, or information about a document.
- ‘(3) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the licensee or relevant person in any proceeding to the extent it tends to incriminate the licensee or person, or expose the licensee or person to a penalty, in the proceeding.
- ‘(4) Subsection (3) does not apply to—
 - (a) a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence; or
 - (b) a disciplinary proceeding against the licensee under part 3; or
 - (c) a proceeding against the licensee for an offence under part 4.’.

35 Insertion of new s 33W

After section 33V—

insert—

‘33W Council’s obligation to keep record of notices under s 87

- ‘(1) The council must keep a record of each notice given to it under section 87 until—
 - (a) if the notice relates to a class 2 to 9 building under the Building Code of Australia—the building is demolished or removed; or

-
- (b) if the notice relates to a class 1 or 10 building under the Building Code of Australia—the earlier of the following—
- (i) the building is demolished or removed;
 - (ii) the day that is 10 years after the notice was received by the council.
- ‘(2) The council must, while it is required to keep a record of the notice, give a local government access to the record and allow the local government to copy the record.’.

36 Amendment of s 64 (Grounds for discipline)

- (1) Section 64(f), ‘has’—
omit.
- (2) Section 64—
insert—
‘(fa) not given a local government or the council a notice or document as required under this Act; or’.
- (3) Section 64(fa) to (h)—
renumber as section 64(g) to (i).

37 Amendment of s 65 (Disciplinary action that may be taken by council)

- (1) Section 65(e), after ‘council’—
insert—
‘, within a reasonable stated period,’.
- (2) Section 65—
insert—
- ‘(2) Subsection (3) applies if a licensee does not, within the stated period under subsection (1)(e), pay the council the amount required to be paid under the subsection.

[s 38]

‘(3) The council may recover the unpaid part of the amount from the licensee as a debt.’.

38 Amendment of s 78 (Compliance permit)

Section 78(1) and (3), ‘regulated’—

omit, insert—

‘compliance assessable’.

39 Amendment of s 79 (Compliance certificate)

Section 79(1), ‘regulated’—

omit, insert—

‘compliance assessable’.

40 Amendment of s 80 (Purpose of compliance assessment)

Section 80, ‘regulated’—

omit, insert—

‘compliance assessable’.

41 Amendment of s 81 (Regulated work and on-site sewerage work must be assessed for compliance)

Section 81, ‘Regulated’—

omit, insert—

‘Compliance assessable’.

42 Amendment of s 83 (Compliance permit required for certain regulated work or any on-site sewerage work)

Section 83, ‘regulated’—

omit, insert—

‘compliance assessable’.

43 Amendment of s 84 (Regulated work or on-site sewerage work by a public sector entity)

(1) Section 84, heading, ‘Regulated’—

omit, insert—

‘**Compliance assessable**’.

(2) Section 84(1), ‘regulated’—

omit, insert—

‘compliance assessable’.

44 Amendment of s 85 (Process for assessing plans)

(1) Section 85(1) and (2), ‘regulated’—

omit, insert—

‘compliance assessable’.

(2) Section 85(7), examples, ‘regulated’—

omit, insert—

‘compliance assessable’.

45 Amendment of s 85A (Participating local government to give documents or information to distributor-retailer)

Section 85A(1), ‘regulated’—

omit, insert—

‘compliance assessable’.

46 Amendment of s 85B (Restrictions on giving compliance permit for greywater use facility in a sewered area)

Section 85B(1), ‘regulated’—

omit, insert—

‘compliance assessable’.

[s 47]

47 Amendment of s 85C (Restrictions on giving compliance permit for greywater use facility not in a sewerage area)

Section 85C(1), ‘regulated’—

omit, insert—

‘compliance assessable’.

48 Amendment of s 86 (General process for assessing regulated work and on-site sewerage work)

Section 86, ‘regulated’—

omit, insert—

‘compliance assessable’.

49 Amendment of s 86AA (Participating local government to give documents or information to distributor-retailer)

Section 86AA(1), ‘regulated’—

omit, insert—

‘compliance assessable’.

50 Amendment of s 86A (Process for assessing certain regulated work or on-site sewerage work in remote areas)

Section 86A, ‘regulated’—

omit, insert—

‘compliance assessable’.

51 Amendment of s 86C (Conditions of compliance certificate)

Section 86C(1) and (2), ‘regulated’—

omit, insert—

‘compliance assessable’.

52 Amendment of pt 4, div 4B, hdg (Minor and unregulated work)

Part 4, division 4B, heading, ‘Minor’—

omit, insert—

‘Notifiable’.

53 Amendment of s 87 (Minor work)

(1) Section 87, heading, ‘Minor’—

omit, insert—

‘Notifiable’.

(2) Section 87(1)—

omit, insert—

‘(1) This section applies for notifiable work that has been completed.’.

(3) Section 87(2), ‘local government’—

omit, insert—

‘council’.

(4) Section 87(2), penalty, ‘10’—

omit, insert—

‘60’.

(5) Section 87(3) to (6)—

omit, insert—

‘(3) The notice must—

(a) either—

(i) if a relevant entity gives the notice—be written; or

(ii) if another person gives the notice—be in the approved form or made electronically under section 87A; and

[s 54]

- (b) be given within 10 business days after completion of the work; and
 - (c) be accompanied by the fee prescribed under a regulation.
- ‘(4) The local government may, but need not, assess the work.
- ‘(5) The relevant entity or person must also give a copy of the notice to—
- (a) the owner of the premises where the work was carried out; or
 - (b) if another person asked the relevant entity or person to carry out the work—the other person.’.

(6) Section 87(8), ‘local government’, second mention—
omit, insert—
‘council’.

54 Insertion of new s 87A

After section 87—

insert—

‘87A Special provision about electronic notices

- ‘(1) The chief executive may approve an electronic system (the *approved system*) to send and receive electronic communications under this part.
- ‘(2) If a licensee can use the approved system for giving a notice under this part, the notice may be given by electronically sending to the council, using the approved system, the information required in the approved form for the notice in the format provided for under the approved system.’.

55 Amendment of s 128B (Owner’s obligation to ensure compliance with conditions of compliance certificate)

Section 128B, ‘regulated’—

omit, insert—

‘compliance assessable’.

56 Amendment of s 128F (Restrictions on operating greywater use facility)

Section 128F, ‘regulated’—

omit, insert—

‘compliance assessable’.

57 Insertion of new s 128RA

After section 128R—

insert—

‘128RA False or misleading statements

‘A person must not state anything to an investigator, inspector, local government or the council that the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.’.

58 Amendment of s 128S (False or misleading documents)

Section 128S, ‘investigator or inspector’—

omit, insert—

‘investigator, inspector, local government or the council’.

59 Insertion of new pt 10, div 9

Part 10—

insert—

[s 60]

**‘Division 9 Transitional provision for
Sustainable Planning and Other
Legislation Amendment Act 2012**

**‘189 Regulated work taken to be compliance assessable
work**

- ‘(1) This section applies to a compliance request for compliance assessment of a plan for regulated work made to a local government under section 85 before the commencement.
- ‘(2) On the commencement, the work the subject of the request is taken to be compliance assessable work.
- ‘(3) If, before the commencement, the local government has given the person who made the request a compliance permit for the work—
- (a) the compliance permit is taken to be a compliance permit for compliance assessable work; and
 - (b) any condition of the compliance permit continues to apply.
- ‘(4) In this section—
- commencement* means the commencement of this section.’.

60 Amendment of schedule (Dictionary)

- (1) Schedule, definition *regulated work*—
omit.
- (2) Schedule—
insert—

‘approved audit program, for part 2, division 8, subdivision 3A, see section 33TA.

compliance assessable work means plumbing work or drainage work that is not notifiable work, minor work or unregulated work.

employed licensee, for part 2, division 8, subdivision 3A, see section 33TD(1)(c).

notifiable work means plumbing work or drainage work prescribed under the Standard Plumbing and Drainage Regulation as notifiable work.

relevant person, for part 2, division 8, subdivision 3A, see section 33TD(1)(c).'

- (3) Schedule, definition *plumbing code authorisation and certification*, from 'called' to 'Forum'—

omit, insert—

'called 'National Construction Code volume 3—Plumbing Code of Australia' produced for all State governments by the Australian Building Codes Board'.

- (4) Schedule, definition *SEQ water work*, paragraph (a) 'regulated'—

omit, insert—

'compliance assessable'.

Part 7 Amendment of Sustainable Planning Act 2009

61 Act amended

This part amends the *Sustainable Planning Act 2009*.

62 Insertion of new s 78A

Chapter 3, part 1—

insert—

[s 63]

‘78A Relationship between local planning instruments and Building Act

- ‘(1) A local planning instrument must not include provisions about building work, to the extent the building work is regulated under the building assessment provisions, unless permitted under the Building Act.

Note—

The Building Act, sections 31, 32 and 33 provide for matters about the relationship between local planning instruments and that Act for particular building work.

- ‘(2) To the extent a local planning instrument does not comply with subsection (1), the local planning instrument has no effect.
- ‘(3) In this section—
building assessment provisions does not include IDAS or a provision of a local planning instrument.’.

63 Omission of s 86 (Relationship between planning schemes and Building Act)

Section 86—

omit.

64 Amendment of s 126 (Power of Minister to direct local government to take particular action about local planning instrument)

- (1) Section 126(1)(b), ‘or a proposed local planning instrument’—

omit, insert—

‘, proposed local planning instrument or proposed amendment of a local planning instrument’.

- (2) Section 126(2), from ‘a local planning’—

omit, insert—

‘—

- (a) a local planning instrument; or
- (b) a proposed local planning instrument; or
- (c) a proposed amendment of a local planning instrument.

Example for paragraph (c)—

an amendment to include a structure plan for a declared master planned area’.

- (3) Section 126(4)(c) and (d)—

renumber as section 126(4)(d) and (e).

- (4) Section 126(4)—

insert—

‘(c) make a structure plan or comply with timeframes mentioned in section 133(2)(d) for its making; or’.

65 Amendment of s 129 (Power of Minister to take action about local planning instrument without direction to local government)

- (1) Section 129(7) and (8)—

renumber as section 129(8) and (9).

- (2) Section 129—

insert—

‘(7) To remove any doubt, it is declared that the Minister is not required to consult with anyone before taking the action.’.

66 Amendment of s 144 (Special charge for making a structure plan)

- (1) Section 144(9), before ‘about’—

insert—

‘or the City of Brisbane Act, section 98(a)’.

