



Queensland

# Local Government Reform Implementation Regulation 2008

## Subordinate Legislation 2008 No. 23

made under the

*Local Government Act 1993*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Local Government Reform Implementation Regulation 2008*.

*Note—*

Under section 159ZZA of the Act, chapter 3, part 1B of the Act expires at the end of 31 December 2011 or at an earlier time fixed under a regulation. This regulation will expire on the same day chapter 3, part 1B of the Act expires.

### **2 Main purpose of regulation**

- (1) This regulation is a reform implementation regulation.
- (2) The main purpose of this regulation is to support the coming into effect of reform matters under chapter 3, part 1B of the Act—
  - (a) for particular new local governments; and
  - (b) for joint local governments.

### **3 Application of definitions for ch 3, pts 1B and 1C of the Act**

Words defined for chapter 3, parts 1B and 1C of the Act have the same meaning in this regulation.

### **4 Definitions**

The dictionary in schedule 2 defines particular words used in this regulation.

### **5 References to changeover day**

A matter under this regulation that happens from a changeover day happens from the beginning of that day.

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## **Part 2                      Reform matters for particular    new local governments**

### **Division 1                Preliminary**

#### **6                      Application of pt 2**

This part applies in relation to a merging local government other than the following—

- (a) Beaudesert Shire Council;
- (b) Ipswich City Council;
- (c) Taroom Shire Council;
- (d) Tiaro Shire Council;
- (e) Torres Shire Council.

#### **7                      References to merging and new local governments and    local government areas**

In a provision of this part about a merging local government and a new local government, the merging local government is the existing local government whose local government area is abolished under chapter 3, part 1B of the Act to become part of the local government area of the new local government.

### **Division 2                Role of new local governments**

#### **8                      New local government successor of merging local    government**

- (1) Each new local government is, in all respects, the successor of each of its merging local governments.
- (2) The other provisions of this part do not limit subsection (1).



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**9 New local government to take over particular functions and powers**

- (1) This section applies in relation to a new local government if, under an Act—
- (a) a local government may perform a function or exercise a power; and
  - (b) a merging local government started to perform the function or exercise the power, but did not finish performing the function or exercising the power, before the changeover day for the new local government's local government area.
- (2) The new local government may, from the changeover day for its local government area, continue to perform the function or exercise the power.

*Example—*

If a person has, before the changeover day for a new local government's local government area, made an application under an Act to a merging local government about land in the merging local government's local government area, the new local government may deal with the application from the changeover day for its local government area.

**10 New local government subject to particular obligations, etc.**

If a merging local government is, immediately before the changeover day for a new local government's local government area, subject to a condition, duty, obligation, order or requirement, the new local government is, from the changeover day, subject to the condition, duty, obligation, order or requirement.

**Division 3 Local laws and other instruments**

**11 Definition for div 3**

In this division—

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*continuing local law* means a local law of a merging local government in force in its local government area immediately before the changeover day for the new local government's local government area.

## **12 Local laws for new local government area**

- (1) From the changeover day for a new local government's local government area, a continuing local law and any subordinate local law made under the local law continue to apply in what was the merging local government's local government area until the earliest of the following—
  - (a) it is repealed by the new local government;
  - (b) the new local government, by local law, applies the continuing local law to the whole of its local government area under section 13(2);
  - (c) 31 December 2010.
- (2) A continuing local law is, from the changeover day for the new local government's local government area, taken to be a local law of the new local government.
- (3) The new local government may, by local law, amend a continuing local law while it continues in force under subsection (1).
- (4) A continuing local law must be read with the changes necessary to make it consistent with, and adapt its operation to, this regulation.

## **13 Limited application of continuing local laws**

- (1) To remove any doubt, it is declared that a continuing local law continues in force only for the part of the new local government's local government area to which it applied immediately before the changeover day for the new local government's local government area.

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- (2) However, the new local government may, by local law, apply a continuing local law to the whole of its local government area, with or without changes.
  - (3) If the new local government applies a local law to the whole of its local government area, any subordinate local law made under the local law also applies to the whole of the local government area.
  - (4) If the new local government applies, by local law, a continuing local law without changes to the whole of its local government area, sections 867 and 872 of the Act do not apply to the making of the local law.
  - (5) If—
    - (a) the new local government applies, by local law, a continuing local law to the whole of its local government area; and
    - (b) when applying the local law, the new local government repeals another continuing local law (the *repealed local law*) about the same matter; and
    - (c) the only change to the continuing local law, as applied by the local law, is to amend the continuing local law to provide for instruments made under the repealed local law to continue in force;

sections 867 and 872 of the Act do not apply to the making of the local law.

- (6) If—
  - (a) the new local government applies, by local law, a continuing local law to the whole of its local government area; and
  - (b) the only change to the continuing local law, as applied by the local law, is to repeal—
    - (i) any redundant provision under section 899D of the Act; or

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- (ii) any anti-competitive provision identified in a public interest test report under chapter 12, part 2, division 6 of the Act;

sections 867 and 872 of the Act do not apply to the making of the local law.

## **14 Model local law about meetings**

Each new local government is, from the changeover day for its local government area, taken to have—

- (a) repealed any continuing local law about meetings; and
- (b) adopted the model local law about meetings; and

*Note—*

The model local law about meetings is Model Local Law No. 2 (Meetings) 2008.

- (c) complied with the requirements under chapter 12, part 2, division 1 of the Act for making the model local law.

## **15 Existing instruments continue in force**

- (1) This section applies to an instrument, other than a local law or an instrument made under the Planning Act—
  - (a) properly made under an Act before the changeover day for a new local government's local government area about—
    - (i) a resident in the merging local government area; or
    - (ii) an owner of land in the merging local government area; or
    - (iii) land in the merging local government area; or
    - (iv) a person's entitlement to carry out an activity in the merging local government area; and
  - (b) in force immediately before the changeover day for the new local government's local government area.

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- (2) For the new local government dealing with the instrument from the changeover day for its local government area, the instrument continues in force until it would, if the merging local government area had not been abolished, have ceased to have effect under the Act.

## **16 Existing delegations made to merging local government**

- (1) This section applies to a delegation—
- (a) made to a merging local government under an Act; and
  - (b) in force immediately before the changeover day for a new local government's local government area.
- (2) From the changeover day, the delegation continues in force as a delegation to the new local government in relation to the area that was the merging local government's local government area until the earlier of the following—
- (a) it is revoked;
  - (b) it would, if the merging local government's local government area had not been abolished, have ended.
- (3) Subsection (2) does not stop the delegation being amended while it continues in force under the subsection.

## **17 Existing delegations made by merging local government to chief executive officer**

- (1) This section applies to a delegation—
- (a) made by a merging local government to its chief executive officer; and
  - (b) in force immediately before the changeover day for a new local government's local government area.
- (2) From the changeover day, the delegation continues in force as a delegation to the new local government's chief executive officer from the new local government in relation to the whole of the new local government's local government area until the earlier of the following—

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- (a) it is revoked by the new local government;
  - (b) it would, if the merging local government's local government area had not been abolished, have ended.
- (3) Subsection (2) does not stop the new local government amending a delegation while it continues in force under the subsection.
- (4) If there is an inconsistency between 2 or more delegations of 2 or more merging local governments, the new local government's chief executive officer may exercise delegated authority in accordance with any of the delegations.

## **18 Existing delegations made by chief executive officer of merging local government**

- (1) This section applies to a delegation—
- (a) made by the chief executive officer of a merging local government to an employee of the merging local government; and
  - (b) in force immediately before the changeover day for a new local government's local government area.
- (2) From the changeover day, the delegation continues in force as a delegation to the employee from the new local government's chief executive officer in relation to the whole of the new local government's local government area until the earlier of the following—
- (a) it is revoked by the new local government's chief executive officer;
  - (b) it would, if the merging local government's local government area had not been abolished, have ended.
- (3) Subsection (2) does not stop the new local government's chief executive officer amending a delegation while it continues in force under the subsection.

