



Queensland

# **Building and Other Legislation Amendment Bill 2009**





Queensland

# Building and Other Legislation Amendment Bill 2009

## Contents

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|               |  | Page |
|---------------|--|------|
| <b>Part 1</b> | <b>Preliminary</b>   |      |
| 1             | Short title . . . . .  | 10   |
| 2             | Commencement . . . . .   | 10   |
| <b>Part 2</b> | <b>Amendment of Building Act 1975</b>  |      |
| 3             | Act amended . . . . .  | 11   |
| 4             | Amendment of long title . . . . .  | 11   |
| 5             | Amendment of s 3 (Simplified outline of main provisions of Act) . . . . .  | 11   |
| 6             | Amendment of s 20 (Building work that is assessable development for the Planning Act) . . . . .                                    | 12   |
| 7             | Amendment of s 21 (Building work that is self-assessable for the Planning Act) . . . . .   | 12   |
| 8             | Amendment of s 37 (Provision for changes to building assessment provisions) . . . . .  | 13   |
| 9             | Amendment of s 61 (Alterations to safe existing work may be approved on basis of earlier building assessment provisions) . . . . . | 13   |
| 10            | Amendment of s 65 (Land subject to registered easement or statutory covenant) . . . . .  | 14   |
| 11            | Replacement of s 88 (When applicant is to be given the approval documents) . . . . .   | 14   |
|               | 88 Giving approval documents to applicant. . . . .   | 15   |
| 12            | Amendment of s 103 (Certificate requirements). . . . .   | 15   |
| 13            | Amendment of ch 5, pt 3 hdg (Changes to BCA classification) . . . . .  | 16   |
| 14            | Amendment of s 109 (What is a BCA classification change to a building) . . . . .   | 17   |
| 15            | Amendment of s 110 (Restriction on making BCA classification change) . . . . .   | 18   |
| 16            | Amendment of s 111 (Provision for applying to local government to obtain approval for BCA classification change) . . . . .         | 18   |

Contents

---

|    |   |    |
|----|---|----|
| 17 | Amendment of s 112 (Concessional approval for particular existing buildings) . . . . .  | 18 |
| 18 | Amendment of s 113 (Obligation of building certifier approving BCA classification change to give new certificate of classification) | 19 |
| 19 | Amendment of s 114A (Owner's obligation to comply with certificate of classification) . . . . .                                     | 19 |
| 20 | Amendment of s 115 (Occupation and use of building must comply with relevant BCA and QDC provisions) . . . . .                      | 19 |
| 21 | Amendment of s 116 (Exception for use of government buildings for emergency) . . . . .  | 20 |
| 22 | Amendment of s 124 (Building certifier's obligation to give information notice about particular decisions) . . . . .                | 20 |
| 23 | Insertion of new s 133A . . . . .   | 21 |
|    | 133A Building certifier to have regard to particular guidelines . . . . .   | 21 |
| 24 | Replacement of s 154 (Role of building surveying technician) . . . . .  | 21 |
|    | 154 Role of building surveying technician . . . . .   | 21 |
| 25 | Amendment of s 155 (Who may apply) . . . . .  | 21 |
| 26 | Amendment of s 163 (Restrictions on making endorsement) . . . . .   | 22 |
| 27 | Amendment of s 185 (Function of accreditation standards body)   | 22 |
| 28 | Amendment of s 220 (Owner must ensure building conforms with fire safety standard) . . . . .  | 23 |
| 29 | Insertion of new chs 8A and 8B . . . . .  | 23 |
|    | Chapter 8A Sustainability declarations and provisions to support sustainable housing  |    |
|    | Part 1 Sustainability declarations for sale of class 1a and 2 buildings   |    |
|    | Division 1 Preliminary  |    |
|    | 246A Definitions for pt 1. . . . .  | 23 |
|    | 246B Form and content of sustainability declaration . . . . .   | 24 |
|    | Division 2 Preparing, amending and replacing sustainability declarations  |    |
|    | 246C Requirement to have sustainability declaration . . . . .   | 25 |
|    | 246D Amending or replacing sustainability declaration . . . . .   | 26 |
|    | Division 3 Requirements about advertising sale, and inspection, of buildings  |    |
|    | 246E Application of div 3 . . . . .   | 27 |
|    | 246F Requirements about advertising sale of building . . . . .  | 27 |
|    | 246G Requirements about inspection of building . . . . .  | 28 |
|    | 246H Requirement to give copy of sustainability declaration   | 28 |

