

# **NATURAL RESOURCES AND OTHER LEGISLATION AMENDMENT BILL 2001**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Short title**

The Act will be known as the *Natural Resources and Other Legislation Amendment Act 2001*.

#### **Policy objectives of the Bill**

The Bill proposes to amend the *City of Brisbane Act 1924*, the *Land Act 1994*, the *Land Tax Act 1915*, the *Land Title Act 1994*, the *Local Government Act 1993*, and the *Valuation of Land Act 1944*.

The amendments will streamline the valuation, taxing and rating of land held in subdivision and remove redundant or update provisions in the *Valuation of Land Act 1944* and associated rating and taxing legislation. The other amendments to the *Land Act 1994* and the *Land Title Act 1994* include some minor changes overlooked in the earlier *Natural Resources Legislation Amendment Act 2001* which made numerous changes to those particular Acts.

#### **Reasons for the Bill**

The proposed amendments arise from stakeholder consultation on operational and business issues and from advice of the need to update certain matters.

#### **Way in which the policy objective is to be achieved**

The objectives will be achieved upon enactment and implementation of the amendments.

### **Alternative ways of achieving the objective**

There are no alternatives other than to amend the legislation.

### **Consistency with fundamental legislative principles**

The Bill conforms to fundamental legislative principles.

### **Administrative cost to government of the implementation**

Apart from the actual cost of printing the legislation, there are no direct costs for government. Any changes in rating and taxing collections are offset by the improvement in efficiencies and the reinstatement of equity in valuation, rating and taxing administration.

### **Consultation**

Consultation on this draft legislation included all relevant State Government Departments, the Local Government Association of Queensland, and the Urban Development Institute of Australia.

## **ANALYSIS OF THE BILL**

### **PART 1—PRELIMINARY**

*Clause 1* sets out the short title of the Act.

*Clause 2* identifies the Act is generally to commence on a day to be fixed by proclamation, with *Clauses 14, 15, 16, 32, 34* and *42* (Part 4, and sections 34, 36 and 46 of this Bill) which deal with the valuation, rating and taxing of land held in subdivision to commence on 30 June 2002.

## **PART 2—AMENDMENT OF CITY OF BRISBANE ACT 1924**

*Clause 3* identifies the Act being amended.

*Clause 4* omits the definition of “**decision maker**” as the amendments substitute the council as the only decision maker in the rating categorisation process instead of both the chief executive (valuations) (that is the Department of Natural Resources and Mines) and the council. Sections 3(1), (2) and (3) are also renumbered and given headings.

*Clause 5* removes the option of using the Department to make decisions on rating categorisation and maintains it as a local government responsibility. The Department’s systems no longer have the capability of supplying rating categorisations and local governments are better placed to undertake this role.

*Clause 6* removes Departmental staff from having power of entry to land for rating categorisation.

*Clause 7* changes decision maker to the council only.

*Clause 8* changes decision maker to the council only.

*Clause 9* changes decision maker to the council only.

*Clause 10* changes decision maker to the council only.

*Clause 11* changes decision maker to the council only.

## **PART 3—AMENDMENT OF LAND ACT 1994**

*Clause 12* identifies the Act being amended.

*Clause 13* corrects the reference in section 290A (Exploratory format plan) to “land to which the interest relates”—not “plan” as previously drafted.

*Clause 14* corrects drafting of a list of activities that may occur under the power to enter land.

*Clause 15* changes the term “trustee” to the plural “trustees” in the Schedule 6 (Dictionary).

## **PART 4—AMENDMENT OF LAND TAX ACT 1915**

*Clause 16* identifies the Act being amended.

*Clause 17* omits the current section 3CA and substitutes a new section 3CA. The new section extends the period for which the 40% discounted valuation for subdivided land is available beyond the first financial year after subdivision. This replaces the current system of reverting to bulk valuations after expiry of the one year discount period.

The 40% discount will not apply if the subdivided parcel is no longer owned by the original subdivider or if the subdivided parcel has been developed, or is being developed. In addition, from midnight on 30 June 2002, the discount will not apply to a subdivided parcel that is a balance lot, as these lots are already valued on a bulk holding basis.

The discount will also not apply to a subdivided parcel where the subdivider owner owns less than six subdivided parcels in total in Queensland. This recognises that, with a small number of parcels, the sum of the value of the individual parcels is comparable to the value of the parcels as a whole. As a result, there is no need to discount the individual parcels' valuations further for land tax purposes.

Lastly, the discount will not apply to a subdivided parcel if the parcel has not been held for sale since subdivision. For example, a subdivided parcel that is being held by the subdivider for investment purposes (rather than sale) will not receive the benefit of the discount. Factors that may be taken into account in each case include placement of "For Sale" signs, advertising, listing of the parcel with a real estate agent for sale and the turnover of subdivided land in the area. Evidence that a subdivider is in the process of making arrangements for the marketing of a parcel for sale is also relevant.