## 19 Existing authorisations

- (1) This section applies to an authorisation in force in a merging local government's local government area, and applying in relation to the merging local government or an officer of the merging local government, immediately before the changeover day for a new local government's local government area.
- (2) From the changeover day, the authorisation continues in force in the area that was merging local government's local government area, and in relation to the new local government or the officer, until the earlier of the following—
  - (a) it is revoked;
  - (b) it would, if the merging local government's local government area had not been abolished, have ended.
- (3) Subsection (2) does not stop the authorisation being amended while it continues in force under the subsection.

## 20 Authorised persons

- (1) Subsections (2) to (4) apply if—
  - (a) either—
    - (i) a merging local government appoints a person as an authorised person under chapter 15, part 5 of the Act; or
    - (ii) the chief executive officer of a merging local government appoints an employee of the merging local government to be an authorised person under the *Environmental Protection Act 1994*, section 445(2); and

*Editor's note—*

Chapter 15, part 5 (Enforcement of local government Acts) of the Act

*Editor's note—*

*Environmental Protection Act 1994*, section 445 (Appointment of authorised persons)

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- (b) the person holds office as an authorised person immediately before the changeover day for a new local government's local government area.
- (2) From the changeover day for the new local government's local government area, the person's instrument of appointment continues in force as an instrument of appointment of the person as an authorised person—
  - (a) of the new local government, if subsection (1)(a)(i) applies; or
  - (b) under the *Environmental Protection Act 1994*, section 445, if subsection (1)(a)(ii) applies.
- (3) The instrument of appointment continues in force in relation to the area that was the merging local government's local government area until the earlier of the following—
  - (a) the instrument of appointment is repealed;
  - (b) the person stops holding office as an authorised person in the circumstances provided for under section 1086(2) of the Act or the *Environmental Protection Act 1994*, section 446(3).

*Editor's note—*

Section 1086 (Authorised person's appointment conditions) of the Act or the *Environmental Protection Act 1994*, section 446 (Terms of appointment of authorised persons)

- (4) Subsection (2) does not stop the new local government, or the chief executive officer of the new local government, amending the instrument of appointment while it continues in force under subsection (3).
- (5) Subsections (6) and (7) apply if, immediately before the changeover day for a new local government's local government area, a person is authorised to serve an infringement notice for an infringement notice offence under the *State Penalties Enforcement Regulation 2000*, section 14, that is an offence against a provision of a merging local government's by-law.

*Editor's note—*



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*State Penalties Enforcement Regulation 2000*, section 14 (Authorised person for infringement notice for offence against local law or minor traffic offence or offence against by-law)

- (6) From the changeover day for the new local government's local government area, the person is authorised to serve an infringement notice for an infringement notice offence that is an offence against a provision of a local law of the new local government that provides for the same matter as the by-law.
- (7) The instrument of appointment or authorisation continues in force in relation to the merging local government's local government area until the earlier of the following—
  - (a) it is revoked;
  - (b) it would, if the merging local government's local government area had not been abolished, have ended.

## **Division 4                      Financial matters**

### **21            Assets and liabilities of merging local government**

- (1) Each asset of a merging local government immediately before the changeover day for a new local government's local government area becomes, on the changeover day for the new local government area, an asset of the new local government.
- (2) Each liability of a merging local government immediately before the changeover day for a new local government's local government area becomes, on the changeover day for the new local government area, a liability of the new local government.
- (3) The registrar of titles or other person responsible for keeping a register for dealings in assets must, if asked by the new local government in the appropriate form, record the transfer or the vesting of any asset under this section in the new local government.

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## 22 Fees and charges

- (1) From the changeover day for a new local government's local government area, a fee or charge fixed or made by a merging local government—
  - (a) is taken to have been fixed or made, in relation to the merging local government's local government area, by the new local government; and
  - (b) applies until the new local government varies the fee or charge.
- (2) In this section—

*charge* includes an infrastructure charge and infrastructure contribution under the Planning Act.

## 23 Recovery of unpaid fees and charges

- (1) This section applies if—
  - (a) before the changeover day for a new local government's local government area, a merging local government had fixed or made a fee or charge in relation to the merging local government's local government area; and
  - (b) immediately before the changeover day, the fee or charge had not been paid.
- (2) The new local government is taken to have fixed or made the fee or charge.
- (3) If the time for payment of the fee or charge had not ended before the changeover day, the time continues to run until the end of the period in which the fee or charge must be paid (the *relevant period*).
- (4) If the person fails to pay the fee or charge within the relevant period, the new local government may take action against the person to obtain payment of the fee or charge.
- (5) In this section—

*charge* includes an infrastructure charge and infrastructure contribution under the Planning Act.

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## **24 Levying rates**

- (1) This section applies if, immediately before the changeover day for a new local government's local government area, a merging local government—
  - (a) had made or imposed a rate on land in the merging local government's local government area; and
  - (b) had not given a notice levying the rate on a person.
- (2) The new local government—
  - (a) must give the person a notice levying the rate; and
  - (b) is taken to have made and levied the rate.

## **25 Recovery of unpaid rates**

- (1) This section applies if—
  - (a) before the changeover day for a new local government's local government area, a merging local government had given a person a notice levying a rate on land in the merging local government's local government area; and
  - (b) immediately before the changeover day, the rate had not been paid.
- (2) The new local government is taken to have made and levied the rate.
- (3) If the time for payment of the rate had not ended before the changeover day, the time continues to run until the due date for payment of the rate.
- (4) If the person fails to pay the rate on or before the due date for payment of the rate, the new local government may take action against the person to recover the rate.



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## 29 Revenue policy

- (1) Until 1 July 2008, section 513A of the Act and the Local Government Finance Standard, section 12, do not apply to a new local government.

*Editor's note—*

Section 513A (Preparation and adoption of revenue policy) of the Act and the Local Government Finance Standard, section 12 (Requirements for revenue policy)

- (2) From 1 July 2008, sections 513A, 513B(2) and (3) and 513C of the Act and the Community Government Finance Standard, section 10, apply to NPARC and TSIRC as if each was a community government under that standard.

*Editor's note—*

Sections 513A (Preparation and adoption of revenue policy), 513B (Requirements and content of revenue policy) and 513C (Copies of revenue policy to be available for inspection and purchase) of the Act and the Community Government Finance Standard, section 10 (Revenue policy)

## 30 Revenue statement

- (1) Until 1 July 2008, section 518 of the Act and the Local Government Finance Standard, section 56, do not apply to a new local government.

*Editor's note—*

Section 518 (Adoption of budget and revenue statement) of the Act and the Local Government Finance Standard, section 56 (Requirements for revenue statement—Act, s 520A)

- (2) From 1 July 2008, sections 518 and 520A(2) and (3) of the Act and the Community Government Finance Standard, section 30, applies to NPARC and TSIRC as if each was a community government under that standard.

*Editor's note—*

Sections 520A (Requirements and contents of revenue statement) of the Act and the Community Government Finance Standard, section 30 (Requirements for revenue statement)

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**31 Budget of new local government for period from 15 March 2008 to 30 June 2008**

- (1) A new local government is, from the changeover day for its local government area, taken to have adopted the budget of each merging local government for the financial year starting on 1 July 2007.
- (2) A new local government must, on or before 30 June 2008, amend the budgets of the merging local governments.
- (3) The budgets as amended under subsection (2) are the new local government's budget for the period from 15 March 2008 to 30 June 2008 (the *relevant period*).
- (4) Section 519(2)(a), (b) and (d) of the Act does not apply to a new local government's budget, or an amendment of the budget, for the relevant period.

*Note—*

Under section 519(2)(c) of the Act, a new local government's budget must comply with the Local Government Finance Standards.

- (5) A new local government must state in its budget for the relevant period its estimated costs in total, but is not required to state its estimated costs for each of its significant activities.

*Note—*

See section 520(1)(a) (Content of operating fund budgets) of the Act.

- (6) Despite section 524(1) of the Act, the new local government is not required to print a reasonable number of copies of the budget for the relevant period.

*Editor's note—*

Section 524 (Budgets and revenue statements to be available for inspection and purchase) of the Act

- (7) This section also applies to NPARC and TSIRC.
- (8) However, each of NPARC's and TSIRC's budgets, or an amendment of the budgets, for the relevant period is not required to comply with the Local Government Finance Standards.