---

|            |   |    |
|------------|---|----|
| Division 4 | Other matters   |    |
| 246I       | Compensation for false or misleading sustainability declaration . . . . .   | 29 |
| 246J       | No right to terminate contract for publishing or giving sustainability declaration . . . . .                        | 29 |
| 246K       | Breach of obligation does not generally give rise to right or remedy . . . . .                                      | 30 |
| Part 2     | Provisions to support sustainable housing   |    |
| Division 1 | Preliminary   |    |
| 246L       | Purpose of pt 2. . . . .  | 30 |
| 246M       | Definitions for pt 2. . . . .   | 31 |
| 246N       | Application of pt 2. . . . .  | 32 |
| Division 2 | Limiting effect of prohibitions etc. for particular sustainable housing measures                                    |    |
| 246O       | Prohibitions or requirements that have no force or effect . . . . .   | 33 |
| 246P       | Restrictions that have no force or effect—roof colours and windows . . . . .  | 35 |
| 246Q       | Restrictions that have no force or effect—other restrictions . . . . .  | 36 |
| 246R       | When requirement to obtain consent for particular activities can not be withheld—roof colours and windows . . . . . | 37 |
| 246S       | When requirement to obtain consent for particular activities can not be withheld—other matters. . . . .             | 38 |
| Division 3 | Miscellaneous provisions  |    |
| 246T       | Particular limitation on operation of pt 2. . . . .   | 39 |
| 246U       | No compensation payable . . . . .   | 39 |
| Chapter 8B | Transport noise corridors   |    |
| Part 1     | Preliminary   |    |
| 246V       | Purpose of ch 8B . . . . .  | 40 |
| 246W       | Definitions for ch 8B . . . . .   | 40 |
| Part 2     | Designation by local governments  |    |
| 246X       | Designation of transport noise corridor—local governments . . . . .   | 41 |
| 246Y       | Notification about designation of transport noise corridor . . . . .  | 42 |
| Part 3     | Designation by transport chief executive  |    |
| 246Z       | Designation of transport noise corridor—transport chief executive . . . . .   | 43 |

---

Contents

---

|               |            |  |    |
|---------------|------------|--|----|
|               | 246ZA      | Notification about designation of transport noise corridor .....   | 44 |
| 30            |            | Amendment of s 258 (Guidelines) .....  | 44 |
| 31            |            | Amendment of s 260 (Evidentiary aids) .....  | 45 |
| 32            |            | Insertion of new ch 11, pt 8 .....   | 46 |
|               | Part 8     | Transitional provisions for Building and Other Legislation Amendment Act 2009                                |    |
|               | 286        | Continuing application of s 154 .....  | 46 |
|               | 287        | Continuing application of s 155 .....  | 47 |
| 33            |            | Replacement of sch 1 (The QDC on 26 February 2008) .....   | 47 |
|               | Schedule 1 | The QDC on 26 October 2009   |    |
| 34            |            | Amendment of sch 2 (Dictionary) .....  | 49 |
| <b>Part 3</b> |            | <b>Amendment of Animal Management (Cats and Dogs) Act 2008</b>   |    |
| 35            |            | Act amended .....  | 51 |
| 36            |            | Amendment of long title .....  | 51 |
| 37            |            | Amendment of s 3 (Purposes of Act) .....   | 51 |
| 38            |            | Amendment of s 4 (How purposes are to be primarily achieved) .....   | 51 |
| 39            |            | Amendment of s 13 (Supplier must ensure cat or dog is implanted) .....                                       | 52 |
| 40            |            | Amendment of s 24 (Minimum age for cat or dog to be implanted) .....   | 52 |
| 41            |            | Amendment of s 34 (PID must not be removed or otherwise interfered with) .....                               | 52 |
| 42            |            | Amendment of s 90 (Notice of proposed declaration) .....   | 53 |
| 43            |            | Amendment of s 97 (Declared dangerous dogs) .....  | 53 |
| 44            |            | Amendment of s 98 (Declared menacing dogs) .....   | 53 |
| 45            |            | Insertion of new ch 10, pt 1 hdg .....   | 53 |
| 46            |            | Insertion of new ch 10, pt 2 .....   | 53 |
|               | Part 2     | Transitional provision for Building and Other Legislation Amendment Act 2009                                 |    |
|               | 222        | Provision about offences under s 24 .....  | 54 |
| 47            |            | Amendment of sch 1 (Permit conditions and conditions applying to declared dangerous and menacing dogs) ..... | 54 |
| <b>Part 4</b> |            | <b>Amendment of Body Corporate and Community Management Act 1997</b>   |    |
| 48            |            | Act amended .....  | 55 |
| 49            |            | Amendment of s 66 (Requirements for community management statement) .....                                    | 55 |