- (2) Section 144(9), ‘under that Act’—

[s 67]

omit.

- (3) Section 144(10), definition *rateable land*—

omit, insert—

‘rateable land—

- (a) for a local government other than the Brisbane City Council—see the Local Government Act, section 93(2);
or
- (b) for the Brisbane City Council—see the City of Brisbane Act, section 95(2).’.

67 Amendment of s 189 (Ministerial directions to local government)

Section 189—

insert—

- ‘(6) The Minister is not required to consult with anyone before giving a direction under this section.’.

68 Amendment of s 190 (Ministerial directions to applicant)

Section 190—

insert—

- ‘(6) The Minister is not required to consult with anyone before giving a direction under this section.’.

69 Amendment of s 248 (Jurisdiction of local government as assessment manager for particular development)

- (1) Section 248(a), after ‘section 9’—

insert—

‘and the City of Brisbane Act, section 11’.

- (2) Section 248(a), editor’s note—

omit.

70 Amendment of s 322 (Decision-making period suspended until approval of master plan)

- (1) Section 322(1)(b), ‘development’—
omit, insert—
‘land’.
- (2) Section 322(1)(c), ‘for the development’—
omit.

71 Amendment of s 372 (Copy of request to be given to particular entities)

Section 372(1)(a), from ‘agency—’—

omit, insert—

‘agency—

- (i) the assessment manager for the application to which the development approval applies (the ***original application***); and
- (ii) any other concurrence agencies for the original application;’.

72 Amendment of s 376 (Notice of decision)

Section 376(2)(b)—

omit, insert—

- ‘(b) if the request was approved and the responsible entity is a concurrence agency—be accompanied by a copy of the concurrence agency’s response for the original application showing the changes; and
- (c) if the request was approved and paragraph (b) does not apply—be accompanied by a copy of the decision notice, if any, for the original application showing the changes.’.

[s 73]

73 Amendment of s 378 (When condition may be changed or cancelled by assessment manager or concurrence agency)

(1) Section 378(8)(a)(iii), ‘to the holder’—

omit.

(2) Section 378(8)(b)—

omit, insert—

‘(b) if the condition was imposed by a concurrence agency—be accompanied by a copy of the concurrence agency’s response for the original application showing the changes; and

(c) if paragraph (b) does not apply—be accompanied by a copy of the decision notice, if any, for the original application showing the changes.’.

74 Insertion of new s 422A

Chapter 6, part 11, division 1—

insert—

‘422A No requirement to consult on directions

‘The Minister is not required to consult with anyone before giving a direction under this division.’.

75 Amendment of s 423 (Definitions for div 2)

Section 423—

insert—

‘*proposed call in notice*, for an application, see section 424A(1).

representation period, for an application, means—

(a) the stated representation period mentioned in section 424A(3)(h); or

-
- (b) if the stated representation period is extended or further extended under section 424A(4)—the period as extended or further extended.’.

76 Replacement of s 424 (When a development application may be called in)

Section 424—

omit, insert—

‘424 Application may be called in only for State interest

‘The Minister may, under this division, call in an application only if the development involves a State interest.

‘424A Notice of proposed call in

- ‘(1) Before calling in the application, the Minister must give written notice of the proposed call in (the *proposed call in notice*) to each of the following—
- (a) the assessment manager;
 - (b) the applicant;
 - (c) any submitters for the application, of which the Minister is aware when the notice is given;
 - (d) each concurrence agency for the application.
- ‘(2) The notice may be given at any time after the application is made until the latest of the following—
- (a) 15 business days after the day the chief executive receives notice of an appeal about the application;
 - (b) if there are any submitters for the application—50 business days after the day the decision notice or negotiated decision notice is given to the applicant;
 - (c) if there are no submitters for the application and a decision notice or negotiated decision notice is given—25 business days after the day the decision notice or negotiated decision notice is given to the applicant;

[s 76]

- (d) if the application is taken to have been approved under section 331 and a decision notice or negotiated decision notice is not given—25 business days after the day the decision notice was required to be given to the applicant.
- ‘(3) The notice must state all of the following—
- (a) the Minister is proposing to call in the application;
 - (b) the reasons for the proposed call in;
 - (c) if the notice is given before the assessment manager makes a decision on the application—that the IDAS process stops on the day the notice is given;
 - (d) the point in the IDAS process, before or at the start of the decision stage, the Minister proposes the process will restart if the application is called in;
 - (e) whether the Minister intends to assess and decide, or reassess and re-decide, the application having regard only to the State interest for which the application may be called in;
 - (f) if the Minister intends to assess and decide, or reassess and re-decide, the application having regard only to the State interest—that the assessment and decision provisions do not apply to the Minister’s assessment of, and decision on, the application;
 - (g) if the application is proposed to be called in before the assessment manager makes a decision on the application—whether the Minister intends to give a direction to the assessment manager under section 425(6);
 - (h) that the person to whom the notice is given may make representations to the Minister about the proposed call in within the period (the *stated representation period*), of at least 5 business days after the notice is given, stated in the notice.
- ‘(4) The Minister may, by notice given to each person to whom the proposed call in notice was given and before the end of the stated representation period or any extension of the period,

extend or further extend the period for making representations to the Minister.

‘424B Effect of proposed call in notice on IDAS process

- ‘(1) If the proposed call in notice is given before the assessment manager decides the application, the IDAS process stops at the point in the process at which the notice is given.
- ‘(2) If the Minister gives notice under section 424C(2) that the application will not be called in, the IDAS process restarts from the point in the process at which it stopped under subsection (1).

‘424C Minister to consider representations about proposed call in

- ‘(1) The Minister must, after considering all representations made to the Minister in the representation period for the application, decide—
 - (a) to call in the application; or
 - (b) not to call in the application.
- ‘(2) If the Minister decides not to call in the application, the Minister must, within 20 business days after the end of the representation period for the application, give each person to whom the proposed call in notice was given a written notice stating—
 - (a) the application will not be called in; and
 - (b) if the proposed call in notice was given before the assessment manager made a decision on the application—the IDAS process for the application restarts from the point in the process at which it stopped because of the giving of the proposed call in notice.

‘424D Effect of proposed call in on appeal period

- ‘(1) This section applies—

[s 76]

- (a) to an application for which a notice is given under section 424C(2) if the assessment manager has made a decision on the application before the notice is given; and
 - (b) for any appeal period relating to the application under this Act.
- ‘(2) The appeal period for the application is taken to have started again the day after the notice is given.
- ‘(3) Subsection (2) applies—
- (a) whether or not the notice is given after the appeal period would, but for this section, have ended; and
 - (b) despite any other provision of this Act.

‘424E Effect of proposed call in notice on development approval

- ‘(1) This section applies if a proposed call in notice is given for an application—
- (a) after a development permit or a deemed approval for development under the application has taken effect; or
 - (b) before a development permit or a deemed approval for development under the application has taken effect, if a permit or approval takes effect for the development before the application is called in under section 425.
- ‘(2) For this Act, the development permit or deemed approval is taken not to be in effect—
- (a) from—
 - (i) if subsection (1)(a) applies to the application—the day the applicant receives the proposed call in notice; or
 - (ii) if subsection (1)(b) applies to the application—the day the development permit or deemed approval would take effect but for this section; and
 - (b) until—

- (i) if the Minister decides not to call in the application—the day the applicant receives notice of that decision; or
- (ii) if the Minister decides to call in the application—the day the applicant receives notice of the call in under section 425.’.

77 Amendment of s 425 (Notice of call in)

- (1) Section 425(1), ‘The’—

omit, insert—

‘If the Minister decides to call in the application, the’.

- (2) Section 425—

insert—

‘(1A) The notice may be given at any time before the day that is 20 business days after the representation period for the application ends.’.

- (3) Section 425(2)(d)—

omit, insert—

‘(d) the point in the IDAS process, before or at the start of the decision stage decided by the Minister, from which the process must restart.’.

- (4) Section 425—

insert—

‘(2A) For subsection (3)(d), the Minister may decide a point in the IDAS process that is different to the restarting point mentioned in the proposed call in notice for the application.

‘(2B) In deciding the point at which the IDAS process restarts, the Minister may have regard to the application, the representations made to the Minister in the representation period for the application and any other matters the Minister considers relevant.’.

- (5) Section 425(1A) to (5)—

[s 78]

renumber as section 425(2) to (8).

- (6) Section 425(7), as renumbered under this section, ‘subsection (3)’—

omit, insert—

‘subsection (6)’.

78 Amendment of s 427 (Effect of call in)

- (1) Section 427(2), from ‘must’—

omit, insert—

‘restarts from the point in the IDAS process stated in the notice of the call in for that purpose.’.

- (2) Section 427(3), from ‘the IDAS process’, first mention—

omit, insert—

‘the decision is taken to be of no effect and the IDAS process restarts from the point in the IDAS process stated in the notice of the call in for that purpose.’.

79 Insertion of new s 475A

After section 475—

insert—

‘475A Appeals against decisions under ch 8A

- ‘(1) A person who has been given an information notice for a decision of the Minister under chapter 8A, part 3 may appeal to the court against the decision.
- ‘(2) An appeal under subsection (1) must be started within 20 business days after the day the information notice is given.
- ‘(3) If the Minister decides, under chapter 8A, part 3, to register premises or to renew the registration of premises, a relevant person for the premises who is dissatisfied with the decision may appeal to the court against the decision.

- ‘(4) An appeal under subsection (3) must be started within 20 business days after the day notice about the registration or renewal is published under section 680Y.
- ‘(5) In this section—
relevant person, for premises, means any owner or occupier of land in the affected area for the premises.’.

80 Amendment of s 484 (Notice of appeal to other parties—other matters)

- (1) Section 484(1)(c) to (g)—
renumber as section 484(1)(e) to (i).
- (2) Section 484(1)—
insert—
- ‘(c) if the appeal is under section 475A(1)—the Minister; or
- (d) if the appeal is under section 475A(3)—the Minister and the owner of the registered premises; or’.

81 Amendment of s 493 (Who must prove case)

- (1) Section 493(4), ‘or 478’—
omit, insert—
‘, 475A(1) or 478’.
- (2) Section 493—
insert—
- ‘(10) In an appeal under section 475A(3) by a person who is dissatisfied with a decision to register or renew registration of premises under chapter 8A, it is for the owner of the registered premises to establish that the appeal should be dismissed.’.