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**32 Budget of new local government for 2008-2009 financial year**

- (1) Section 519(2)(a) and (b) of the Act does not apply to the budget, or an amendment of the budget, prepared and adopted by a new local government for the financial year starting on 1 July 2008.

*Note—*

Under section 519(2)(c) and (d) of the Act, a new local government's budget must comply with the Local Government Finance Standards and be accompanied by its revenue statement.

- (2) However, the new local government's budget or the amendment must be developed consistently with its revenue policy.
- (3) From 1 July 2008, sections 518 and 519 of the Act, other than section 519(2)(a), (b) and (c) of the Act, and the Community Government Finance Standard, sections 31 and 33, apply to NPARC and TSIRC as if each was a community government under that standard.

*Editor's note—*

Community Government Finance Standard, sections 31 (Amendment of budget) and 33 (Financial information to be presented to budget meeting—Local Government Act 1993, s 519(4))

**33 Financial statements of merging local government for pre-changeover period**

- (1) This section applies to a merging local government's financial statements for the pre-changeover period.
- (2) The new local government must, on or before 30 June 2008, give the auditor-general for auditing the financial statements for each of the merging local governments whose local government areas became part of the new local government's local government area.
- (3) If the auditor-general notifies the new local government that the financial statements require amendment, the new local government must give the auditor-general—

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- (a) the financial statements as amended (the *amended financial statements*); and
  - (b) a new official certificate of the new local government stating it considers the relevant recording and reporting procedures have been complied with in the preparation of the amended statements.
- (4) The financial statements or amended financial statements have effect as the merging local government's financial statements for the pre-changeover period when the auditor-general certifies the financial statements or amended financial statements as audited financial statements.
- (5) The Local Government Finance Standard, sections 48(1), 49, 50 and 51, do not apply to the financial statements.

*Editor's note—*

Local Government Finance Standard, sections 48 (Financial statements must be given to auditor-general for auditing), 49 (Financial statements must be presented to meeting), 50 (Procedure for amended financial statements) and 51 (When financial statements have effect)

- (6) This section does not apply to NPARC and TSIRC.

### **34 Financial statements of relevant entities for pre-changeover period**

- (1) This section applies only to NPARC and TSIRC.
- (2) A new local government must, on or before 30 June 2008, give the auditor-general for auditing the annual financial statements for the pre-changeover period of each relevant entity.
- (3) The *Local Government (Community Government Areas) Act 2004* and the repealed Torres Strait Act apply to the financial statements.
- (4) As soon as practicable after the auditor-general has certified the annual financial statements as provided for under the repealed Torres Strait Act, section 63, the statements must be adopted by—



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- (a) for the Island councils for the Bamaga and Seisia council areas—NPARC; and
- (b) for the Island councils other than for the Island councils for the Bamaga and Seisia council areas—TSIRC.
- (5) In this section—
- relevant entity*** means—
- (a) for NPARC—
- (i) each of the Island councils under the repealed Torres Strait Act for the following council areas under that Act—
- (A) Bamaga council area;
- (B) Seisia council area; and
- (ii) each of the community governments under the *Local Government (Community Government Areas) Act 2004* for the following community government areas under that Act—
- (A) Injinoo;
- (B) New Mapoon;
- (C) Umagico; or
- (b) for TSIRC—each Island council under the repealed Torres Strait Act, other than the Island councils for the following council areas under that Act—
- (i) Bamaga council area;
- (ii) Seisia council area.

### **35 Financial statements of new local government for post-changeover period**

- (1) A new local government must prepare financial statements for the post-changeover period.
- (2) The *Local Government (Community Government Areas) Act 2004*, section 37, and the Community Government Finance Standard, part 8, apply to NPARC's and TSIRC's financial

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statements as if NPARC and TSIRC were each a community government under that Act and standard.

*Editor's note—*

*Local Government (Community Government Areas) Act 2004, section 37 (Approved forms for financial statements) and the Community Government Finance Standard, part 8 (Financial statements)*

### **36 Annual report for pre-changeover period**

- (1) A new local government must prepare a merging local government's annual report for the pre-changeover period.
- (2) The annual report must be presented to the new local government for adoption, and must be adopted by it, on or before 15 September 2008.
- (3) However, the Minister may allow a longer period for the new local government to comply with subsection (2).
- (4) Sections 531 and 533 of the Act do not apply to the annual report.

*Editor's note—*

*Sections 531 (Annual report to be prepared and adopted) and 533 (Content of report about implementing corporate and operational plans) of the Act*

- (5) This section does not apply to NPARC and TSIRC.

### **37 Annual report for post-changeover period**

- (1) Section 533 of the Act does not apply to a new local government's annual report for the post-changeover period.
- (2) The Community Government Finance Standard, part 7, applies to NPARC's and TSIRC's annual reports for the post-changeover period as if each was a community government under that standard.

*Editor's note—*

*Community Government Finance Standard, part 7 (Annual report)*

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**38 Certificate about payment of notional GST for pre-changeover period**

- (1) This section applies to notional GST to be paid by a merging local government for the pre-changeover period.
- (2) A new local government must, on or before 15 September 2008, give the Minister an official certificate of the new local government stating the merging local government has paid the notional GST for the pre-changeover period.
- (3) The Local Government Finance Standard, section 21, does not apply to the merging local government.

*Editor's note—*

Local Government Finance Standard, section 21 (Certificate about payment of notional GST)

- (4) This section also applies to TSIRC and NPARC.

**Division 6 Planning schemes and related matters**

**39 Existing planning schemes and other planning instruments continue**

- (1) The existing planning scheme of a merging local government—
  - (a) from the changeover day for the new local government's local government area, continues to apply to the area (the *relevant area*) that was the merging local government's local government area until a new planning scheme for the relevant area prepared by the new local government is approved under the Planning Act; and
  - (b) is to be implemented, administered and enforced by the new local government; and
  - (c) for paragraph (b), is taken to be part of the new local government's planning scheme for the area; and

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- (d) binds the new local government.
- (2) The new local government may, under the Planning Act, amend the existing planning scheme while it continues to apply to the relevant area.
- (3) If the new local government amends the existing planning scheme while it continues to apply to the relevant area to include a priority infrastructure plan, the priority infrastructure plan is taken to apply only for the relevant area.
- (4) If a planning instrument, other than the existing planning scheme, is in force immediately before the changeover day for the new local government's local government area, the planning instrument continues in force from the changeover day until whichever of the following first happens—
  - (a) the planning instrument expires or is repealed;
  - (b) if the planning instrument is made under the existing planning scheme—the scheme, or a relevant part of it, is replaced.
- (5) The new local government may, under the Planning Act, amend the planning instrument while it continues to apply to the relevant area.
- (6) If the planning instrument is made under the existing planning scheme, subsection (4) does not stop a new planning scheme for the relevant area providing for the planning instrument continuing in force after the changeover day for the new local government's local government area.
- (7) If a transitional planning scheme applies to a merging local government's local government area, and the merging local government started to prepare a new planning scheme for its local government area, but did not finish preparing the planning scheme, before the changeover day for the new local government's local government area—
  - (a) the new local government may, from the changeover day for its local government area, continue preparing the new planning scheme; and

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- (b) the new planning scheme, when approved under the Planning Act, will apply only to the area that was the merging local government area.

#### **40 Amending existing planning schemes**

- (1) This section applies if a merging local government started to amend its existing planning scheme or other planning instrument, but did not finish amending the existing planning scheme or planning instrument, before the changeover day for the new local government's local government area.
- (2) The new local government may, from the changeover day for its local government area, continue amending the existing planning scheme or the other planning instrument, while it continues to apply to the area that was the merging local government area.

#### **41 Requirements by merging local government in relation to infrastructure**

- (1) This section applies to any requirement about infrastructure, including, for example, either of the following, made by a merging local government before the changeover day for a new local government's local government area—
  - (a) levying a charge for infrastructure under the Planning Act, chapter 5, part 1;
  - (b) imposing a condition on a development approval, under the Planning Act, section 6.1.31, requiring land, works, or a contribution towards the cost of supplying infrastructure.