|               |  |    |
|---------------|--|----|
| 50            | Amendment of s 180 (Limitations for by-laws) . . . . .                                   | 55 |
| 51            | Amendment of sch 4 (By-laws). . . . .  | 56 |
| <b>Part 5</b> | <b>Amendment of Fire and Rescue Service Act 1990</b>                                     |    |
| 52            | Act amended . . . . .  | 56 |
| 53            | Insertion of new ss 104SG–104SK . . . . .  | 56 |
|               | 104SG Assessors to help QCAT . . . . .   | 56 |
|               | 104SH Function and powers of assessors . . . . .   | 57 |
|               | 104SI Appointment of assessors . . . . .   | 58 |
|               | 104SJ Disqualification from appointment as assessor . . . . .                            | 58 |
|               | 104SK QCAT may have regard to assessor’s view . . . . .                                  | 59 |
| 54            | Amendment of sch 6 (Dictionary). . . . .   | 59 |
| <b>Part 6</b> | <b>Amendment of Land Title Act 1994</b>  |    |
| 55            | Act amended . . . . .  | 59 |
| 56            | Amendment of s 50 (Requirements for registration of plan of subdivision) . . . . .       | 59 |
| 57            | Insertion of new s 54DA . . . . .  | 59 |
|               | 54DA When building management statement taken not to be registered . . . . .             | 60 |
| <b>Part 7</b> | <b>Amendment of Mixed Use Development Act 1993</b>                                       |    |
| 58            | Act amended . . . . .  | 60 |
| 59            | Amendment of s 3 (Definitions) . . . . .   | 60 |
| 60            | Amendment of s 136 (General provisions that apply to management statement) . . . . .     | 61 |
| <b>Part 8</b> | <b>Amendment of Plumbing and Drainage Act 2002</b>                                       |    |
| 61            | Act amended in part and schedule. . . . .  | 61 |
| 62            | Replacement of pt 2 hdg (Plumbers and Drainers Board) . . . . .                          | 61 |
| 63            | Replacement of s 5 (Establishment of board) . . . . .                                    | 61 |
|               | 5 Establishment of council. . . . .  | 61 |
| 64            | Amendment of s 9 (Membership of board). . . . .  | 62 |
| 65            | Amendment of s 10 (Appointment of deputy members). . . . .                               | 62 |
| 66            | Amendment of s 11 (Chairperson and deputy chairperson of board) . . . . .                | 62 |
| 67            | Amendment of s 17 (Remuneration of members) . . . . .                                    | 63 |
| 68            | Amendment of s 26 (Remuneration of committee members). . . . .                           | 63 |
| 69            | Insertion of new pt 10, div 6 . . . . .  | 63 |
|               | Division 6 Transitional provisions for Building and Other Legislation Amendment Act 2009 |    |

Contents

---

|                |   |    |
|----------------|---|----|
| 177            | Definitions for div 6 . . . . .   | 63 |
| 178            | Dissolution of Plumbers and Drainers Board . . . . .  | 64 |
| 179            | Registrar and officers of former board . . . . .  | 64 |
| 180            | References to former board . . . . .  | 64 |
| 181            | Legal proceedings . . . . .   | 65 |
| 182            | Migration of undecided applications . . . . .   | 65 |
| 183            | Migration of former board's matters . . . . .   | 65 |
| 70             | Amendment of schedule (Dictionary) . . . . .  | 65 |
| <b>Part 9</b>  | <b>Amendment of Property Agents and Motor Dealers Act 2000</b>                                  |    |
| 71             | Act amended . . . . .   | 66 |
| 72             | Amendment of s 363 (Purposes of ch 11) . . . . .  | 66 |
| 73             | Insertion of new ch 11, pt 5 . . . . .  | 66 |
|                | Part 5 Advertising sale of particular<br>properties—sustainability declarations                 |    |
|                | Division 1 Preliminary  |    |
| 373A           | Definitions for pt 5. . . . .   | 67 |
|                | Division 2 Requirements about advertising sale, and<br>inspection, of residential dwellings     |    |
| 373B           | Application of div 2 . . . . .  | 68 |
| 373C           | Requirements about advertising sale of residential<br>dwelling . . . . .                        | 68 |
| 373D           | Requirements about inspection of residential<br>dwelling . . . . .                              | 69 |
| 373E           | Requirement to give copy of sustainability declaration  | 70 |
| 373F           | Breach of obligation does not generally give rise to<br>right or remedy . . . . .               | 70 |
|                | Division 3 Publishing or giving incomplete or false or<br>misleading sustainability declaration |    |
| 373G           | Application of div 3 . . . . .  | 70 |
| 373H           | No right to terminate contract for publishing or<br>giving declaration . . . . .                | 71 |
| 373I           | Publishing or giving declaration does not<br>contravene particular provisions. . . . .          | 71 |
| 74             | Amendment of s 470 (Claims) . . . . .   | 71 |
| 75             | Amendment of sch 2 (Dictionary) . . . . .   | 72 |
| <b>Part 10</b> | <b>Amendment of Sustainable Planning Act 2009</b>   |    |
| 76             | Act amended . . . . .   | 72 |
| 77             | Amendment of s 335 (Content of decision notice) . . . . .                                       | 72 |