82 Amendment of s 495 (Appeal by way of hearing anew)

- (1) Section 495(4)(b)(i), ‘the appeal’—

[s 83]

omit, insert—

‘the aspect of the appeal relating to the assessment manager’s consideration of the superseded planning scheme’.

- (2) Section 495(4)(b)(ii), before ‘disregard’—

insert—

‘in considering the aspect,’.

83 Amendment of s 596 (Assessing authority may take action)

Section 596(1), note, from ‘costs’—

omit, insert—

‘costs. See the Local Government Act, section 142 and the City of Brisbane Act, section 132.’.

84 Amendment of s 629 (Funding trunk infrastructure for local governments)

Section 629(1), note, from ‘for’—

omit, insert—

‘and the City of Brisbane Act, chapter 4 (Finances and accountability), part 1 (Rates and charges) for powers of local governments to levy rates and charges in other ways.’.

85 Amendment of s 639 (Infrastructure charges taken to be rates)

Section 639(1), ‘within the meaning of the Local Government Act’—

omit.

86 Amendment of s 648 (Regulated infrastructure charges taken to be rates)

Section 648(1), ‘within the meaning of the Local Government Act’—

omit.

87 Amendment of s 648A (Meaning of *adopted infrastructure charge*)

Section 648A(2), definition *pre-SPRP amount*—

omit, insert—

‘pre-SPRP amount—

1 The *pre-SPRP amount*, for development, means the maximum amount the local government could have obtained in relation to the development, at the prescribed time, by doing any of the following—

- (a) imposing a condition requiring payment of a contribution under section 848;
- (b) levying an infrastructure charge under division 4;
- (c) levying a regulated infrastructure charge under division 5.

2 However, for a participating local government for a distributor-retailer, the *pre-SPRP amount* for development also includes the maximum amount the distributor-retailer could have obtained, under an SEQ infrastructure charges schedule and at the prescribed time, for supplying trunk infrastructure for the development in relation to its water service or wastewater service.’.

88 Amendment of s 648D (Local government may decide matters about charges for infrastructure under State planning regulatory provision)

(1) Section 648D(1)(a) and (b), ‘less’—

[s 89]

omit, insert—

‘not more’.

(2) Section 648D(1)—

insert—

‘(f) provide for the adopted charge, for particular development, to be increased after the charge is levied and before it is paid to the local government.’.

(3) Section 648D—

insert—

‘(10) If the resolution provides for increasing an adopted infrastructure charge—

(a) the resolution must state how the increase is worked out; and

(b) any increase for the particular development must not be more than the lesser of the following amounts—

(i) the amount that is the difference between the amount of the adopted infrastructure charge levied for the development and the amount of the maximum adopted charge the local government could have levied for the development at the time the charge is paid;

(ii) an amount representing the increase in the consumer price index for the period starting on the day the charge is levied and ending on the day the charge is paid.

‘(11) In this section—

consumer price index means the all groups consumer price index for Brisbane published by the Australian Statistician.’.

89 Amendment of s 648F (Adopted infrastructure charges notices)

Section 648F(1)—

insert—

‘(e) if the local government has, under its adopted infrastructure charges resolution, provided for the charge to increase—that an additional amount, worked out in compliance with section 648D(10)(b), is payable on the day the charge is paid under this part.’

90 Insertion of new s 648HA

After section 648H—

insert—

‘648HA Special provision about increase in adopted infrastructure charge by local government

- ‘(1) This section applies despite any other provision of this part.
- ‘(2) If an adopted infrastructure charge is increased in compliance with section 648D(10)(b), the charge payable at the time the charge is paid is the amount equal to the sum of the adopted infrastructure charge as levied and the amount of the increase.’.

91 Amendment of s 648K (Agreements about, and alternatives to, paying adopted infrastructure charge)

- (1) Section 648K—

insert—

‘(1A) If the local government has, under its adopted infrastructure charges resolution, provided for the charge to increase, the agreement must state how the amount of the increase in the charge is payable under the agreement.’.

- (2) Section 648K(2)—

omit, insert—

‘(2) For development infrastructure that is land, the local government may give the applicant or person who requested compliance assessment a notice, in addition to or instead of the notice given under section 648F, requiring the applicant or

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person to give the local government, in fee simple, part of the land the subject of the development application or request for compliance assessment.’.

(3) Section 648K—

insert—

‘(3A) However, if the local government has, under its adopted infrastructure charges resolution, provided for the charge to increase, a part of the adopted infrastructure charge payable in combination with land may be increased in compliance with section 648D(10)(b).’.

(4) Section 648K(1A) to (5)—

renumber as section 648K(2) to (7).

(5) Section 648K(4), as renumbered under this section, ‘subsection (2)(a)’—

omit, insert—

‘subsection (3)’.

(6) Section 648K(4), as renumbered under this section, ‘subsection (2)(b)’—

omit, insert—

‘subsection (3) and section 648F’.

(7) Section 648K(6) and (7), as renumbered under this section, ‘subsection (2)’—

omit, insert—

‘subsection (3)’.

92 Amendment of s 648L (Adopted infrastructure charge taken to be rates)

Section 648L(1), ‘within the meaning of the Local Government Act’—

omit.

93 Amendment of s 674 (Recovery of regulated State infrastructure charges)

- (1) Section 674(2), after ‘section 96(c)’—
insert—
‘or the City of Brisbane Act, section 98(c)’.
- (2) Section 674(2)(a), ‘under that Act’—
omit.
- (3) Section 674(2)(c), after ‘local government’—
insert—
‘or the council’.
- (4) Section 674(2)(d), after ‘local government’—
insert—
‘or the council’.
- (5) Section 674(2), editor’s note—
omit.

94 Insertion of new ch 8A

After section 680—

insert—

‘Chapter 8A Provisions about urban encroachment

‘Part 1 Preliminary

‘680A Definitions for ch 8A

‘In this chapter—

accepted representations see section 680R(2).

affected area see section 680O(2).

affected area notation—

- (a) for registered premises—see section 680X(1); or
- (b) for a relevant development application—see section 680Z(1).

appropriate register, for a lot or premises, means the register the registrar keeps under an Act, in which register the lot or premises is registered.

code of environmental compliance means a code of environmental compliance under the Environmental Protection Act.

information notice, for a decision, means a notice stating—

- (a) the decision and the reasons for it; and
- (b) that the person to whom the notice is given may appeal to the court against the decision; and
- (c) how the person may appeal.

Note—

For appeals against decisions under this chapter, see section 475A.

mapped area see section 680G(2)(a).

notice means a written notice.

registered premises, if the registration is in force, means premises that are registered under this chapter.

registrar means the registrar of titles under the *Land Title Act 1994* or another person who, under an Act, is responsible for keeping a register for dealings in land.

registration certificate see the Environmental Protection Act, section 73F.

relevant development application see section 680B.

show cause notice see section 680Q(1).

show cause period see section 680Q(2)(d).

technical report see section 680G(2)(h).

‘680B What is a *relevant development application*

- ‘(1) A *relevant development application* is a development application made under this Act or repealed IPA for—
- (a) if the application is for development on land, other than undeveloped land, in an affected area—a material change of use of premises or reconfiguring a lot in the affected area, other than in relation to—
 - (i) a class 1a or class 1b building; or
 - (ii) a class 10 building or structure; or
 - (b) if the application is for development on undeveloped land in an affected area—a material change of use of premises or reconfiguring a lot in the affected area, other than in relation to a class 10 building or structure.

- ‘(2) In this section—

class, for a building or structure, means its particular classification under the BCA.

undeveloped land means any of the following land—

- (a) land in its natural state;
- (b) land that is or was used for a following purpose and has not been developed for urban purposes—
 - (i) agriculture;
 - (ii) animal husbandry activities;
 - (iii) apiculture;
 - (iv) aquaculture;
 - (v) dairy farming;
 - (vi) grazing;
 - (vii) horticulture;
 - (viii) viticulture;
- (c) land on which an abattoir or tannery is or was situated and that has not been developed for urban purposes.

-
- (a) an act or omission of a person in carrying out an activity at registered premises (a *relevant act*) is, was or will be an unreasonable interference, or likely interference, with an environmental value; and
- (b) the relevant act was, or was caused by or caused, the emission of aerosols, fumes, light, noise, odour, particles or smoke.
- ‘(2) The affected person can not take a civil proceeding for nuisance, or a criminal proceeding relating to a local law, against any person in relation to the claim if the following have been complied with for the relevant act—
- (a) the development approval for the registered premises;
- (b) any code of environmental compliance applying to the relevant act.
- ‘(3) Subsection (2) applies despite the Environmental Protection Act or any other Act.
- ‘(4) This section does not apply if—
- (a) either—
- (i) a development approval for the registered premises or a registration certificate for the carrying out of an activity at the premises is amended (an *amended authority*); or
- (ii) a new development approval is given for the premises or a new registration certificate is given authorising the carrying out of an environmentally relevant activity at the premises (a *new authority*); and
- (b) greater emissions of aerosols, fumes, light, noise, odour, particles or smoke at the registered premises are authorised under the amended authority or new authority than were authorised under the relevant development approval or registration certificate in force when the premises became registered premises.
- ‘(5) Also, this section does not apply if—

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- (a) a code of environmental compliance is amended (also an *amended authority*) or a new code of environmental compliance is approved or made (also a *new authority*); and
- (b) an activity involving greater emissions of aerosols, fumes, light, noise, odour, particles or smoke could be carried out at the registered premises in compliance with the amended or new authority than could have been carried out in compliance with the relevant code of environmental compliance in force when the premises became registered premises.

‘(6) In this section—

affected person—

- (a) means the owner, occupier or lessee of premises if the premises is the subject of a relevant development application for a material change of use of the premises or reconfiguring a lot on which the premises is situated; and
- (b) includes the owner’s successors in title.

environmental value means an environmental value under the Environmental Protection Act.

‘Part 3 Registration of premises

‘Division 1 Application for registration

‘680F Who may apply

‘The owner of premises may apply to the Minister for registration of the premises under this part if—

- (a) an activity carried out at the premises involves the emission of aerosols, fumes, light, noise, odour, particles or smoke; and
- (b) the activity is not a mining activity or a chapter 5A activity; and
- (c) the levels of emissions of the aerosols, fumes, light, noise, odour, particles or smoke are in compliance with the following—
 - (i) the development approval for the premises;
 - (ii) any code of environmental compliance applying to the activity.