*Editor's note—*

Planning Act, chapter 5 (Miscellaneous), part 1 (Infrastructure planning and funding) or section 6.1.31 (Conditions about infrastructure for applications).

- (2) The requirement—

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- (a) continues to apply from the changeover day for the new local government's local government area as a requirement of the new local government; and
- (b) for that purpose, is taken to have been made by the new local government; and
- (c) is lawful to the extent it would have been lawful had the reform implementation provisions never been enacted.

#### **42 Requirements by new local government in relation to infrastructure**

- (1) This section applies if a merging local government may, immediately before the changeover day for a new local government's local government area—
  - (a) impose any requirement in relation to infrastructure imposed under the Planning Act, chapter 5; or
  - (b) impose a condition on a development approval, under the Planning Act, section 6.1.31, requiring land, works, or a contribution towards the cost of supplying infrastructure.
- (2) The new local government may, from the changeover day of its local government area, levy the charge or impose the condition on a development approval in relation to the area that was the merging local government's local government area.

#### **43 Particular decisions about land in merging local government area**

- (1) This section applies to a decision about land in a merging local government's local government area made under the merging local government's planning scheme by the merging local government before the changeover day for a new local government's local government area.
- (2) From the changeover day for the new local government's local government area, the decision continues to apply to the

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land and for that purpose is taken to have been made by the new local government.

#### **44 Outstanding applications about land in merging local government area**

- (1) This section applies to an application about land in a merging local government's local government area that—
  - (a) before the changeover day for a new local government's local government area, was made to the merging local government under an Act or the merging local government's planning scheme; and
  - (b) was not finally decided before the changeover day.
- (2) The new local government must deal with the application from the changeover day for its local government area.

#### **45 Appeals**

- (1) Subsection (2) applies to an appeal—
  - (a) started before the changeover day for a new local government's local government area against a decision of a merging local government made under the merging local government's planning scheme; and
  - (b) not finished before the changeover day.
- (2) From the changeover day for the new local government's local government area, the new local government takes the place of the merging local government in the appeal.
- (3) If—
  - (a) an appeal could, before the changeover day for a new local government's local government area, have been started against a decision of a merging local government made under the merging local government's planning scheme; and
  - (b) the appeal had not been started before the changeover day;

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it may be started against the new local government from the changeover day.

- (4) The appeal against the decision must be started within the time required under the Planning Act for the appeal.

## **Division 7                      Employment matters**

### **46            Preservation of employees' rights and entitlements**

- (1) This section applies to a person who immediately before the changeover day for a new local government's local government area was an employee of a merging local government.
- (2) On the changeover day for the new local government's local government area, the person is employed by the new local government on the same conditions on which the person was employed by the merging local government.
- (3) Employment of the person by the new local government under subsection (2) does not—
  - (a) affect the employee's benefits, entitlements or remuneration; or
  - (b) prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (c) interrupt continuity of service; or
  - (d) constitute a retrenchment or redundancy; or
  - (e) entitle the employee to a payment or other benefit merely because the person is no longer employed by the merging local government.
- (4) Without limiting subsection (2), if an industrial instrument applies to the person immediately before the changeover day for the new local government's local government area, the instrument continues to apply to the person.



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- (5) If the person was, immediately before the changeover day for the new local government's local government area, employed under a contract of employment between the person and the merging local government, subsections (2) and (3) apply subject to the contract of employment.

#### **47 Appointer of employees**

For the continuing employment of a person employed by the new local government, the person is taken to have been appointed by the chief executive officer of the new local government.

#### **48 Declaration for the Act, s 159ZE**

For section 159ZE(2), definition *predecessor* of the Act, a merging local government is the predecessor of the new local government.

### **Division 8 Code of conduct for councillors and general complaints process**

#### **49 Adopting model code of conduct**

- (1) Each new local government is, from the changeover day for the new local government's local government area, taken to have adopted as its code of conduct under section 250C of the Act, the model code of conduct provided for in section 250D of the Act.
- (2) Sections 250J and 250K of the Act do not apply to the adoption under subsection (1) of the model code of conduct.
- (3) The new local government may, after the changeover day and before the 2012 quadrennial elections, adopt a code of conduct, other than the model code of conduct, for its councillors.
- (4) If, under subsection (3), a new local government adopts, without amendment, a merging local government's code of

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conduct as the code of conduct for the new local government's councillors, sections 250J and 250K of the Act do not apply to the adoption of the code of conduct.

**50 Particular new local governments to adopt general complaints process**

- (1) Each new local government must adopt, with or without amendment, the general complaints process of 1 of the merging local governments.
- (2) A new local government's general complaints process must be adopted by resolution at or before the new local government's second meeting.
- (3) Section 501D(2) and (4) of the Act does not apply to the new local government adopting under subsection (1) its general complaints process.
- (4) This section does not apply to TSIRC.

**51 Delayed adoption by TSIRC of general complaints process**

- (1) TSIRC must establish and adopt, by resolution, its general complaints process before 1 January 2009.
- (2) Section 501D(2) of the Act does not apply to the new local government establishing under subsection (1) its general complaints process.

**Division 9 General**

**52 Documents of merging local government**

The documents of a merging local government become the documents of the new local government from the changeover day for its local government area.

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### **53 References to merging local government**

A reference in an Act or document to a merging local government may, from the changeover day for the new local government's local government area and if the context permits, be taken to be a reference to the new local government.

*Example—*

a contract to which a merging local government is a party

### **54 Administrative action taken by merging local government**

- (1) Any administrative action taken by a merging local government before the changeover day for a new local government's local government area is, from the changeover day, taken to be an administrative action taken by the new local government.
- (2) An administrative action that could have been started or continued by a merging local government before the changeover day for a new local government's local government area may, from the changeover day, be started or continued by the new local government.

### **55 Infringement notice offences**

- (1) This section applies to any matter happening, in relation to a merging local government and before the changeover day for a new local government's local government area, to which the *State Penalties Enforcement Act 1999* applies or may apply.

*Example of a matter—*

a circumstance constituting a contravention of a by-law of a merging local government for which an infringement notice may be given

- (2) From the changeover day, the new local government takes the place of the merging local government.

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## **56 Legal proceedings**

A legal proceeding that could have been started or continued by or against a merging local government before the changeover day for a new local government's local government area may, from the changeover day, be started or continued by or against the new local government.

# **Part 3 Transitional matters for particular joint local governments**

## **Division 1 Preliminary**

### **57 Application of pt 3**

This part applies in relation to the joint local governments mentioned in schedule 1, column 1.

### **58 References to joint and new local governments and new local government areas**

In a provision of this part about a joint local government and a new local government, the new local government is the local government whose local government area is named in schedule 1, column 2, opposite the joint local government mentioned in column 1 of the schedule.

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## **Division 2                      Dissolution of joint local governments and role of new local governments**

### **59            Dissolution of joint local governments**

Each joint local government is dissolved from the changeover day for a new local government's local government area.

### **60            New local government successor of joint local government**

- (1) Each new local government is, in all respects, the successor of its joint local government.
- (2) The other provisions of this part do not limit subsection (1).

### **61            New local government to take over particular functions and powers**

- (1) This section applies in relation to a new local government if, under an Act—
  - (a) a joint local government may perform a function or exercise a power; and
  - (b) a joint local government started to perform the function or exercise the power, but did not finish performing the function or exercising the power, before the changeover day for the new local government's local government area.
- (2) The new local government may, from the changeover day of its local government area, continue to perform the function or exercise the power.

### **62            New local government subject to particular obligations, etc.**

If a joint local government is, immediately before the changeover day for a new local government's local

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government area, subject to a condition, duty, obligation, order or requirement, the new local government is, from the changeover day, subject to the condition, duty, obligation, order or requirement.

## **Division 3                    Local laws and other instruments**

### **63            Definition for div 3**

In this division—

*continuing local law* means a local law of a joint local government in force in its local government area immediately before the changeover day for the new local government's local government area.