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|                 |   |           |
|-----------------|---|-----------|
| 78              | Amendment of s 870 (References to repealed IPA) . . . . .                       | 73        |
| <b>Part 11</b>  | <b>Amendment of Transport Infrastructure Act 1994</b>                           |           |
| 79              | Act amended . . . . .   | 74        |
| 80              | Insertion of new s 477B . . . . .   | 74        |
|                 | 477B Recording of information for land in transport noise<br>corridor . . . . . | 74        |
| <b>Part 12</b>  | <b>Amendment of Acquisition of Land Act 1967</b>                                |           |
| 81              | Act amended . . . . .   | 75        |
| 82              | Amendment of schedule (Purposes for taking land) . . . . .                      | 75        |
| <b>Schedule</b> | <b>Consequential amendments of Plumbing and Drainage<br/>Act 2002 . . . . .</b> | <b>76</b> |



# 2009

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## A Bill

for

***An Act to amend the Acquisition of Land Act 1967, Animal Management (Cats and Dogs) Act 2008, Body Corporate and Community Management Act 1997, Building Act 1975, Fire and Rescue Service Act 1990, Land Title Act 1994, Mixed Use Development Act 1993, Plumbing and Drainage Act 2002, Property Agents and Motor Dealers Act 2000, Sustainable Planning Act 2009 and Transport Infrastructure Act 1994 for particular purposes***

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Building and Other Legislation Amendment Act 2009*. 4  
5

**Clause 2 Commencement** 6

(1) The following provisions of this Act commence on a day to 7  
fixed by proclamation— 8

- section 5(3) to the extent it inserts section 3(9) in the 9  
*Building Act 1975* 10
- sections 6, 7 and 10 11
- section 29 to the extent it inserts chapter 8B in the 12  
*Building Act 1975* 13
- section 34(2) to the extent it inserts the definitions 14  
*railway land, road, State-controlled road, transport* 15  
*chief executive, Transport Infrastructure Act* and 16  
*transport noise corridor* in the *Building Act 1975* 17
- section 34(4) 18
- parts 8 and 11 19
- the schedule. 20

(2) Part 5 commences immediately after the *Queensland Civil* 21  
*and Administrative Tribunal (Jurisdiction Provisions)* 22  
*Amendment Act 2009*, chapter 3, part 4 commences. 23

(3) The remaining provisions of this Act, other than parts 3 and 24  
12 and section 78, commence on 1 January 2010. 25

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|                 |   |          |
|-----------------|---|----------|
| <b>Part 2</b>   | <b>Amendment of Building Act 1975</b>   | 1<br>2   |
| <b>Clause 3</b> | <b>Act amended</b>  | 3        |
|                 | This part amends the <i>Building Act 1975</i> .   | 4        |
| <b>Clause 4</b> | <b>Amendment of long title</b>  | 5        |
|                 | Long title, after ‘certifiers,’—  | 6        |
|                 | <i>insert—</i>  | 7        |
|                 | ‘ <b>and provide for particular matters about sustainable buildings,</b> ’.   | 8<br>9   |
| <b>Clause 5</b> | <b>Amendment of s 3 (Simplified outline of main provisions of Act)</b>  | 10<br>11 |
|                 | (1) Section 3(4)(c), ‘changes’—   | 12       |
|                 | <i>omit, insert—</i>  | 13       |
|                 | ‘or use changes’.   | 14       |
|                 | (2) Section 3(8)—   | 15       |
|                 | <i>renumber</i> as section 3(10).   | 16       |
|                 | (3) Section 3—  | 17       |
|                 | <i>insert—</i>  | 18       |
|                 | ‘(8) Chapter 8A—  | 19       |
|                 | (a) provides for matters about sustainability declarations for the sale of class 1a or 2 buildings; and                       | 20<br>21 |
|                 | (b) regulates the effect of particular instruments in relation to stated matters for class 1a, 2 or 10a buildings.            | 22<br>23 |
|                 | ‘(9) Chapter 8B provides for the designation of land as a transport noise corridor for particular building assessment work.’. | 24<br>25 |

[s 6]

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|                 |   |                |
|-----------------|---|----------------|
| <b>Clause 6</b> | <b>Amendment of s 20 (Building work that is assessable development for the Planning Act)</b>  | 1<br>2         |
|                 | Section 20(b), ‘section 21’—  | 3              |
|                 | <i>omit, insert—</i>  | 4              |
|                 | ‘the Planning Act or section 21(2)’.  | 5              |
| <br>            |   |                |
| <b>Clause 7</b> | <b>Amendment of s 21 (Building work that is self-assessable for the Planning Act)</b>   | 6<br>7         |
| (1)             | Section 21(2), ‘( <i>self-assessable building work</i> )’—  | 8              |
|                 | <i>omit.</i>  | 9              |
| (2)             | Section 21(2)(b)(i)—  | 10             |
|                 | <i>omit, insert—</i>  | 11             |
|                 | ‘(i) generally—any relevant deemed-to-satisfy provision under the BCA or relevant acceptable solution under the QDC for the building work; or’. | 12<br>13<br>14 |
| (3)             | Section 21(2)(b)(ii)(B), ‘the provisions of the BCA and QDC,’—  | 15<br>16       |
|                 | <i>omit, insert—</i>  | 17             |
|                 | ‘any relevant deemed-to-satisfy provision under the BCA or relevant acceptable solution under the QDC for the building work.’                   | 18<br>19<br>20 |
| (4)             | Section 21(3)—  | 21             |
|                 | <i>renumber</i> as section 21(4).   | 22             |
| (5)             | Section 21—   | 23             |
|                 | <i>insert—</i>  | 24             |
| ‘(3)            | Building work that is self-assessable development under the Planning Act or subsection (2) is <i>self-assessable building work</i> .’.          | 25<br>26<br>27 |