‘680G Requirements for application

- ‘(1) The application must be in the approved form.
- ‘(2) The application must be accompanied by all of the following—
 - (a) a map showing details of the area (the *mapped area*) for which the premises are proposed to be registered;
 - (b) details of any intensification of development, or proposed development, within the mapped area, that is encroaching, or is likely to encroach, on the premises;
 - (c) details of information in the planning scheme, and any regional plan, applying to the mapped area about the nature of development proposed for the mapped area;
 - (d) information about the significance of the activity carried out at the premises to the economy, heritage or infrastructure of the State, a region or the locality in which the mapped area is situated;
 - (e) details of public consultation undertaken in the mapped area by or for the applicant about the proposed registration, including the period for which it was undertaken and its outcomes;

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Examples of public consultation—

- letters circulated
 - public notices published
 - meetings held to seek feedback about the proposed registration from residents of the mapped area
- (f) details of any written complaints made to the applicant—
- (i) within 1 year before the application is made; and
 - (ii) about the emission of aerosols, fumes, light, noise, odour, particles or smoke from the activity carried out at the premises;
- (g) details of any action taken by or for the applicant to mitigate the emission of aerosols, fumes, light, noise, odour, particles or smoke from the activity carried out at the premises;
- (h) a report (the *technical report*) prepared by an appropriately qualified person and showing the levels of emissions of aerosols, fumes, light, noise, odour, particles or smoke from the carrying out of the activity during normal operating hours for the premises;
- (i) if the activity is a chapter 4 activity under the Environmental Protection Act—a copy of the registration certificate for carrying out the activity;
- (j) any supporting information the approved form states is mandatory supporting information for the application;
- (k) the fee prescribed under a regulation.
- ‘(3) The map mentioned in subsection (2)(a) must include a lot on plan description of the mapped area.
- ‘(4) The technical report must include a certification by the person who prepared it as to whether the levels of emissions of aerosols, fumes, light, noise, odour, particles or smoke from the carrying out of the activity are in compliance with the following—
- (i) the development approval for the premises;

- (ii) any code of environmental compliance applying to the activity.

‘(5) In this section—

appropriately qualified, for the preparation of the technical report, means having the technical expertise, qualifications or experience necessary to prepare the report.

‘680H Consideration of, and decision on, application

‘The Minister must consider the application and decide to—

- (a) register the premises, with or without conditions; or
- (b) refuse to register the premises.

‘680I Criteria for registration

‘The Minister may decide to register the premises only if satisfied—

- (a) the activity carried out at the premises—
 - (i) is significant to the economy, heritage or infrastructure of the State, a region or the locality in which the mapped area is situated; and
 - (ii) is consistent with the nature of development proposed for the mapped area under the planning scheme, and any regional plan, applying to the mapped area; and
- (b) the levels of emissions of aerosols, fumes, light, noise, odour, particles or smoke that are shown in the technical report for the application are in compliance with the following—
 - (i) the development approval for the premises;
 - (ii) any code of environmental compliance applying to the activity; and

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- (c) public consultation about the proposed registration has been undertaken in the mapped area by or for the applicant; and
- (d) the outcomes of the public consultation show the levels of support for the proposed registration.

‘Division 2 Renewal of registration

‘680J Application for renewal

- ‘(1) The owner of registered premises may apply for renewal of the registration.
- ‘(2) The application must—
 - (a) be made to the Minister within 1 year before the term of the registration ends; and
 - (b) comply with section 680G(1) to (4) as applied under subsection (3).
- ‘(3) For subsection (2)(b)—
 - (a) section 680G(2)(a) applies as if the reference to ‘the premises are proposed to be registered’ were a reference to ‘the registration is proposed to be renewed’; and
 - (b) section 680G(2)(e) applies as if the references to ‘proposed registration’ were a reference to ‘proposed renewal of registration’.

‘680K Consideration of, and decision on, application

- ‘The Minister must consider the application and decide to—
 - (a) renew the registration, with or without conditions; or
 - (b) refuse to renew the registration.

‘680L Criteria for renewal of registration

- ‘(1) The Minister may decide to renew the registration only if satisfied about the matters mentioned in section 680I.
- ‘(2) For considering the matters mentioned in that section—
 - (a) the reference to ‘decide to register the premises’ is taken to be a reference to ‘decide to renew registration of the premises’; and
 - (b) the references to ‘proposed registration’ are taken to be references to ‘proposed renewal of registration’.

‘680M Registration taken to be in effect while application for renewal is considered

‘Registration of the premises is taken to continue in effect from the day that it would, apart from this section, have ended until the application is—

- (a) decided under section 680K; or
- (b) withdrawn by the applicant; or
- (c) taken to have been withdrawn under section 680N(2).

‘Division 3 Inquiries about applications and notice of decisions

‘680N Inquiry about application

- ‘(1) Before deciding an application under division 1 or 2, the Minister may, by notice given to the applicant, require the applicant to give the Minister within the reasonable period of at least 30 business days stated in the notice further information or a document the Minister reasonably requires to decide the application.
- ‘(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with a requirement under subsection (1).

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- ‘(3) A notice under subsection (1) must be given to the applicant within 30 business days after the Minister receives the application.

‘6800 Notice of decision on application

- ‘(1) The Minister must, as soon as practicable after deciding the application, give the applicant notice of the decision.
- ‘(2) If the Minister decides to register the premises or renew registration of the premises, the notice must include information identifying the area (the *affected area*) for which the premises are registered.
- ‘(3) If the Minister decides to refuse to register, or renew registration of, the premises, or impose conditions on the registration, the notice must be an information notice.
- ‘(4) If the Minister decides a term of registration for the premises of more than 10 years, the notice must state the term.

Note—

Under section 680W(1), the Minister may decide a term of registration for particular premises of at least 10 years, but not more than 25 years.

‘Division 4 Cancellation, and amendment of conditions, of registration

‘Subdivision 1 Cancellation

‘680P Grounds for cancellation

‘Each of the following is a ground for cancelling the registration of premises—

- (a) the levels of emissions of aerosols, fumes, light, noise, odour, particles or smoke at the premises are not in compliance with the following—
- (i) the development approval for the premises;

- (ii) any code of environmental compliance applying to activities carried out at the premises;
- (b) a condition of the registration is contravened.

‘680Q Show cause notice

- ‘(1) If the Minister believes a ground exists to cancel the registration, the Minister must give the owner of the premises a notice under this section (a *show cause notice*).
- ‘(2) The show cause notice must state the following—
 - (a) the Minister proposes to cancel the registration;
 - (b) the grounds for the proposed cancellation;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) that the owner may, within a stated period (the *show cause period*), make written representations to the Minister to show why the registration should not be cancelled.
- ‘(3) The show cause period must end at least 20 business days after the owner is given the show cause notice.

‘680R Representations about show cause notice

- ‘(1) The owner may make written representations about the show cause notice to the Minister in the show cause period.
- ‘(2) The Minister must consider all representations (the *accepted representations*) made under subsection (1).

‘680S Ending show cause notice without further action

‘If, after considering the accepted representations for the show cause notice, the Minister no longer believes a ground exists to cancel the registration, the Minister must—

- (a) take no further action about the show cause notice; and

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- (b) give the owner a notice that no further action is to be taken about it.

‘680T Cancellation

- ‘(1) This section applies if—
 - (a) there are no accepted representations for the show cause notice; or
 - (b) after considering the accepted representations for the show cause notice, the Minister—
 - (i) still believes a ground exists to cancel the registration; and
 - (ii) believes cancellation of the registration is warranted.
- ‘(2) The Minister may cancel the registration.
- ‘(3) If the Minister decides to cancel the registration, the Minister must as soon as practicable give the owner an information notice for the decision.
- ‘(4) The decision takes effect on the later of the following days—
 - (a) the day the information notice is given to the owner;
 - (b) the day stated in the information notice for that purpose.

‘Subdivision 2 Amending conditions of registration

‘680U Amendment of conditions

- ‘(1) The Minister may amend the conditions of the registration of premises on the Minister’s own initiative.
- ‘(2) Before making an amendment under subsection (1), the Minister must—
 - (a) give notice to the owner of the premises—
 - (i) of the particulars of, and reasons for, the proposed amendment; and

- (ii) that the owner may make written representations to the Minister about the proposed amendment before a stated day, not later than 14 business days after the notice is given to the owner; and
- (b) consider all representations made under paragraph (a)(ii) before the stated day.
- ‘(3) If the Minister decides not to amend the conditions, the Minister must give the owner notice of the decision.
- ‘(4) If the Minister decides to amend the conditions, the Minister must give the owner an information notice for the decision.
- ‘(5) A decision to amend the conditions takes effect on the later of the following days—
 - (a) the day the information notice is given to the owner;
 - (b) the day stated in the information notice for that purpose.

‘Division 5 Other matters about registration

‘680V Owner of premises may end registration

- ‘(1) The owner of registered premises may, by notice given to the Minister, end the registration.
- ‘(2) If the owner of premises acts under subsection (1), the registration of the premises ends on the later of the following days—
 - (a) the day the Minister receives the notice;
 - (b) the day stated in the notice for that purpose.

‘680W Term of registration

- ‘(1) Registration of premises is, unless sooner cancelled or ended, for a term of—
 - (a) 10 years; or

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- (b) if, having regard to the application for registration of particular premises, the Minister considers a longer term is appropriate for the premises—at least 10 years, but not more than 25 years, decided by the Minister.
- ‘(2) The registration starts on—
- (a) for an initial registration under division 1—the later of the following days—
 - (i) the day the owner of the premises is given notice of the Minister’s decision under section 680O;
 - (ii) the day stated in the notice for that purpose; or
 - (b) for a renewed registration under division 2—the day immediately after the day the registration would have ended if it had not been renewed.

‘Part 4 Particular obligations

‘680X Record of registration of premises in appropriate register

- ‘(1) The owner of registered premises must, within 20 business days after the premises are registered, give the registrar notice, in the form approved by the registrar, asking the registrar to keep a record (an *affected area notation*) that this chapter applies to all lots within the affected area for the premises.

Maximum penalty—200 penalty units.

- ‘(2) On receiving the notice, the registrar must keep a record so that a search of the appropriate register will show the affected area notation for the lots.
- ‘(3) If—
- (a) the registration of the premises ends; and
 - (b) the registrar was given a notice under subsection (1);

the owner of the premises must give the registrar notice, in the form approved by the registrar, asking the registrar to remove the record of the affected area notation from the register.

Maximum penalty—20 penalty units.