### **64            Local laws for new local government area**

- (1) From the changeover day for a new local government's local government area, a continuing local law and any subordinate local law made under the local law continue to apply in what was the joint local government area until the earliest of the following—
  - (a) it is repealed by the new local government;
  - (b) the new local government, by local law, applies the continuing local law to the whole of its local government area under section 65(2);
  - (c) 31 December 2010.
- (2) A continuing local law is, from the changeover day for the new local government's local government area, taken to be a local law of the new local government.
- (3) The new local government may, by local law, amend a continuing local law while it continues in force under subsection (1).

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- (4) A continuing local law must be read with the changes necessary to make it consistent with, and adapt its operation to, this regulation.

## 65 Limited application of continuing local laws

- (1) To remove any doubt, it is declared that a continuing local law continues in force only for the part of the new local government's local government area to which it applied immediately before the changeover day for the new local government's local government area.
- (2) However, the new local government may, by local law, apply a continuing local law to the whole of its local government area, with or without changes.
- (3) If the new local government applies a local law to the whole of its local government area, any subordinate local law made under the local law also applies to the whole of the local government area.
- (4) If the new local government applies, by local law, a continuing local law without changes to the whole of its local government area, sections 867 and 872 of the Act do not apply to the making of the local law.
- (5) If—
- (a) the new local government applies, by local law, a continuing local law to the whole of its local government area; and
  - (b) when applying the local law, the new local government repeals another continuing local law (the *repealed local law*) about the same matter; and
  - (c) the only change to the continuing local law, as applied by the local law, is to amend the continuing local law to provide for instruments made under the repealed local law to continue in force;

sections 867 and 872 of the Act do not apply to the making of the local law.

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- (6) If—
- (a) the new local government applies, by local law, a continuing local law to the whole of its local government area; and
  - (b) the only change to the continuing local law, as applied by the local law, is to repeal—
    - (i) any redundant provision under section 899D of the Act; or
    - (ii) any anti-competitive provision identified in a public interest test report under chapter 12, part 2, division 5 of the Act;
- sections 867 and 872 of the Act do not apply to the making of the local law.

## **66 Existing instruments continue in force**

- (1) This section applies to an instrument, other than a local law or an instrument made under the Planning Act—
- (a) properly made under an Act before the changeover day for a new local government's local government area about—
    - (i) a resident in the joint local government area; or
    - (ii) an owner of land in the joint local government area; or
    - (iii) land in the joint local government area; or
    - (iv) a person's entitlement to carry out an activity in the joint local government area; and
  - (b) in force immediately before the changeover day for the new local government's local government area.
- (2) For the new local government dealing with the instrument from the changeover day for its local government area, the instrument continues in force until it would, if the joint local government's local government had not been abolished, have ceased to have effect under the Act.



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**67 Existing delegations made to joint local government**

- (1) This section applies to a delegation—
  - (a) made to a joint local government under an Act; and
  - (b) in force immediately before the changeover day for a new local government's local government area.
- (2) From the changeover day, the delegation continues in force as a delegation to the new local government in relation to the area that was the joint local government's local government area until the earlier of the following—
  - (a) it is revoked;
  - (b) it would, if the joint local government's local government area had not been abolished, have ended.
- (3) Subsection (2) does not stop the delegation being amended while it continues in force under the subsection.

**68 Existing delegations made by joint local government to chief executive officer**

- (1) This section applies to a delegation—
  - (a) made by a joint local government to its chief executive officer; and
  - (b) in force immediately before the changeover day for a new local government's local government area.
- (2) From the changeover day, the delegation continues in force as a delegation to the new local government's chief executive officer from the new local government in relation to the whole of the new local government's local government area until the earlier of the following—
  - (a) it is revoked by the new local government;
  - (b) it would, if the joint local government's local government had not been abolished, have ended.
- (3) Subsection (2) does not stop the new local government amending a delegation while it continues in force under the subsection.

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## **69 Existing authorisations**

- (1) This section applies to an authorisation in force in a joint local government's local government area, and applying in relation to the joint local government or an officer of the joint local government, immediately before the changeover day for a new local government's local government area.
- (2) From the changeover day, the authorisation continues in force in the area that was the joint local government's local government area, and in relation to the new local government or the officer, until the earlier of the following—
  - (a) it is revoked;
  - (b) it would, if the joint local government's local government had not been abolished, have ended.
- (3) Subsection (2) does not stop the authorisation being amended while it continues in force under the subsection.

## **Division 4 Financial matters**

### **70 Assets and liabilities of joint local government**

- (1) Each asset of a joint local government immediately before the changeover day for a new local government's local government area becomes, on the changeover day for the new local government area, an asset of the new local government.
- (2) Each liability of a joint local government immediately before the changeover day for a new local government's local government area becomes, on the changeover day for the new local government area, a liability of the new local government.
- (3) The registrar of titles or other person responsible for keeping a register for dealings in assets must, if asked by the new local government in the appropriate form, record the transfer or the vesting of any asset under this section in the new local government.

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## 71 Fees and charges

- (1) From the changeover day for a new local government's local government area, a fee or charge fixed or made by a joint local government—
  - (a) is taken to have been fixed or made, in relation to the joint local government's local government area, by the new local government; and
  - (b) applies until the new local government varies the fee or charge.
- (2) In this section—

*charge* includes an infrastructure charge and infrastructure contribution under the Planning Act.

## 72 Recovery of unpaid fees and charges

- (1) This section applies if—
  - (a) before the changeover day for a new local government's local government area, a joint local government had fixed or made a fee or charge in relation to the joint local government's local government area; and
  - (b) immediately before the changeover day, the fee or charge had not been paid.
- (2) The new local government is taken to have fixed or made the fee or charge.
- (3) If the time for payment of the fee or charge had not ended before the changeover day, the time continues to run until the end of the period in which the fee or charge must be paid (the *relevant period*).
- (4) If the person fails to pay the fee or charge within the relevant period, the new local government may take action against the person to obtain payment of the fee or charge.
- (5) In this section—

*charge* includes an infrastructure charge and infrastructure contribution under the Planning Act.

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## **Division 5                      Employment matters**

### **73            Preservation of employees' rights and entitlements**

- (1) This section applies to a person who immediately before the changeover day for a new local government's local government area was an employee of a joint local government.
- (2) From the changeover day for the new local government area, the person is employed by the new local government on the same conditions on which the person was employed by the joint local government.
- (3) Employment of the person by the new local government under subsection (2) does not—
  - (a) affect the employee's benefits, entitlements or remuneration; or
  - (b) prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (c) interrupt continuity of service; or
  - (d) constitute a retrenchment or redundancy; or
  - (e) entitle the employee to a payment or other benefit merely because the person is no longer employed by the joint local government.
- (4) Without limiting subsection (2), if an industrial instrument applies to the person immediately before the changeover day for the new local government area, the instrument continues to apply to the person.
- (5) If the person was, immediately before the changeover day for the new local government's local government area, employed under a contract of employment between the person and the joint local government, subsections (2) and (3) apply subject to the contract of employment.

- (6) A workforce transition code of practice under section 159ZH of the Act applies to the transition of the employee from the joint local government to the new local government.

*Note—*

The *Local Government (Workforce Transition Code of Practice) Notice 2007* was notified on 29 August 2007.

## **74 Appointer of employees**

For the continuing employment of a person employed by the new local government, the person is taken to have been appointed by the chief executive officer of the new local government.

## **Division 6 General**

### **75 Documents of joint local government**

The documents of a joint local government become the documents of the new local government from the changeover day for the new local government's local government area.

### **76 References to joint local government**

A reference to a joint local government in an Act or document may, from the changeover day for the new local government's local government area and if the context permits, be taken to be a reference to the new local government.

*Example—*

a contract to which a joint local government is a party

### **77 Administrative action taken by joint local government**

- (1) Any administrative action taken by a joint local government before the changeover day for the new local government's local government area is, from the changeover day, taken to

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be an administrative action taken by the new local government.

- (2) An administrative action that could have been started or continued by a joint local government before the changeover day for the new local government's local government area may, from the changeover day, be started or continued by the new local government.