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|                 |  |                            |
|-----------------|--|----------------------------|
| <b>Clause 8</b> | <b>Amendment of s 37 (Provision for changes to building assessment provisions)</b>   | 1<br>2                     |
|                 | Section 37(1)(d)—  | 3                          |
|                 | <i>omit, insert—</i>   | 4                          |
|                 | ‘(d) planning for carrying out the work started before a building assessment provision is amended and the building certifier for the building development approval certifies in writing that—  | 5<br>6<br>7<br>8           |
|                 | (i) substantial progress was made on the design of the building, or the design was completed, before the amendment; and  | 9<br>10<br>11              |
|                 | (ii) the design would need to be changed to comply with the amended provision; and   | 12<br>13                   |
|                 | (iii) the changes needed under subparagraph (ii) are not minor changes, having regard to the amendment and the nature of the building work.  | 14<br>15<br>16             |
|                 | <i>Example of a change to a design that is not a minor change—</i>   | 17                         |
|                 | the removal of floors from a design to comply with an amended building assessment provision requiring the installation of water tanks in a building’.  | 18<br>19<br>20             |
| <b>Clause 9</b> | <b>Amendment of s 61 (Alterations to safe existing work may be approved on basis of earlier building assessment provisions)</b>  | 21<br>22<br>23             |
|                 | (1) Section 61(3)—   | 24                         |
|                 | <i>renumber</i> as section 61(5).  | 25                         |
|                 | (2) Section 61—  | 26                         |
|                 | <i>insert—</i>   | 27                         |
|                 | ‘(3) Subsection (4) applies if the building’s BCA classification as shown on the certificate of classification for the building has changed only because of an amendment to building classifications under the BCA made after the certificate was given. | 28<br>29<br>30<br>31<br>32 |

[s 10]

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‘(4) Without limiting subsection (2), the building certifier may carry out building assessment work for the application on the basis that the building work is to be carried out under the building assessment provisions applying for the BCA classification shown on the certificate of classification.’.

**Clause 10      Amendment of s 65 (Land subject to registered easement or statutory covenant)**

(1) Section 65(3)—  
*renumber* as section 65(4).

(2) Section 65—  
*insert*—

‘(3) However, subsection (2) does not apply to a building development application for a class 1, 2, 3 or 4 building on land subject to a noise covenant if a building assessment provision is expressed to apply specifically for the reduction in a class 1, 2, 3 or 4 building of noise coming from outside the building.’.

(3) Section 65(4), as renumbered under this section—  
*insert*—

‘**noise covenant** means a registered statutory covenant—

(a) for which the registered holder of the covenant is the State; and

(b) for the reduction in a class 1, 2, 3 or 4 building of noise coming from outside the building.’.

**Clause 11      Replacement of s 88 (When applicant is to be given the approval documents)**

Section 88—

*omit insert*—



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|                  |  |                      |
|------------------|--|----------------------|
| <b>‘88</b>       | <b>Giving approval documents to applicant</b>  | 1                    |
| ‘(1)             | This section applies only if the private certifier approves the application.   | 2<br>3               |
| ‘(2)             | The private certifier must not give the applicant any approval documents for the application unless the certifier has complied with section 86(1).   | 4<br>5<br>6          |
|                  | Maximum penalty—50 penalty units.  | 7                    |
| ‘(3)             | Subsection (4) applies if the private certifier—   | 8                    |
|                  | (a) receives an acknowledgement under section 87 from the local government for the application; and  | 9<br>10              |
|                  | (b) has not given the approval documents to the applicant.   | 11                   |
| ‘(4)             | The private certifier must give the approval documents to the applicant within 5 business days after receiving the acknowledgement.  | 12<br>13<br>14       |
|                  | <i>Note—</i>   | 15                   |
|                  | See also section 132 (Effect of building certifier not complying with Act if no penalty provided).   | 16<br>17             |
| ‘(5)             | Subsection (6) applies if the private certifier—   | 18                   |
|                  | (a) gives the approval documents to the applicant; and   | 19                   |
|                  | (b) has not received an acknowledgement under section 87 from the local government for the application.  | 20<br>21             |
| ‘(6)             | The private certifier must, for at least 5 years after giving the approval documents, keep written evidence that the fee mentioned in section 86(1)(c) for the application was paid to the local government. | 22<br>23<br>24<br>25 |
|                  | Maximum penalty for subsection (6)—20 penalty units.’  | 26                   |
| <b>Clause 12</b> | <b>Amendment of s 103 (Certificate requirements)</b>   | 27                   |
| (1)              | Section 103(c) to (e)—   | 28                   |
|                  | <i>renumber</i> as section 103(d) to (f).  | 29                   |
| (2)              | Section 103(b)—  | 30                   |