- ‘(4) As soon as practicable after receiving the notice under subsection (3), the registrar must remove the record of the affected area notation from the register.
- ‘(5) Also, the registrar may remove the affected area notation from the register if the registrar is satisfied, on reasonable grounds, the registration of the registered premises has ended.

‘680Y Public notice of registration, or renewal of registration, of premises

- ‘(1) The owner of registered premises must, within 20 business days after the premises are registered, or registration of the premises is renewed, publish notice in compliance with subsection (2) about the registration or renewal in a newspaper circulating generally in the affected area for the premises.

Maximum penalty—50 penalty units.

- ‘(2) The notice must—
 - (a) state the name, or a description, of the registered premises; and
 - (b) include a description of the affected area for the premises; and
 - (c) state where a member of the public can obtain the information mentioned in subsection (3) about the registration.
- ‘(3) For subsection (2)(c), the information is—
 - (a) a map showing details of the affected area for the premises; and
 - (b) the conditions, if any, of the registration; and

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- (c) details of the type and levels of emissions of aerosols, fumes, light, noise, odour, particles or smoke from the carrying out of the activity for which the premises are registered.
- ‘(4) The owner must, while the premises are registered, keep the information mentioned in subsection (3) reasonably available for inspection, free of charge, by members of the public.
Maximum penalty—50 penalty units.
- ‘(5) As soon as practicable after complying with subsection (1), the owner of the registered premises must give the Minister notice of the compliance.
Maximum penalty—20 penalty units.

‘680Z Record of relevant development application in appropriate register

- ‘(1) The applicant for a relevant development application must, within 20 business days after making the application, give the registrar notice, in the form approved by the registrar, asking the registrar to keep a record (an *affected area notation*) that this chapter applies to the premises or lot the subject of the application.
Maximum penalty—200 penalty units.
- ‘(2) On receiving the notice, the registrar must keep a record so that a search of the appropriate register will show the affected area notation for the premises or lot.
- ‘(3) If—
 - (a) the relevant development application is refused, or lapses or is withdrawn before the application is decided; and
 - (b) the applicant has given the registrar a notice under subsection (1);the applicant must give the registrar notice, in the form approved by the registrar, asking the registrar to remove the record of the affected area notation from the register.

Maximum penalty—20 penalty units.

- ‘(4) As soon as practicable after receiving the notice under subsection (3), the registrar must remove the record of the affected area notation from the register.
- ‘(5) Also, the registrar may remove the affected area notation from the register if the registrar is satisfied, on reasonable grounds, the relevant development application has been refused, has lapsed or was withdrawn before it was decided.

‘680ZA Publication of information on website

- ‘(1) The owner of registered premises must, if there is a website for the premises, publish on the website—
 - (a) a map showing details of the affected area for the premises; and
 - (b) details of the levels of emissions of aerosols, fumes, light, noise, odour, particles or smoke from the carrying out of the activity for which the premises are registered.

Maximum penalty—50 penalty units.

- ‘(2) A failure to comply with subsection (1) does not affect the operation of section 680E.
- ‘(3) In this section—

website, for registered premises, means a website used by the owner of the premises to provide public access to information about the premises, including, for example, information about the activities carried out at the premises.

‘680ZB Notice to lessee about application of ch 8A

- ‘(1) A relevant person for premises in an affected area must, before entering into a letting agreement for the premises with someone else (a *lessee*), give to the lessee a notice stating—
 - (a) the premises is in an affected area; and
 - (b) that restrictions under section 680E may apply to the lessee in relation to taking a civil proceeding or a

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criminal proceeding about the emission of aerosols, fumes, light, noise, odour, particles or smoke from registered premises in the affected area.

Maximum penalty—30 penalty units.

‘(2) In this section—

letting agreement means an agreement under which a person gives someone else a right to occupy premises in exchange for money or other valuable consideration.

relevant person, for premises, means the owner of the premises or the owner’s agent.

‘680ZC Additional consequence of failure to give notice asking for affected area notation for Milton rail precinct

‘(1) This section applies if—

- (a) the applicant for a relevant development application for development in the Milton rail precinct enters into a contract with someone else (the *buyer*) for the buyer to buy the premises or lot the subject of the application, or part of the premises; and
- (b) at the time of entering into the contract, an affected area notation is not shown on the appropriate register because the applicant has failed to comply with section 680Z(1).

‘(2) The buyer may end the contract at any time before the contract is completed by giving the applicant or applicant’s agent a signed, dated notice of ending of the contract.

‘(3) The notice must state that the contract is ended under this section.

‘(4) If the buyer ends the contract, the applicant must, within 14 days, refund to the buyer any deposit paid to the seller under the contract.

Maximum penalty—200 penalty units.

‘(5) This section applies despite anything to the contrary in the contract.

‘(6) In this section—

Milton rail precinct means the area called Milton rail precinct shown on the map—

- (a) included as schedule 1 of the repealed *Planning (Urban Encroachment—Milton Brewery) Act 2009*; and
- (b) held by the department.

Note—

Milton rail precinct is taken to be the affected area for Milton Brewery under chapter 10, part 5, division 2.

‘680ZD Minister to advise local government about registration

‘As soon as practicable after premises are registered under this chapter the Minister must give notice of the registration to the local government in whose local government area the affected area for the premises is situated.

‘680ZE Local government to include registration in planning scheme

‘(1) If a local government receives a notice under section 680ZD, the local government must note the registration on—

- (a) its planning scheme (if any); and
- (b) any new planning scheme it makes before the registration ends.

‘(2) The note is not an amendment of the planning scheme.

‘Part 5 Register of premises

‘680ZF Keeping register of registered premises

‘The chief executive must—

- (a) keep a register of all registered premises; and
- (b) publish the register on the department’s website.

‘680ZG Content of register

‘The register must contain the following particulars about each registered premises—

- (a) the name, or a description, of the premises;
- (b) details of the activities associated with the premises for which a person can not, under this chapter, take a civil proceeding or a criminal proceeding;
- (c) a map showing the affected area for the premises;
- (d) details of any conditions of the registration;
- (e) the day the registration ends.

‘680ZH Availability of register

‘The chief executive must keep the register reasonably available for inspection, free of charge, by local governments and members of the public.

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- (e) all notices of a change or cancellation of a concurrence agency condition given to the assessment manager under chapter 6, part 8, division 3.’.
- (4) Section 729(5), ‘subsection (1)(i) or (j)’—
omit, insert—
‘subsection (1)(l) or (m)’.
- (5) Section 729(6), ‘subsection (1)(i)’—
omit, insert—
‘subsection (1)(l)’.
- (6) Section 729(7), definition *designated type of copy*, paragraph (a), ‘(h)’—
omit, insert—
‘(k)’.

96 Amendment of s 755KA (Distributor-retailer may decide matters about adopted infrastructure charge)

- (1) Section 755KA(1)—
insert—
‘(d) that a charge adopted by the distributor-retailer for particular water services or wastewater services may be increased after the charge is levied and before it is paid to the distributor-retailer.’.
- (2) Section 755KA(2)—
renumber as section 755KA(4).
- (3) Section 755KA—
insert—
‘(2) A decision of the distributor-retailer under subsection (1)(d) also must provide for how any increase in the charge is worked out.
‘(3) If the distributor-retailer decides under subsection (1)(d) that a charge may be increased, any increase for the particular water

services or wastewater services must not be more than the lesser of the following amounts—

- (a) the amount that is the difference between the amount of the charge levied for the services and the maximum amount the distributor-retailer could have charged for the services at the time the charge is paid;
 - (b) an amount representing the increase in the consumer price index for the period starting on the day the charge is levied and ending on the day the charge is paid.’.
- (4) Section 755KA(4), as renumbered under this section—

insert—

‘consumer price index means the all groups consumer price index for Brisbane published by the Australian Statistician.’.

97 Amendment of s 755KB (Funding trunk infrastructure—levying charge on and from standard charge day)

- (1) Section 755KB(3) and (8), ‘648F(1)’—

omit, insert—

‘648F(1)(a) to (d)’.

- (2) Section 755KB—

insert—

- ‘(9) Subsection (10) applies if, under this division, the amount of the charge levied may be increased after it is levied and before it is paid to the distributor-retailer.
- ‘(10) For subsections (3) and (8), the adopted infrastructure charges notice or new adopted infrastructure charges notice must state that an additional amount worked out in compliance with section 755KA(3) is payable on the day the charge is paid under this division.’.

[s 98]

98 Amendment of s 755MA (Agreements about, and alternatives to, paying adopted infrastructure charge)

(1) Section 755MA(3)—

omit, insert—

‘(2A) If the distributor-retailer has, under section 755KA, decided that the charge may be increased, the agreement must state how the amount of the increase in the charge is payable under the agreement.

‘(3) For development infrastructure that is land, the distributor-retailer may give the applicant or person who requested compliance assessment a notice, in addition to or instead of the notice given under section 648F, requiring the applicant or person to give the distributor-retailer, in fee simple, part of the land the subject of the development application or request for compliance assessment.’.

(2) Section 755MA—

insert—

‘(4A) If the distributor-retailer has decided that the charge may increase, a part of the adopted infrastructure charge payable in combination with land may be increased in compliance with section 755KA(3).’.

(3) Section 755MA—

insert—

‘(7A) If the distributor-retailer has, under section 755KA, decided that the charge may be increased, the agreement must state how the amount of the increase in the charge is payable under the agreement.’.

(4) Section 755MA(2A) to (8)—

renumber as section 755MA(3) to (11).

(5) Section 755MA(5), as renumbered under this section, ‘subsection (3)(a)’—

omit, insert—

‘subsection (4)’.

-
- (6) Section 755MA(5), as renumbered under this section, ‘subsection (3)(b)’—
omit, insert—
‘subsection (4) and section 648F’.
- (7) Section 755MA(8), as renumbered under this section, ‘Subsection (7)’—
omit, insert—
‘Subsection (9)’.
- (8) Section 755MA(11), as renumbered under this section, ‘or (7)’—
omit, insert—
‘or (9)’.

99 Insertion of new s 758A

After section 758—

insert—

‘758A No requirement to consult for particular decisions under repealed IPA

- ‘(1) This section applies to—
- (a) a decision of the Minister to give a direction under repealed IPA, section 2.5B.49 or 2.5B.50 or chapter 3, part 6, division 1; and
 - (b) a decision of the Minister, under repealed IPA, chapter 3, part 6, division 2 to call in a development application, and any decision of the Minister under repealed IPA made in relation to the called in application.
- ‘(2) To remove any doubt, it is declared that the Minister was not, under repealed IPA, required to consult with anyone before making the decision.’.