## 78 Legal proceedings

A legal proceeding that could have been started or continued by or against a joint local government before the changeover day for the new local government's local government area may, from the changeover day, be started or continued by or against the new local government.

# Part 4 Transitional matters for Esk-Gatton-Laidley Water Board

## 79 Definitions for pt 4

In this part—

*changeover day* means 15 March 2008.

*joint local government* means the Esk-Gatton-Laidley Water Board established under the *Local Government (Areas) Regulation 2005*.

## 80 Area

- (1) From the changeover day, the joint local government's joint local government area consists of the parts of the local government areas of Lockyer Valley Regional Council and Somerset Regional Council, shown on plan JB2, held by the

department, that were, immediately before the changeover day, the local government areas of Esk Shire Council, Gatton Shire Council and Laidley Shire Council.

- (2) A copy of the plan may be inspected, free of charge, during office hours on business days, at the department's head office.

*Editor's note—*

A copy of the plan could, at the commencement of this section, be accessed, free of charge, on the department's website at <[www.dlgsr.qld.gov.au](http://www.dlgsr.qld.gov.au)>.

## **81 Composition**

From the changeover day, the joint local government is composed of 4 members from Lockyer Valley Regional Council and 2 members from Somerset Regional Council.

## **82 Jurisdiction**

From the changeover day, the joint local government's jurisdiction applies as if the *Local Government (Areas) Regulation 2005*, schedule 3, part 6, section 4(b) and (c), the words 'the councils of the shires of Esk, Gatton and Laidley' were replaced by the words 'the Lockyer Valley and Somerset regional councils'.

# **Part 5 Transitional matters for Nogoa River Flood Plain Board**

## **83 Definitions for pt 5**

In this part—

*changeover day* means 15 March 2008.

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*joint local government* means the Nogoa River Flood Plain Board established under the *Local Government (Areas) Regulation 2005*.

#### **84 Area**

- (1) From the changeover day, the joint local government's joint local government area consists of the parts of the local government areas of Central Highlands Regional Council and Isaac Regional Council that were, immediately before the changeover day, the parts of the local government areas of Broadsound Shire Council, Emerald Shire Council and Peak Downs Shire Council shown on plan JB1 held by the department.
- (2) A copy of the plan may be inspected, free of charge, during office hours on business days, at the department's head office.

*Editor's note—*

A copy of the plan could, at the commencement of this section, be accessed, free of charge, on the department's website at <[www.dlgsr.qld.gov.au](http://www.dlgsr.qld.gov.au)>.

#### **85 Composition**

From the changeover day, the joint local government is composed of 3 members from Central Highlands Regional Council and 1 member from Isaac Regional Council.

#### **86 Appointment of president and deputy president**

- (1) This section applies to the joint local government appointing a president and deputy president from its members at its first meeting after the conclusion of—
  - (a) the 2008 quadrennial elections; and
  - (b) each later quadrennial election for the joint local government.
- (2) The joint local government must appoint a representative of the Central Highlands Regional Council to be the president,



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and another representative of the Central Highlands Regional Council to be the deputy president, of the joint local government.

## **87 Contributions**

The cost of the operations of the joint local government must, from the changeover day, be paid in the following proportions—

- (a) Central Highlands Regional Council—90%;
- (b) Isaac Regional Council—10%.

# **Part 6 Other transitional matters**

## **Division 1 Reform matters in relation to the Disaster Management Act 2003**

### **88 Words have meaning given by the Disaster Management Act**

- (1) Words defined in the Disaster Management Act and used in this division have the same meanings as they have in the Disaster Management Act.
- (2) In this section—

*Disaster Management Act* means the *Disaster Management Act 2003*.

### **89 Local disaster management group**

- (1) This section applies if—
  - (a) immediately before the changeover day for a new or adjusted local government area, an existing local

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- government has a local group for its local government area (an *existing local group*); and
- (b) from the changeover day for the new or adjusted local government area, all or part of the existing local government's local government area (the *relevant area*) forms part of the new or adjusted local government area.
- (2) From the changeover day for the new or adjusted local government area—
- (a) the existing local group is taken to be the local group for the relevant area; and
- (b) the acting chief executive officer of the local government for the new or adjusted local government area is taken to be the chairperson of the local group until a chairperson is appointed under subsection (3); and
- (c) the existing local groups for each of the existing local government areas, or parts of the areas, that become the new or adjusted local government area on its changeover day are together taken to be the local group for the new or adjusted local government area.
- (3) The local government for a new or adjusted local government area must, at or before the local government's second meeting, appoint a chairperson for the local group for the new or adjusted local government area.

## **90 Local disaster management plans**

- (1) This section applies if—
- (a) immediately before the changeover day for a new or adjusted local government area, an existing local government has, under the *Disaster Management Act 2003*, a local disaster management plan for disaster management in its local government area (an *existing plan*); and
- (b) from the changeover day for the new or adjusted local government area, all or part of the existing local

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government's local government area (the *relevant area*) forms part of the new or adjusted local government area.

- (2) From the changeover day for the new or adjusted local government area—
  - (a) the existing plan is taken to be the local disaster management plan for disaster management in the relevant area; and
  - (b) the existing plans for each of the existing local government areas, or parts of the areas, that become the new or adjusted local government area on its changeover day are together taken to be the local disaster management plan for the new or adjusted local government area.

## **91 Local controller of SES unit**

- (1) This section applies if—
  - (a) immediately before the changeover day for a new or adjusted local government area, a person was the local controller of an SES unit that was established to perform SES functions in an existing local government area or part of the area; and
  - (b) from the changeover day for the new or adjusted local government area, all or part of the existing local government's local government area forms part of the new or adjusted local government area.
- (2) From the changeover day for the new or adjusted local government area, the person is taken to be appointed as the local controller of the SES unit for the part of the new or adjusted local government area for which the SES unit was established.
- (3) Subsection (2) does not stop the person also being the local controller of an SES unit that performs SES functions in another local government area, or part of the area, from the changeover day.

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## **Division 2                      Reform matters in relation to the Housing Act 2003**

### **92        Registered providers**

- (1) This section applies if—
  - (a) immediately before the changeover day for a new or adjusted local government area, an existing local government or an Island council is a registered provider under the *Housing Act 2003* for providing housing services; and
  - (b) from the changeover day for the new or adjusted local government area, the area for which the existing local government or Island Council provided housing services (the *provider area*) forms part of the new or adjusted local government area.
- (2) From the changeover day for the new or adjusted local government area—
  - (a) the local government for the new or adjusted local government area—
    - (i) is taken to be a registered provider for housing services for the provider area; and
    - (ii) has, to the greatest practicable extent, the same functions, powers and obligations of the existing local government or Island council in relation to its operation as a registered provider for the services; and
  - (b) if there is an assistance agreement under the *Housing Act 2003* in force between the chief executive and the existing local government or Island Council—a reference in the agreement to the existing local government or Island Council, in relation to the provider area, is taken to be a reference to the local government for the new or adjusted local government area.

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## Division 3                      Reform matters in relation to the Land Protection (Pest and Stock Route Management) Act 2002

### 93            Pest management plans

- (1) Subsection (2) applies if—
  - (a) immediately before the changeover day for a new or adjusted local government area, an existing local government has, under the *Land Protection (Pest and Stock Route Management) Act 2002*, a pest management plan for declared pests in its local government area (*existing plan*); and
  - (b) from the changeover day for the new or adjusted local government area, all or part of the existing local government's local government area (the *relevant area*) forms part of the new or adjusted local government area.
- (2) From the changeover day for the new or adjusted local government area—
  - (a) the existing plan is taken to be the pest management plan for the local government for the new or adjusted local government area in relation to declared pests in the relevant area; and
  - (b) the existing plans for each of the existing local government areas, or parts of the areas, that become the new or adjusted local government area on its changeover day are together taken to be the pest management plan for the new or adjusted local government area.
- (3) Mornington Shire Council is not, from the changeover day for its local government area, required to have a pest management plan for declared pests in the part of its local government area that is transferring area I until the council is, under the *Land Protection (Pest and Stock Route Management) Act 2002*, first required after the changeover day to amend its pest management plan.