---

[s 13]

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|  |             |
|--|-------------|
| <i>omit, insert—</i>   | 1           |
| ‘(b) state the building’s classification, having regard to—  | 2           |
| (i) the class of the building stated in the decision notice for the development; and   | 3<br>4      |
| (ii) the use for which the building was designed, built or adapted; and  | 5<br>6      |
| ‘(c) briefly describe the type of building or the use for which the building was designed, built or adapted, having regard to— | 7<br>8<br>9 |
| (i) any particular categories of uses under the classification; and  | 10<br>11    |
| (ii) restrictions about the use of the building under the BCA or QDC; and  | 12<br>13    |
| <i>Examples of descriptions for paragraph (c)—</i>   | 14          |
| • retail showroom for sale of goods  | 15          |
| • manufacturing – plastic goods production, not to be used for hazardous processes under the BCA                               | 16<br>17    |
| • motel – sole occupancy units   | 18          |
| <i>Example of restriction about the use of a building under the QDC—</i>   | 19          |
| a requirement under the QDC for a floating building to be permanently moored and not used for navigational purposes’.          | 20<br>21    |
| (3) Section 103(e), as renumbered under this section, after ‘BCA’—   | 22<br>23    |
| <i>insert—</i>   | 24          |
| ‘or QDC’.  | 25          |

|                  |  |          |
|------------------|--|----------|
| <b>Clause 13</b> | <b>Amendment of ch 5, pt 3 hdg (Changes to BCA classification)</b> | 26<br>27 |
|                  | Chapter 5, part 3, heading, after ‘classification’—                | 28       |
|                  | <i>insert—</i>   | 29       |
|                  | ‘or use within classification’.                                    | 30       |

|                  |   |                            |
|------------------|---|----------------------------|
| <b>Clause 14</b> | <b>Amendment of s 109 (What is a <i>BCA classification change</i> to a building)</b>  | 1<br>2                     |
| (1)              | Section 109, ' <i>BCA classification change</i> '—  | 3                          |
|                  | <i>omit, insert—</i>  | 4                          |
|                  | ' <i>BCA classification or use change</i> '.  | 5                          |
| (2)              | Section 109(a)—   | 6                          |
|                  | <i>omit, insert—</i>  | 7                          |
|                  | '(a) a change to the use for which the building was designed, built or adapted to be used if—   | 8<br>9                     |
|                  | (i) the change of use alters its BCA classification; or   | 10                         |
|                  | (ii) the change of use does not alter its BCA classification but the new use requires building work to be carried out for the building to comply with any relevant building assessment provisions applying to the new use; or | 11<br>12<br>13<br>14<br>15 |
|                  | <i>Example of BCA classification or use change for paragraph (a)(ii)—</i>   | 16<br>17                   |
|                  | a change in the use of a class 7b warehouse to an occupancy of excessive hazard by storing combustible cartons above 4m in height or more than 1000m <sup>3</sup> of combustible cartons'.                                    | 18<br>19<br>20             |
| (3)              | Section 109(b), 'section 103(d)'—   | 21                         |
|                  | <i>omit, insert—</i>  | 22                         |
|                  | 'section 103(e)'.   | 23                         |
| (4)              | Section 109(b), example—  | 24                         |
|                  | <i>omit, insert—</i>  | 25                         |
|                  | ' <i>Example of BCA classification or use change for paragraph (b)—</i>   | 26                         |
|                  | a change in the nature or quantity of materials displayed, stored or used in a building that increases the risk to life or safety, requiring building work to be carried out to comply with the BCA'.                         | 27<br>28<br>29             |
| (5)              | Section 109—  | 30                         |
|                  | <i>insert—</i>  | 31                         |

[s 15]

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- ‘(2) However, a **BCA classification or use change** does not  
include a change of use that alters a building’s BCA  
classification if the alteration happens only because of an  
amendment to building classifications under the BCA made  
after—
- (a) if there is a certificate of classification for the  
building—the certificate was given; or
- (b) otherwise—the building was first used or occupied.’.

**Clause 15 Amendment of s 110 (Restriction on making BCA classification change)**

Section 110, ‘BCA classification change’—  
*omit, insert—*  
‘BCA classification or use change’.

**Clause 16 Amendment of s 111 (Provision for applying to local government to obtain approval for BCA classification change)**

Section 111, ‘BCA classification change’—  
*omit, insert—*  
‘BCA classification or use change’.