[s 100]

100 Amendment of ch 10, hdg (Repeal and transitional provisions)

Chapter 10, heading, ‘and transitional’—

omit, insert—

‘, **transitional and validation**’.

101 Amendment of s 868 (Particular activities not a material change of use)

Section 868, from ‘as part of’—

omit, insert—

‘in connection with operating a road tunnel ventilation shaft for the projects known as Clem Jones Tunnel and Airport Link Project described in the Coordinator-General’s reports for the EIS, and change reports, for the projects under the *State Development and Public Works Organisation Act 1971*.

Editor’s note—

The Clem Jones Tunnel was formerly called the North-South Bypass Tunnel.’.

102 Insertion of new ch 10, pt 5

Chapter 10—

insert—

‘Part 5 Validation and transitional provisions for Sustainable Planning and Other Legislation Amendment Act 2012

‘Division 1 Validation provision

‘882 Validation provision for applications and development approvals under repealed IPA

- ‘(1) Subsection (2) applies to a development application (superseded planning scheme) made under repealed IPA before 30 March 2006 if—
- (a) the application—
 - (i) was made within 2 years after the day the planning scheme, planning scheme policy or amendment of the planning scheme, creating the superseded planning scheme to which the application related took effect; but
 - (ii) was not made within 2 years after the day the planning scheme, planning scheme policy or amendment of the planning scheme was adopted; and
 - (b) a development approval was given under repealed IPA for the application.
- ‘(2) The development application (superseded planning scheme) is not invalid merely because it was not made within 2 years after the day the planning scheme, planning scheme policy or amendment of the planning scheme was adopted.
- ‘(3) The development approval is not invalid merely because the development application (superseded planning scheme) to which it relates was not made within 2 years after the day the planning scheme, planning scheme policy or amendment of the planning scheme was adopted.

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‘Division 2 Provisions for chapter 8A

‘883 Definitions for div 2

‘In this division—

Milton Brewery means the brewery situated on lot 35 on plan SL805565.

Editor’s note—

The address for the Milton Brewery is 185 Milton Road, Milton.

Milton rail precinct means the area called Milton rail precinct shown on the map—

- (a) included as schedule 1 of the repealed *Planning (Urban Encroachment—Milton Brewery) Act 2009*; and
- (b) held by the department.

‘884 Registration of Milton Brewery for ch 8A, pt 3

‘(1) On the commencement of this division—

- (a) Milton Brewery is taken to be premises registered under chapter 8A, part 3; and
- (b) the Milton rail precinct is taken to be the affected area for Milton Brewery.

‘(2) The term of the registration is 10 years starting on 27 April 2009.

‘(3) Section 475A does not apply to the registration of Milton Brewery under this section.

‘885 Restriction on legal proceedings for Milton Brewery

- ‘(1) This section applies to a claim under section 680E(1) by an affected person in relation to a relevant act at Milton Brewery.
- ‘(2) If the relevant act was, or caused, the emission of light, section 680E(2) applies to the claim only if the emission was

no more than the intensity of light for the relevant act before 27 April 2009.

‘(3) In this section—

affected person see section 680E(6).

relevant act see section 680E(1).

‘886 Non-application of s 680X(1)

‘Section 680X(1) does not apply to Milton Brewery.

‘887 Application of s 680Y

‘Section 680Y applies to Milton Brewery only for a renewal of its registration under chapter 8A, part 3.

‘888 Notifying prospective buyers

‘(1) This section applies if—

(a) a relevant development application, as defined under the repealed *Planning (Urban Encroachment—Milton Brewery) Act 2009*, section 5, was made before 27 April 2009; and

(b) the application is a current application; and

(c) anyone (the *seller*) offers the premises or lot the subject of the application, or part of the premises, (the *property*) for sale to someone else (a *prospective buyer*).

‘(2) Before the prospective buyer enters into a contract to buy the property, the seller must give the prospective buyer a notice (an *affected area notice*) of—

(a) the restrictions under section 680E that may apply to the prospective buyer if the prospective buyer buys the property; and

Note—

For the restrictions under section 680E in the Milton rail precinct, also see section 885.

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- (b) the keeping in the appropriate register of a record of the affected area notation for the property.
- ‘(3) If—
- (a) the seller fails to give the prospective buyer an affected area notice for the property; and
 - (b) the prospective buyer enters into a contract with the seller to buy the property;
- the failure to notify gives the prospective buyer the right to end the contract.
- ‘(4) The prospective buyer may end the contract at any time before the contract is completed by giving the seller or the seller’s agent a signed, dated notice of the ending of the contract.
- ‘(5) The notice must state the contract is ended under this section.
- ‘(6) If the prospective buyer ends the contract, the seller must, within 14 days, refund to the prospective buyer any deposit paid to the seller under the contract.
- Maximum penalty—200 penalty units.
- ‘(7) This section applies despite anything to the contrary in the contract.
- ‘(8) To remove any doubt, it is declared that this section applies—
- (a) even if the offer for sale is made by someone other than the applicant for the relevant development application; and
 - (b) if the seller is not the applicant—whether or not the seller received an affected area notice for the property; and
 - (c) regardless of the number of times the property has been sold since the making of the development application.
- ‘(9) In this section—
- current application*** means a relevant development application, as defined under the repealed *Planning (Urban Encroachment—Milton Brewery) Act 2009*, section 5, that has

not been refused, or has not lapsed or been withdrawn before the application is decided.

‘889 Development applications made before commencement

‘Section 680Z(1) applies to a development application mentioned in section 680D(b) or (c) as if the reference in section 680Z(1) to ‘20 business days after making the application’ were a reference to ‘20 business days after the commencement of this section’.

‘Division 3 Other provisions

‘890 Transitional provision about call in of application

- ‘(1) This section applies to a development application called in under chapter 6, part 11, division 2 before the commencement of the section if, under that division, the application has not been finally dealt with before the commencement.
- ‘(2) For dealing with the application, chapter 6, part 11, division 2 as in force before the commencement continues to apply to the application.

‘891 Transitional provision for s 648A

‘For deciding the amount of an adopted infrastructure charge under section 648A, section 648A(2), definition *pre-SPRP amount* as inserted by the *Sustainable Planning and Other Legislation Amendment Act 2012* is taken to have had effect on 6 June 2011.

‘892 Proceedings for particular appeals under repealed IPA

- ‘(1) This section applies to an appeal, under repealed IPA, mentioned in section 819(1).

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- ‘(2) If, in a proceeding for the appeal, the court finds a provision of repealed IPA, or another Act in its application to repealed IPA, has not been complied with or has not been fully complied with, the court may deal with the matter in the way the court considers appropriate.
- ‘(3) Subsection (2) applies despite section 819(2) and repealed IPA, section 4.1.5A.’.

103 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *local government area*, *public office* and *show cause notice*—
omit.
- (2) Schedule 3—
insert—
‘accepted representations, for chapter 8A, see section 680R(2).
affected area see section 680O(2).
affected area notation, for chapter 8A, see section 680A.
appropriate register, for chapter 8A, see section 680A.
City of Brisbane Act means the *City of Brisbane Act 2010*.
code of environmental compliance, for chapter 8A, see section 680A.
information notice, for chapter 8A, see section 680A.
mapped area, for chapter 8A, see section 680G(2)(a).
Milton Brewery, for chapter 10, part 5, division 2, see section 883.
Milton rail precinct, for chapter 10, part 5, division 2, see section 883.
notice, for chapter 8A, see section 680A.
proposed call in notice, for chapter 6, part 11, division 2, see section 424A(1).

public office, of a local government, means the premises kept as its public office under—

- (a) for a local government other than the Brisbane City Council—the Local Government Act; or
- (b) for the Brisbane City Council—the City of Brisbane Act.

rates means rates within the meaning of—

- (a) for a local government other than the Brisbane City Council—the Local Government Act; or
- (b) for the Brisbane City Council—the City of Brisbane Act.

registered premises, for chapter 8A, see section 680A.

registrar, for chapter 8A, see section 680A.

registration certificate, for chapter 8A, see section 680A.

relevant development application, for chapter 8A, see section 680B.

representation period, for chapter 6, part 11, division 2, see section 423.

show cause notice—

- (a) generally—see section 588(2); or
- (b) for chapter 8A—see section 680Q(1).

show cause period, for chapter 8A, see section 680Q(2)(d).

technical report, for chapter 8A, see section 680G(2)(h).’.

- (3) Schedule 3, definition *assessing authority*, paragraph (f)—

omit, insert—

- ‘(f) for an aspect of development to which a State planning regulatory provision applies—
 - (i) if the provision was jointly made by an eligible Minister and the Minister—the chief executive of the department administered by the Minister with

[s 103]

responsibility for the matter to which the State
planning regulatory provision applies; or

(ii) otherwise—the chief executive; or’.

(4) Schedule 3, definition *assessing authority*, paragraph (k)—
renumber as paragraph (l).

(5) Schedule 3, definition *assessing authority*—
insert—

‘(k) for development in a declared master planned area—

(i) the local government; or

(ii) the coordinating agency or a participating agency
for the structure plan for the area, each for the
matters within their respective jurisdictions; or’.

(6) Schedule 3, definition *priority infrastructure plan*, paragraph
(b)—

insert—

*‘Example of plans for trunk infrastructure for which infrastructure
charges will be levied—*

plans for trunk infrastructure provided by a distributor-retailer in
the area of its participating local government’.

(7) Schedule 3, definition *SEQ infrastructure charges schedule*,
‘, for chapter 9, part 7A,’—

omit.

Part 8 **Amendment of Urban Land Development Authority Act 2007**

104 Act amended

This part amends the *Urban Land Development Authority Act 2007*.

105 Amendment of s 6 (Development and its types)

Section 6(1)—

omit, insert—

‘(1) ***Development*** is any of the following—

- (a) carrying out building work;
- (b) carrying out plumbing or drainage work;
- (c) carrying out operational work;
- (d) reconfiguring a lot;
- (e) making a material change of use of premises.’

106 Amendment of s 8 (Interim land use plan required)

Section 8—

insert—

‘(4) To remove any doubt, it is declared that a reference to a land use plan in section 23 or 35 is taken not to include a reference to an interim land use plan that takes effect under subsection (3) as the land use plan.’