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## **94 Stock route network management plans**

- (1) This section applies if—
  - (a) immediately before the changeover day for a new or adjusted local government area, an existing local government has, under the *Land Protection (Pest and Stock Route Management) Act 2002*, section 105, a stock route network management plan (an *existing plan*) for managing stock routes in its local government area; and
  - (b) from the changeover day for the new or adjusted local government area, all or part of the existing local government's local government area (the *relevant area*) forms part of the new or adjusted local government area.
- (2) From the changeover day for the new or adjusted local government area—
  - (a) the existing plan is taken to be the stock route network management plan for the local government for the new or adjusted local government area in relation to managing stock routes in the relevant area; and
  - (b) the existing plans for each of the existing local government areas, or parts of the areas, that become the new or adjusted local government area on its changeover day are together taken to be the stock route network management plan for the new or adjusted local government area.
- (3) The stock route network management plan for the new or adjusted local government area ceases to have effect on the the day that is 2 years after the changeover day for the new or adjusted local government area unless the local government for the new or adjusted local government area sooner renews the plan.

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## Division 4                      Reform matters in relation to the Transport Operations (Road Use Management) Act 1995

### 95            Abandoned vehicles, trams and animals

- (1) This section applies if—
  - (a) immediately before the changeover day for a new or adjusted local government area—
    - (i) an existing local government does not have a continuing local law for matters (the *relevant matters*) provided for under subsection (12) of the operative provision; and
    - (ii) the operative provision applies to the existing local government's local government area; and
  - (b) from the changeover day for the new or adjusted local government area, all or part of the existing local government's local government area (the *relevant area*) forms part of the new or adjusted local government area.
- (2) From the changeover day for the new or adjusted local government area, the operative provision continues to apply to the relevant area until the earlier of the following—
  - (a) the new local government makes a local law about the relevant matters for its local government area;
  - (b) the new local government applies a local law about the relevant matters to the whole of its local government area.
- (3) In this section—

*continuing local law* means a local law of an existing local government in force in its local government area immediately before the changeover day for a new or adjusted local government area.

*operative provision* means the *Transport Operations (Road Use Management) Act 1995*, section 100.





*insert—*

## **‘Part 16A                    Transitional matters for Townsville-Thuringowa Water Supply Joint Board**

### **‘Division 1                Preliminary**

#### **‘89A    Definitions for pt 16A**

‘(1) In this part—

*changeover day*, for the new local government area of Townsville City Council, means the changeover day for the area under chapter 3, part 1B of the Act.

*council* see section 89B.

*joint board* see section 89B.

‘(2) Words defined for chapter 3, part 1B of the Act have the same meaning in this part.

### **‘Division 2                Dissolution of Townsville-Thuringowa Water Supply Joint Board and role of Townsville City Council**

#### **‘89B    Dissolution of joint board**

‘Townsville-Thuringowa Water Supply Joint Board (the *joint board*) is dissolved on the changeover day for the new local government area of Townsville City Council (the *council*).

#### **‘89C    Council successor of joint board**

‘(1) The council is, in all respects, the successor of the joint board.

‘(2) The other provisions of this part do not limit subsection (1).

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**‘89D Council to take over particular functions and powers**

- ‘(1) This section applies in relation to the council if, under an Act—
- (a) the joint board may perform a function or exercise a power; and
  - (b) the joint board started to perform the function or exercise the power, but did not finish performing the function or exercising the power, before the changeover day for the council’s local government area.
- ‘(2) The council may, from its local government area’s changeover day, continue to perform the function or exercise the power.

**‘89E Council subject to particular obligations, etc.**

‘If the joint board is, immediately before the changeover day for the council’s local government area, subject to a condition, duty, obligation, order or requirement, the council is, from the changeover day, subject to the condition, duty, obligation, order or requirement.

**‘Division 3 Local laws and other instruments**

**‘89F Definition for div 3**

‘In this division—

*continuing local law* means a local law of the joint board in force in its local government area immediately before the changeover day for the council’s local government area.

**‘89G Local laws for council’s local government area**

- ‘(1) From the changeover day for the council’s local government area, a continuing local law and any subordinate local law made under the local law continue to apply in what was the joint board’s local government area until the earliest of the following—

- 
- (a) it is repealed by the council;
  - (b) the council, by local law, applies its local laws to the joint board's local government area under section 89H(2);
  - (c) 31 December 2010.
- ‘(2) The council may, by local law, amend a continuing local law while it continues in force under subsection (1).
- ‘(3) A continuing local law must be read with the changes necessary to make it consistent with, and adapt its operation to, this regulation.
- ‘(4) In applying a continuing local law from the changeover day for the council's local government area—
- (a) a reference in the continuing local law to the joint board is taken to be a reference to the council; and
  - (b) a reference in the continuing local law to the chief executive officer is taken to be a reference to the chief executive officer of the council.

### **‘89H Limited application of continuing local laws**

- ‘(1) To remove any doubt, it is declared that a continuing local law continues in force only for the part of the council's local government area to which it applied immediately before the changeover day for the council's local government area.
- ‘(2) However, the council may, by local law, apply a continuing local law to the whole of its local government area, with or without changes.
- ‘(3) If the council applies a local law to the whole of its local government area, any subordinate local law made under the local law also applies to the whole of the local government area.
- ‘(4) If the council applies, by local law, a continuing local law without changes to the whole of its local government area, sections 867 and 872 of the Act do not apply to the making of the local law.

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‘(5) If—

- (a) the council applies, by local law, a continuing local law to the whole of its local government area; and
- (b) when applying the local law, the council repeals another continuing local law (the *repealed local law*) about the same matter; and
- (c) the only change to the continuing local law, as applied by the local law, is to amend the continuing local law to provide for instruments made under the repealed local law to continue in force;

sections 867 and 872 of the Act do not apply to the making of the local law.

‘(6) If—

- (a) the council applies, by local law, a continuing local law to the whole of its local government area; and
- (b) the only change to the continuing local law, as applied by the local law, is to repeal—
  - (i) any redundant provision under section 899D of the Act; or
  - (ii) any anti-competitive provision identified in a public interest test report under chapter 12, part 2, division 5 of the Act;

sections 867 and 872 of the Act do not apply to the making of the local law.

## ‘89I Existing instruments continue in force

‘(1) This section applies to an instrument, other than a local law or an instrument made under the Planning Act—

- (a) properly made by the joint board under an Act or a local law before the changeover day for the council’s local government area about—
  - (i) a resident in the joint board’s local government area; or

- 
- (ii) an owner of land in the joint board's local government area; or
  - (iii) land in the joint board's local government area; or
  - (iv) a person's entitlement to carry out an activity in the joint board's local government area; and
- (b) in force immediately before the changeover day for the council's local government area.
- '(2) For the council dealing with the instrument from the changeover day for its local government area, the instrument continues in force until it would, if the joint board's local government area had not been abolished, have ceased to have effect under the Act.

**'89J Existing delegations made to joint board**

- '(1) This section applies to a delegation—
- (a) made to the joint board under an Act; and
  - (b) in force immediately before the changeover day for the council's local government area.
- '(2) From the changeover day, the delegation continues in force as a delegation to the new local government in relation to the area that was the joint board's local government area until the earlier of the following—
- (a) it is revoked;
  - (b) it would, if the joint board's local government area had not been abolished, have ended.
- '(3) Subsection (2) does not stop the delegation being amended while it continues in force under the subsection.

**'89K Existing delegations made by joint board to chief executive officer**

- '(1) This section applies to a delegation—

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- (a) made by the joint board to its chief executive officer; and
  - (b) in force immediately before the changeover day for the council's local government area.
- ‘(2) From the changeover day, the delegation continues in force as a delegation to the council's chief executive officer from the council in relation to the whole of the council's local government area until the earlier of the following—
- (a) it is revoked by the council;
  - (b) it would, if the joint board's local government area had not been abolished, have ended.
- ‘(3) Subsection (2) does not stop the council amending a delegation while it continues in force under the subsection.