**Clause 17 Amendment of s 112 (Concessional approval for particular existing buildings)**

(1) Section 112(2), ‘BCA classification change’—  
*omit, insert—*  
‘BCA classification or use change’.

(2) Section 112(3)(a), ‘the new BCA classification’—  
*omit, insert—*  
‘any new BCA classification or use’.

---

|                  |   |                |
|------------------|---|----------------|
| <b>Clause 18</b> | <b>Amendment of s 113 (Obligation of building certifier approving BCA classification change to give new certificate of classification)</b>  | 1<br>2<br>3    |
|                  | Section 113, ‘BCA classification change’—   | 4              |
|                  | <i>omit, insert—</i>  | 5              |
|                  | ‘BCA classification or use change’.   | 6              |
| <br>             |   |                |
| <b>Clause 19</b> | <b>Amendment of s 114A (Owner’s obligation to comply with certificate of classification)</b>  | 7<br>8         |
|                  | Section 114A(1)(b), from ‘section 103(d)’—  | 9              |
|                  | <i>omit, insert—</i>  | 10             |
|                  | ‘section 103(e) or a requirement of a type mentioned in section 103(f)’.  | 11<br>12       |
| <br>             |   |                |
| <b>Clause 20</b> | <b>Amendment of s 115 (Occupation and use of building must comply with relevant BCA and QDC provisions)</b>   | 13<br>14       |
|                  | (1) Section 115, heading—   | 15             |
|                  | <i>omit, insert—</i>  | 16             |
| <b>‘115</b>      | <b>Compliance with relevant BCA and QDC provisions for occupation and use of building’.</b>   | 17<br>18       |
|                  | (2) Section 115(1), ‘use or occupation’—  | 19             |
|                  | <i>omit, insert—</i>  | 20             |
|                  | ‘occupation or use’.  | 21             |
|                  | (3) Section 115(2) to (4)—  | 22             |
|                  | <i>renumber</i> as section 115(4) to (6).   | 23             |
|                  | (4) Section 115—  | 24             |
|                  | <i>insert—</i>  | 25             |
|                  | ‘(2) Subsection (3) applies if, under a performance requirement for a building under any relevant BCA provisions for its class of building or any relevant QDC provisions for the building, a | 26<br>27<br>28 |

[s 21]

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person must carry out work to maintain the building for  
occupation and use. 1  
2

‘(3) The person must comply with the requirement unless the  
person has a reasonable excuse. 3  
4

Maximum penalty—165 penalty units.’. 5

(5) Section 115(4), as renumbered under this section, ‘subsection  
(1)’— 6  
7

*omit, insert—* 8

‘subsections (1) and (2)’. 9

(6) Section 115(6), as renumbered under this section, ‘subsection  
(1) applies’— 10  
11

*omit, insert—* 12

‘subsections (1) and (2) apply’. 13

(7) Section 115(6), as renumbered under this section, ‘subsection  
(1).’— 14  
15

*omit, insert—* 16

‘the subsections.’. 17

**Clause 21 Amendment of s 116 (Exception for use of government  
buildings for emergency) 18  
19**

Section 116(2), from ‘For’ to ‘occupation’— 20

*omit, insert—* 21

‘For sections 114 and 115, the occupation or use’. 22

**Clause 22 Amendment of s 124 (Building certifier’s obligation to  
give information notice about particular decisions) 23  
24**

Section 124(1)(d) and (e), ‘BCA classification change’— 25

*omit, insert—* 26

‘BCA classification or use change’. 27

---

|                  |   |    |
|------------------|---|----|
| <b>Clause 23</b> | <b>Insertion of new s 133A</b>  | 1  |
|                  | Chapter 6, part 1, division 3, after section 133—   | 2  |
|                  | <i>insert—</i>  | 3  |
| <b>‘133A</b>     | <b>Building certifier to have regard to particular guidelines</b>   | 4  |
|                  |   | 5  |
|                  | ‘In performing a function under this Act, including, for example, a building certifying function, a building certifier must have regard to the guidelines made under section 258 that are relevant to performing the function.’   | 6  |
|                  |   | 7  |
|                  |   | 8  |
|                  |   | 9  |
| <br>             |   |    |
| <b>Clause 24</b> | <b>Replacement of s 154 (Role of building surveying technician)</b>   | 10 |
|                  |   | 11 |
|                  | Section 154—  | 12 |
|                  | <i>omit, insert—</i>  | 13 |
| <b>‘154</b>      | <b>Role of building surveying technician</b>  | 14 |
|                  |   | 15 |
|                  | ‘A building surveying technician may only perform building certifying functions on class 1 buildings or class 10 buildings or structures if the building surveying technician has at least 1 years experience as a building surveying technician employed by a local government or under the supervision of a private certifier.’ | 16 |
|                  |   | 17 |
|                  |   | 18 |
|                  |   | 19 |
|                  |   | 20 |
| <br>             |   |    |
| <b>Clause 25</b> | <b>Amendment of s 155 (Who may apply)</b>   | 21 |
|                  |   | 22 |
|                  | Section 155, from ‘only’—   | 22 |
|                  | <i>omit, insert—</i>  | 23 |
|                  | ‘only if—   | 24 |
|                  | (a) for a licence at the level of building surveyor or assistant building surveyor—the individual holds a current accreditation issued by an accreditation standards body;  | 25 |
|                  | or  | 26 |
|                  | (b) for a licence at the level of building surveying technician, the individual—  | 27 |
|                  |   | 28 |
|                  |   | 29 |
|                  |   | 30 |