107 Amendment of s 9 (Expiry of interim land use plan)

Section 9(2) and (3)—

omit, insert—

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- ‘(2) However, if a caretaker period occurs during the 12-month period, the period is extended by a further period equal to the caretaker period plus 20 business days.
- ‘(3) A regulation may make a new land use plan for the urban development area.
- ‘(4) Section 8(2) and (3) applies to the new land use plan.’.

108 Amendment of s 22 (Development scheme required)

Section 22(2), ‘and has the force of law’—
omit.

109 Replacement of s 31 (Ministerial power to amend submitted scheme at affected owner’s request)

Section 31—
omit, insert—

‘31 Ministerial power to amend submitted scheme

- ‘(1) The Minister may, within 45 business days after the submitted scheme is given to the Minister, amend the submitted scheme in a way the Minister considers appropriate.
- ‘(2) Without limiting subsection (1), the Minister may amend the submitted scheme to—
 - (a) protect an affected owner’s interests; or
 - (b) ensure the implementation of the scheme complies with this Act; or
 - (c) make a minor administrative amendment.
- ‘(3) Subsection (4) applies if—
 - (a) an affected owner for the relevant urban development area asks the Minister to amend the submitted scheme to protect the affected owner’s interests; and
 - (b) the Minister requires additional time to consider a matter raised by the affected owner.

-
- ‘(4) The Minister has a further period, of not more than 20 business days decided by the Minister, to amend the submitted scheme in a way the Minister considers appropriate to protect the affected owner’s interests.
 - ‘(5) If a caretaker period occurs within 45 business days after the submitted scheme is given to the Minister, the Minister has a further period, equal to the caretaker period plus 20 business days, to amend the submitted scheme in a way the Minister considers appropriate.
 - ‘(6) Despite subsections (1) to (5), an amendment to protect an affected owner’s interests may be made only if the affected owner has, within 20 business days after being given notice of the submitted scheme under section 30, asked the Minister to amend the scheme to protect the owner’s interests.’.

110 Amendment of s 35 (Power to amend at authority’s request)

- (1) Section 35(1)(b)(iii)—
omit.
- (2) Section 35(1)—
insert—
‘(c) the amendment is a minor administrative amendment.’.

111 Amendment of s 38 (Division 1 process applies)

- Section 38(2)—
omit, insert—
- ‘(2) Division 1 applies to the amendment as if—
 - (a) a reference in the division to making a development scheme were a reference to the making of the amendment; and
 - (b) a reference in the division to a proposed development scheme were a reference to the proposed amendment; and

[s 112]

- (c) a reference in section 25(2) to 30 business days were a reference to 15 business days; and
- (d) a reference in section 30(c) to 20 business days were a reference to 10 business days; and
- (e) a reference in section 31(1) or (5) to 45 business days were a reference to 20 business days; and
- (f) a reference in section 31(6) to 20 business days were a reference to 10 business days.’.

112 Amendment of s 42 (Carrying out UDA assessable development without UDA development approval)

Section 42, ‘UDA development approval’—

omit, insert—

‘UDA development permit’.

113 Amendment of s 51 (How to make application)

(1) Section 51(1)(c)—

omit, insert—

‘(c) if, under section 51A(1), the application is required to be supported by evidence mentioned in the subsection—contain, or be accompanied by, the evidence; and

(d) be accompanied by the application fee decided by the authority.

Note—

A single application may be made for both a UDA preliminary approval and a UDA development permit.’.

(2) Section 51(2)—

renumber as section 51(3).

(3) Section 51—

insert—

- ‘(2) However, if the owner of the relevant land is the State and section 51A(1) applies to the application, the consent of the owner of the relevant land is not required.’.

114 Insertion of new s 51A

Part 4, division 3, subdivision 1—

insert—

‘51A Development involving a State resource

- ‘(1) To the extent the development to which a UDA development application relates involves a State resource prescribed under the Sustainable Planning Act, section 264(1), the application must be supported by 1 or more of the following as required under that section for the development—
- (a) evidence of an allocation of, or an entitlement to, the resource;
 - (b) evidence the chief executive of the department administering the resource is satisfied the development is consistent with an allocation of, or an entitlement to, the resource;
 - (c) evidence the chief executive of the department administering the resource is satisfied the development application may proceed in the absence of an allocation of, or an entitlement to, the resource.
- ‘(2) The document containing the evidence may state a day, at least 6 months after the date of the document, after which an application to which the evidence in the document relates may not be made using the evidence.’.

115 Amendment of s 54 (Notice of application)

Section 54(1)(a), ‘or interim land use plan’—

omit.

[s 116]

116 Amendment of s 55 (Deciding application generally)

Section 55—

insert—

- ‘(5) To remove any doubt, it is declared that—
- (a) the authority may give a UDA preliminary approval, even though the applicant sought a UDA development permit; and
 - (b) if the authority approves only part of an application, the balance of the application is taken to have been refused.’.

117 Amendment of s 56 (Restrictions on granting approval)

- (1) Section 56(1)(a) and (b)—

omit, insert—

- ‘(a) an SPA preliminary approval is in force for the relevant land and the relevant development would be consistent with the preliminary approval; or
- (b) a UDA preliminary approval is in force for the relevant land and the relevant development would be consistent with the preliminary approval; or
- (c) there is a proposed development scheme for the area and the relevant development would be consistent with the proposed development scheme.’.

- (2) Section 56(2), ‘(a) and (b) apply’—

omit, insert—

‘(a), (b) or (c) applies’.

- (3) Section 56—

insert—

- ‘(3) In this section—

proposed development scheme, for the relevant urban development area, means a proposed development scheme, or

a proposed amendment of a development scheme, for the area published under section 25, or section 25 as applied under section 38, that has not taken effect.’.

118 Amendment of s 57 (Matters to be considered in making decision)

- (1) Section 57(1)(c)(ii), ‘proposed development scheme;’—
omit, insert—
‘interim land use plan for the area and the proposed development scheme;’.
- (2) Section 57(1)(d)—
omit, insert—
‘(d) any UDA preliminary approval in force for the relevant land; and
(e) any SPA preliminary approval in force for the relevant land.’.
- (3) Section 57(2)(a) and (b)—
omit, insert—
‘(a) there is—
(i) a development scheme or interim land use plan for the area; and
(ii) a proposed development scheme for the area; and
(b) the proposed development scheme was prepared after the development scheme or interim land use plan took effect;’.

119 Amendment of s 59 (Decision notice)

- (1) Section 59(4)—
omit, insert—
‘(4) If the decision was to grant a UDA development approval, the authority must, when giving the decision notice to an entity

[s 120]

mentioned in subsection (1), also give the entity a copy of any plans and specifications approved by the authority concerning the approval.’.

- (2) Section 59(5)—
omit.

120 Amendment of s 67 (Approved material change of use required for particular developments)

Section 67(1)(a) and (b), ‘UDA development approval’—
omit, insert—
‘UDA development permit’.

121 Replacement of s 70 (What approval authorises)

Section 70—
omit, insert—

‘70 Types of UDA development approvals

- ‘(1) A *UDA preliminary approval* is a UDA development approval that—
- (a) approves development, but does not authorise UDA assessable development to take place; and
 - (b) approves development—
 - (i) to the extent stated in the approval; and
 - (ii) subject to the conditions of the approval.
- ‘(2) A *UDA development permit* is a UDA development approval that authorises the carrying out of UDA assessable development—
- (a) to the extent provided for under the permit; and
 - (b) subject to—
 - (i) the conditions of the permit; and

- (ii) any UDA preliminary approval relating to the development the permit authorises, including any conditions of the UDA preliminary approval.
- ‘(3) There is no requirement to get a UDA preliminary approval for development.

Note—

UDA preliminary approvals assist in the staging of approvals.’.

122 Amendment of s 75 (Application to change UDA development approval)

Section 75—

insert—

- ‘(6) However, if—
- (a) the owner of the relevant land is the State; and
- (b) section 51A(1) applied to the original UDA development application for the UDA development approval;

the amendment application must be accompanied by the written agreement of the chief executive from whom evidence was required to be obtained under that section instead of the consent of the owner of the relevant land.’.

123 Amendment of s 76 (When approval lapses generally)

- (1) Section 76(3)(a), ‘authority’—

omit, insert—

‘approval’.

- (2) Section 76—

insert—

- ‘(6) Despite subsections (4) and (5), if there are 1 or more related approvals for a UDA development approval mentioned in subsection (4) or (5), the currency period is taken to have started on the day the latest related approval takes effect.

[s 123]

‘(7) The lapsing of a UDA development approval for a material change of use of premises or reconfiguring a lot does not cause an approval mentioned in subsection (3) to lapse.

‘(8) In this section—

private certifier means a building certifier whose licence under the Building Act has private certification endorsement under that Act.

related approval means—

- (a) for a UDA development approval for development that is a material change of use of premises (the *earlier approval*)—
- (i) the first UDA development approval for a UDA development application made to the authority, or the first SPA development approval made to a local government or private certifier, within 2 years after the start of the currency period, that is—
- (A) to the extent the earlier approval is a UDA preliminary approval—a UDA development permit for the material change of use; or
- (B) to the extent the earlier approval is a UDA development permit—a UDA development permit for building work or operational work, or a SPA development permit for building work, necessary for the material change of use to take place; or
- (ii) each further UDA development permit for a UDA development application made to the authority, or the first SPA development permit for a SPA development application made to a local government or private certifier, within 2 years after the day the last related approval takes effect, that is for building work or operational work necessary for the material change of use to take place; or
- (b) for a UDA development approval for reconfiguring a lot (also the *earlier approval*)—

-
- (i) the first UDA development permit for a UDA development application made to the authority, within 2 years after the start of the currency period, that is—
 - (A) to the extent the earlier approval is a UDA preliminary approval—for the reconfiguration; or
 - (B) to the extent the earlier approval is a UDA development permit for reconfiguring a lot—for operational work related to the reconfiguration; or
 - (ii) each further UDA development permit, for a UDA development application made to the authority within 2 years after the day the last related approval takes effect, that is for operational work related to the reconfiguration.’.

124 Amendment of s 80 (Plans of subdivision)

- (1) Section 80(3)(c) and (d), ‘UDA development approval’—
omit, insert—
‘UDA development permit’.
- (2) Section 80(3)(e) and (f)—
renumber as section 80(3)(g) and (h).
- (3) Section 80(3)—
insert—
 - ‘(e) as if a reference in the provisions to a preliminary approval were a reference to a UDA preliminary approval; and
 - (f) as if a reference in the provisions to a condition of a preliminary approval were a reference to a UDA development condition of the UDA preliminary approval; and’.