#### **‘89L Existing authorisations**

- ‘(1) This section applies to an authorisation in force in the joint board's local government area, and applying in relation to the joint board or an officer of the joint board, immediately before the changeover day for the council's local government area.
- ‘(2) From the changeover day, the authorisation continues in force in the area that was the joint board's local government area, and in relation to the council or the officer, until the earlier of the following—
- (a) it is revoked;
  - (b) it would, if the joint board's local government area had not been abolished, have ended.
- ‘(3) Subsection (2) does not stop the authorisation being amended while it continues in force under the subsection.

#### **‘89M Authorised persons**

- ‘(1) This section applies if—
- (a) the joint board appoints a person as an authorised person under chapter 15, part 5 of the Act; and

*Editor's note—*

Chapter 15, part 5 (Enforcement of local government Acts) of the Act

- (b) the person holds office as an authorised officer immediately before the changeover day for the council's local government area.
- '(2) From the changeover day for the council's local government area, the person's instrument of appointment continues in force as an instrument of appointment of the person as an authorised person of the council.
- '(3) The instrument of appointment continues in force in relation to the area that was the joint board's local government area until the earlier of the following—
- (a) the instrument of appointment is repealed by the council;
  - (b) the person stops holding office as an authorised person in the circumstances provided for under section 1086(2) of the Act.

*Editor's note—*

Section 1086 (Authorised person's appointment conditions) of the Act

- '(4) Subsection (2) does not stop the council amending the instrument of appointment while it continues in force under subsection (3).

## **'Division 4            Financial matters**

### **'89N    Assets and liabilities of joint board**

- '(1) Each asset of the joint board immediately before the changeover day for the council's local government area becomes, on the changeover day of the council's local government area, an asset of the council.
- '(2) Each liability of the joint board immediately before the changeover day for council's local government area becomes,

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on the changeover day for the council's local government area, a liability of the council.

- '(3) The registrar of titles or other person responsible for keeping a register for dealings in assets must, if asked by the council in the appropriate form, record the transfer or the vesting of any asset under this section in the council.

### **'89O Fees and charges**

- '(1) From the changeover day for the council's local government area, a fee or charge fixed or made by the joint board—
- (a) is taken to have been fixed or made, in relation to the joint board's local government area, by the council; and
  - (b) applies until the council varies the fee or charge.
- '(2) In this section—
- charge* includes an infrastructure charge and infrastructure contribution under the Planning Act.

### **'89P Recovery of unpaid fees and charges**

- '(1) This section applies if—
- (a) before the changeover day for the council's local government area, the joint board had fixed or made a fee or charge in relation to the joint board's local government area; and
  - (b) immediately before the changeover day, the fee or charge had not been paid.
- '(2) The council is taken to have fixed or made the fee or charge.
- '(3) If the time for payment of the fee or charge had not ended before the changeover day, the time continues to run until the end of the period in which the fee or charge must be paid (the *relevant period*).
- '(4) If the person fails to pay the fee or charge within the relevant period, the council may take action against the person to obtain payment of the fee or charge.



‘(5) In this section—

*charge* includes an infrastructure charge and infrastructure contribution under the Planning Act.

## ‘Division 5            Employment matters

### ‘89Q    Preservation of employees’ rights and entitlements

‘(1) This section applies to a person who immediately before the changeover day for the council’s local government area was an employee of the joint board.

‘(2) From the changeover day for the council’s local government area, the person is employed by the council on the same conditions on which the person was employed by the joint board.

‘(3) Employment of the person by the council under subsection (2) does not—

(a) affect the employee’s benefits, entitlements or remuneration; or

(b) prejudice the employee’s existing or accruing rights to superannuation or recreation, sick, long service or other leave; or

(c) interrupt continuity of service; or

(d) constitute a retrenchment or redundancy; or

(e) entitle the employee to a payment or other benefit merely because the person is no longer employed by the joint board.

‘(4) Without limiting subsection (2), if an industrial instrument applies to the person immediately before the changeover day for the council’s local government area, the instrument continues to apply to the person.

‘(5) If the person was, immediately before the changeover day for the council’s local government area, employed under a contract of employment between the person and the joint

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board, subsections (2) and (3) apply subject to the contract of employment.

- ‘(6) A workforce transition code of practice under section 159ZH of the Act applies to the transition of the employee from the joint board to the council.

*Note—*

The *Local Government (Workforce Transition Code of Practice) Notice 2007* was notified on 29 August 2007.

### **‘89R Appointer of employees**

‘For the continuing employment of a person employed by the council, the person is taken to have been appointed by the chief executive officer of the council.

## **‘Division 6            General**

### **‘89S Documents of joint board**

‘The documents of the joint board become the documents of the council from the changeover day for the council’s local government area.

### **‘89T References to joint board**

‘A reference to the joint board in an Act or document may, from the changeover day for the council’s local government area and if the context permits, be taken to be a reference to the council.

*Example—*

a contract to which the joint board is a party

### **‘89U Administrative action taken by joint board**

- ‘(1) Any administrative action taken by the joint board before the changeover day for the council’s local government area is,

from the changeover day, taken to be an administrative action taken by the council.

- ‘(2) An administrative action that could have been started or continued by the joint board before the changeover day for the council’s local government area may, from the changeover day, be started or continued by the council.

**‘89V Legal proceedings**

‘A legal proceeding that could have been started or continued by or against the joint board before the changeover day for the council’s local government area may, from the changeover day, be started or continued by or against the council.’.

## **Schedule 1      Joint local governments and new local government areas**

sections 57 and 58

<b>joint local governments</b>	<b>new local government areas</b>
Caloundra-Maroochy Water Supply Board	Sunshine Coast
Dalby-Wambo Aerodrome Board	Dalby
Dalby-Wambo Library Board	Dalby
Dalby-Wambo Saleyards Board	Dalby
Emerald-Peak Downs Saleyards Board	Central Highlands
Gladstone-Calliope Aerodrome Board	Gladstone
Goondiwindi-Waggamba Aerodrome Board	Goondiwindi
Goondiwindi-Waggamba Community Cultural Centre Board	Goondiwindi
Mission Beach Marine Facilities Joint Board	Cassowary Coast
Rockhampton District Saleyards Board	Rockhampton
Roma-Bungil Show Grounds and Saleyards Board	Roma

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## Schedule 2 Dictionary

## section 4

***administrative action*** means an administrative action as defined by section 501C of the Act.

***authorisation*** means an approval, consent, licence, permission, registration or other authority issued under an Act by any entity.

***changeover day***—

- (a) for part 4—see section 79; and
- (b) for part 5—see section 83.

***Community Government Finance Standard*** means the *Local Government (Community Government Areas) Finance Standard 2004*.

***continuing local law***—

- (a) for part 2, division 3—see section 11; and
- (b) for part 3, division 3—see section 63.

***existing planning scheme***, of a merging local government, means the planning scheme, or transitional planning scheme, for the merging local government, as in force for the merging local government's local government area immediately before the changeover day for the new local government's local government area.

***industrial instrument*** means a federal award, federal agreement or industrial instrument, as defined under the *Industrial Relations Act 1999*.

***infrastructure*** see the Planning Act, schedule 10.

***joint local government***—

- (a) for part 4—see section 79; and
- (b) for part 5—see section 83.

***legal proceeding*** includes—

- (a) any proceeding, whether civil or criminal, before any court, tribunal, or person, including any inquiry, examination or arbitration, in which evidence is or may be given; and
- (b) any part of any legal proceeding.

***Local Government Finance Standard*** means the *Local Government Finance Standard 2005*.

***Planning Act*** means the *Integrated Planning Act 1997*.

***planning instrument*** see the Planning Act, schedule 10.

***post-changeover period***, for part 2, division 5, see section 26.

***pre-changeover period***, for part 2, division 5, see section 26.

***priority infrastructure plan*** see the Planning Act, schedule 10.

***reform implementation provisions*** means chapter 3, part 1B of the Act.

***transitional planning scheme*** means a transitional planning scheme under the Planning Act, chapter 6, part 1.

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#### ENDNOTES

- 1 Made by the Governor in Council on 14 February 2008.
- 2 Notified in the gazette on 15 February 2008.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Local Government, Sport and Recreation.