*Clause 18* inserts a new Part 9 for transitional purposes. It ensures that, if a lot obtained the benefit of a discount under the former section 3CA for a year before the 2001-02 financial year, the new section 3CA discount will not apply to the parcel.

## **PART 5—AMENDMENT OF LAND TITLE ACT 1994**

*Clause 19* identifies the Act being amended.

*Clause 20* corrects the reference in section 48E (Exploratory format plan) to “land to which the interest relates”—not “land to which the plan relates” as previously drafted.

*Clause 21* clarifies the reference in section 65 (Requirements of instrument of lease) to “a plan” includes a “sketch plan” in addition to a survey plan.

## **PART 6—AMENDMENT OF LOCAL GOVERNMENT ACT 1993**

*Clause 22* identifies the Act being amended.

*Clause 23* omits the definition of “**decision maker**” as the amendments substitute the local government as the only decision maker in the rating categorisation process instead of both the valuation authority (that is the Department of Natural Resources and Mines) and the local government.

*Clause 24* removes the option of using the Department to make decisions on rating categorisation and maintains it as a local government responsibility. The Department’s systems no longer have the capability of supplying rating categorisations and local governments are better placed to undertake this role.

*Clause 25* removes Department of Natural Resources and Mines’ staff from having power of entry to land for rating categorisation.

*Clause 26* changes decision maker to the local government only.

*Clause 27* changes decision maker to the local government only.

*Clause 28* changes decision maker to the local government only.

*Clause 29* changes decision maker to the local government only.

*Clause 30* changes decision maker to the local government only.

*Clause 31* changes decision maker to the local government only.

*Clause 32* corrects a reference from “general” to “annual” valuation.

## **PART 7—AMENDMENT OF VALUATION OF LAND ACT 1944**

*Clause 33* identifies the Act being amended.

*Clause 34* inserts a reference in section 2 (Definitions) to the “discounted valuation period” in section 25.

*Clause 35* redrafts section 20 to reinstate the power for the chief executive to fix the date for an annual valuation. Through an oversight, this power had been taken out of the Act in an earlier amendment. The date currently adopted by the Department for an annual valuation is 1 October in the year before the 30 June when the valuation first becomes effective.

*Clause 36* extends the period for a discount in the valuation for rating *ad infinitum* by removing the sunset date in the provision in section 25. The discount applies to land held in subdivision by the original subdivider, provided the land is not built upon or developed with a facility. This will ensure land that is not sold or built on will continue to have a separate value for rating, and will continue to facilitate administration of local government rates as liability changes due to change of ownership or development. This streamlines the administration of valuation and rating records.

*Clause 37* removes a redundant reference to a rent notice (for State land leases, licences and permits). The use of the rent notice to notify a valuation for rental purposes was replaced by a specific notice of valuation for rental purposes in an amendment in 2000. For clarification, rent notices will continue to be issued to lessees, licensees and permittees in terms of the *Land Act 1994*.

*Clause 38* in cross referencing section 1026 in the *Local Government Act 1993* or section 70 in the *City of Brisbane Act 1924* omits the headings to those particular sections and puts them in a footnote.

*Clause 39* amends section 41 regarding the advertising of annual valuations to include the requirement to also advertise a valuation for rental purposes.

*Clause 40* makes a minor amendment to correct a reference.

*Clause 41* adds in the reference to “a notice of valuation for rental purposes” in the procedure for determining discretion on accepting a late objection.

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*Clause 42* makes minor amendments to correct references.

*Clause 43* updates a reference to Land Court practice and procedure for appeals to refer to the *Land Court Act 2000* and the *Land Court Rules 2000* consequent upon the repeal of the *Land Act 1962* and the *Land Act 1994* provisions on appeals to the Land Court.

*Clause 44* removes the option of using the Department of Natural Resources and Mines to make decisions on rating categorisation and maintains it as a local government responsibility. The Department's systems no longer have the capability of supplying rating categorisations and local governments are better placed to undertake this role.

*Clause 45* corrects a reference to particular sections.

*Clause 46* inserts a new transitional Part 9. This clause ensures any lots amalgamated under section 34 prior to the commencement of this section of the Act on 30 June 2002 will continue to be amalgamated for valuation purposes and will not be valued separately or receive the discount under section 25. For clarification, it is pointed out that valuations of adjacent lots in the same ownership under section 34 generally already receive a bulk holding allowance in the amalgamated valuation. This will save the unnecessary administration for the Department and local governments to change these amalgamated valuation and rating records.