[s 125]

125 Amendment of s 97 (General powers)

Section 97(2)(a), ‘under the Sustainable Planning Act,’—
omit.

126 Amendment of s 104 (By-laws)

- (1) Section 104(4) and (5)—
renumber as section 104(5) and (6).
- (2) Section 104(2) and (3)—
omit, insert—
- ‘(2) However, a by-law can not fix a penalty of more than—
 - (a) if the by-law replaces a local law—the maximum penalty units applying to a contravention of the local law it replaces; or
 - (b) otherwise—20 penalty units for an offence against the by-law.
- ‘(3) A by-law *replaces* a local law if—
 - (a) the local law no longer applies to a matter within an urban development area because a by-law provides that the local law does not apply, or applies with stated changes, within the urban development area; and
 - (b) the by-law applies to the matter within the urban development area.
- ‘(4) A by-law may provide that all or part of a stated local law does not apply, or applies with stated changes, within an urban development area.’.

127 Insertion of new s 105A

After section 105—
insert—

‘105A Chairperson and deputy chairperson

- ‘(1) An appointed member is to be appointed the chairperson by the Governor in Council.
- ‘(2) A person may be appointed as the chairperson at the same time the person is appointed as an appointed member.
- ‘(3) An appointed member, other than the chairperson, is to be appointed the deputy chairperson by the Minister.
- ‘(4) The deputy chairperson holds that office for the term (not longer than the term stated in the person’s instrument of appointment as an appointed member) decided by the Minister.
- ‘(5) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office stops being an appointed member or resigns the office.
- ‘(6) A person holding office as chairperson or deputy chairperson resigns the office by signed notice of resignation given to the Minister.
- ‘(7) A person resigning the office of chairperson also stops being an appointed member but a person resigning the office of deputy chairperson may continue to be a member.
- ‘(8) The deputy chairperson is to act as chairperson—
 - (a) during a vacancy in the office of chairperson; or
 - (b) during a period when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.’.

128 Amendment of s 136 (Delegations)

- (1) Section 136(5)—
renumber as section 136(9).
- (2) Section 136—
insert—

[s 129]

- ‘(5) If the authority delegates a function to the chief executive officer under subsection (1)(b), the chief executive officer may subdelegate the function to an appropriately qualified employee of the authority or government entity.
- ‘(6) If the authority delegates a function to the chief executive officer of a local government under subsection (1)(c), the chief executive officer may subdelegate the function to an appropriately qualified employee of the local government.
- ‘(7) Despite subsections (5) and (6), a function delegated by the authority under subsection (1)(b) or (c) can not be subdelegated if the authority has, when delegating the function, directed that the function can not be subdelegated.
- ‘(8) A subdelegation under subsection (6) ends if—
 - (a) the authority gives the chief executive officer of the local government written direction to end the subdelegation; or
 - (b) the authority ends the delegation of the function to the chief executive officer of the local government.’.

129 Insertion of new pt 6A

After section 136—

insert—

‘Part 6A Infrastructure agreements

‘136A Application of pt 6A

‘This part applies to an infrastructure agreement to which the authority is a party.

‘136B Exercise of discretion unaffected by infrastructure agreements

‘The infrastructure agreement is not invalid merely because its fulfilment depends on the exercise of a discretion by the authority about—

-
- (a) an interim land use plan; or
 - (b) a development scheme; or
 - (c) an existing or future UDA development application.

‘136C Infrastructure agreements prevail if inconsistent with UDA development approval

‘To the extent the infrastructure agreement is inconsistent with a UDA development approval the agreement prevails.

‘136D Infrastructure agreement continues beyond cessation of urban development area

- ‘(1) This section applies if—
 - (a) land ceases to be in an urban development area; and
 - (b) an infrastructure agreement that applied to the land was in force immediately before the land ceased to be in the urban development area.
- ‘(2) To the extent the infrastructure agreement applies to the land—
 - (a) the superseding public sector entity for the land is taken to be a party to the agreement in place of the authority; and
 - (b) the rights and responsibilities of the authority under the agreement become the rights and responsibilities of the superseding public sector entity.
- ‘(3) To remove any doubt, it is declared that sections 136B and 136C continue to apply to the infrastructure agreement.
- ‘(4) In this section—

public sector entity means a public sector entity under the Sustainable Planning Act, schedule 3.

superseding public sector entity, for land, means the public sector entity that will have responsibility for the infrastructure

[s 130]

on the land after the land ceases to be in an urban development area.

‘136E Consultation with public sector entities before entering into particular infrastructure agreements

- ‘(1) This section applies if a proposed infrastructure agreement would, if entered into, likely continue to apply to land after the land ceases to be in an urban development area.
- ‘(2) Before entering into the proposed infrastructure agreement, the authority must consult about the terms of the agreement with the entities the authority considers will be superseding public sector entities for the land.
- ‘(3) In this section—

public sector entity means a public sector entity under the Sustainable Planning Act, schedule 3.

superseding public sector entity, for land, means the public sector entity that will have responsibility for the infrastructure on the land after the land ceases to be in an urban development area.’.

130 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *affected owner*, *building work*, *land use plan*, *material change of use* and *UDA development approval*—
omit.
- (2) Schedule—
insert—
‘affected owner, for an urban development area, means a person who owns land that—
 - (a) is in the area; or
 - (b) shares a common boundary with the area; or

-
- (c) is benefited by an easement, registered under the *Land Title Act 1994*, over the area or part of the area; or
 - (d) has a boundary, along a road, that is directly opposite a boundary of the area, along the same road; or
 - (e) the Minister considers may be negatively affected by development in the area having regard to—
 - (i) the proximity of the land to the area; and
 - (ii) the impact the development, including any proposed development, may have on the character and amenity of the land.

building work means building work under the Sustainable Planning Act, other than that a reference to administering IDAS is taken to be a reference to administering this Act.

caretaker period means the election period for a general election under the *Electoral Act 1992*.

deputy chairperson means the deputy chairperson of the authority.

drainage work see the *Plumbing and Drainage Act 2002*, schedule.

infrastructure agreement means an infrastructure agreement under the Sustainable Planning Act, schedule 3.

land use plan, for an urban development area, means the land use plan included in the development scheme for the area.

material change of use means material change of use under the Sustainable Planning Act, other than that—

- (a) a reference to IDAS is taken to be a reference to this Act; and
- (b) a reference to development approval is taken to include a reference to UDA development approval.

minor administrative amendment, of a development scheme, means—

- (a) an amendment of the scheme if the Minister is satisfied—

[s 130]

- (i) the amendment is made merely to reflect a part of a planning instrument; and
- (ii) adequate public consultation was carried out in relation to the making of the part; or
- (b) another amendment of a minor nature prescribed under a regulation; or
- (c) an amendment correcting or changing—
 - (i) an explanatory matter about the scheme; or
 - (ii) the format or presentation of the scheme; or
 - (iii) a spelling, grammatical or mapping error in the scheme; or
 - (iv) a factual matter incorrectly stated in the scheme; or
 - (v) a redundant or outdated term in the scheme; or
 - (vi) inconsistent numbering of provisions in the scheme; or
 - (vii) a cross-reference in the scheme.

plumbing work see the *Plumbing and Drainage Act 2002*, schedule.

SPA development permit means a development permit under the Sustainable Planning Act.

SPA preliminary approval means a preliminary approval under the Sustainable Planning Act.

UDA development approval means a decision notice that—

- (a) approves, wholly or partly, development applied for in a UDA development application (whether or not the approval has conditions attached to it); and
- (b) is in the form of a UDA preliminary approval, a UDA development permit or a combination of both a UDA preliminary approval and a UDA development permit.

UDA development permit see section 70(2).

UDA preliminary approval see section 70(1).’

Part 9 Repeal of Act

131 Repeal

The Planning (Urban Encroachment—Milton Brewery) Act 2009, No. 1 is repealed.

Part 10 Minor and consequential amendments

132 Acts amended

The schedule amends the Acts it mentions.

Schedule Acts amended

section 132

Building Act 1975

- 1 Section 25(2)(a)(iii)—**
renumber as section 25(2)(a)(ii).

- 2 Section 51(5), ‘section 260(2),’—**
omit, insert—
‘section 260(2)’.

- 3 Section 67(2)(b), ‘structure,’—**
omit, insert—
‘structure’.

- 4 Section 68(2)(a), ‘building,’—**
omit, insert—
‘building’.

- 5 Section 68(2)(a), ‘part 3,’—**
omit, insert—
‘part 3’.

- 6 Section 98(a), after ‘building;’—**
insert—
‘or’.

-
- 7 Section 100(a), after ‘building;’—**
insert—
‘or’.
- 8 Section 127(2), ‘certifier—’—**
omit, insert—
‘certifier does any of the following—’.
- 9 Section 136(2), ‘certifier—’—**
omit, insert—
‘certifier does any of the following—’.
- 10 Section 147(3), definition *relevant day*, paragraph (a), ‘latest’—**
omit, insert—
‘later’.
- 11 Section 147(3), definition *relevant day*, paragraph (a)(iii)—**
renumber as paragraph (a)(ii).
- 12 Section 231A, definition *accommodation agreement*, paragraph 1(d) and example, ‘paragraph’—**
omit, insert—
‘subparagraph’.
- 13 Section 245H(6), definition *health professional*, after ‘means’—**
insert—
‘any of the following’.

- 14 Section 246AI, example, second dot point, before ‘inspection’—**
insert—
‘approved’.
- 15 Section 246AR(5), definition *existing regulated pool*, after ‘commencement’—**
insert—
‘of this section’.
- 16 Section 246AX(2), ‘inspector—’—**
omit, insert—
‘inspector does any of the following—’.
- 17 Section 246DC(2)(e), after ‘pool;’—**
insert—
‘or’.
- 18 Section 246EP(1), ‘246EO(2)(b)’—**
omit, insert—
‘246EO(2)’.
- 19 Schedule 2, definition *convicted*, paragraph 2(b)(i), second mention—**
renumber as paragraph 2(b)(ii).

City of Brisbane Act 2010

- 1 Section 121(1)(d), ‘was carried out under’—**
omit, insert—
‘is the subject of, or was carried out under,’.

Plumbing and Drainage Act 2002

- 1 Section 66(2), ‘65(2)’—**
omit, insert—
‘65(1)’.
- 2 Section 143(2)(a), ‘resolution’—**
omit, insert—
‘document’.