[s 26]

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|                  |  |                            |
|------------------|--|----------------------------|
|                  | (i) holds a current accreditation issued by an accreditation standards body; and   | 1<br>2                     |
|                  | (ii) has at least 1 years experience as a building surveying technician employed by a local government or under the supervision of a private certifier.’.  | 3<br>4<br>5<br>6           |
| <b>Clause 26</b> | <b>Amendment of s 163 (Restrictions on making endorsement)</b>   | 7<br>8                     |
|                  | (1) Section 163(2)—<br><i>renumber</i> as section 163(3).  | 9<br>10                    |
|                  | (2) Section 163(1)—<br><i>omit, insert</i> —   | 11<br>12                   |
|                  | ‘(1) A private certification endorsement may be made only if the applicant has the insurance for private certification prescribed under a regulation.  | 13<br>14<br>15             |
|                  | ‘(2) Also, a private certification endorsement may be made for a building surveying technician only if the building surveying technician may, under section 154, perform building certifying functions on class 1 buildings or class 10 buildings or structures.’. | 16<br>17<br>18<br>19<br>20 |
| <b>Clause 27</b> | <b>Amendment of s 185 (Function of accreditation standards body)</b>   | 21<br>22                   |
|                  | (1) Section 185(2)(a) and (b)—<br><i>omit, insert</i> —  | 23<br>24                   |
|                  | ‘(a) for each level of licensing as a building certifier, set educational and experiential standards approved by the chief executive; and  | 25<br>26<br>27             |
|                  | (b) if the standards are within the scope of the national accreditation framework for building certifiers—ensure the standards comply with the framework; and’.  | 28<br>29<br>30             |
|                  | (2) Section 185(3)—  | 31                         |



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|                    |   |    |
|--------------------|---|----|
|                    | <i>omit.</i>  | 1  |
| (3)                | Section 185(4)—   | 2  |
|                    | <i>renumber</i> as section 185(3).  | 3  |
| <b>Clause 28</b>   | <b>Amendment of s 220 (Owner must ensure building conforms with fire safety standard)</b>   | 4  |
|                    | Section 220—  | 5  |
|                    | <i>insert</i> —   | 6  |
|                    | <i>Note</i> —   | 7  |
|                    | The building assessment provisions, other than the fire safety standard, apply in relation to a budget accommodation building to which this part does not apply. See the fire safety standard and section 30 (Relevant laws and other documents for assessment of building work).’. | 8  |
|                    |   | 9  |
|                    |   | 10 |
|                    |   | 11 |
|                    |   | 12 |
| <b>Clause 29</b>   | <b>Insertion of new chs 8A and 8B</b>   | 13 |
|                    | After section 246—  | 14 |
|                    | <i>insert</i> —   | 15 |
| <b>‘Chapter 8A</b> | <b>Sustainability declarations and provisions to support sustainable housing</b>  | 16 |
|                    |   | 17 |
|                    |   | 18 |
| <b>‘Part 1</b>     | <b>Sustainability declarations for sale of class 1a and 2 buildings</b>   | 19 |
|                    |   | 20 |
| <b>‘Division 1</b> | <b>Preliminary</b>  | 21 |
| <b>‘246A</b>       | <b>Definitions for pt 1</b>   | 22 |
|                    | ‘In this part—  | 23 |
|                    | <i>current sustainability declaration</i> , for a class 1a or 2 building, means—  | 24 |
|                    |   | 25 |

[s 29]

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- (a) the sustainability declaration for the building prepared under section 246C; or 1  
2
- (b) if the declaration mentioned in paragraph (a) is amended or replaced under section 246D—the amended or replaced declaration. 3  
4  
5
- publish*** includes— 6
- (a) publish on the internet; and 7
- (b) cause to be published. 8
- relevant advertisement*** means an advertisement in any form or medium, other than— 9  
10
- (a) an advertisement published in a newspaper or magazine; or 11  
12
- (b) a sign advertising the sale of a building, if the sign was not prepared specifically to advertise the sale of the particular building. 13  
14  
15
- seller***, of a class 1a or 2 building, means a person who— 16
- (a) has a legal or equitable interest in the building that the person is entitled to sell; or 17  
18
- (b) is authorised under a power of attorney or other statutory power to sell a legal or equitable interest in the building. 19  
20  
21
- sustainability declaration*** means a sustainability declaration under section 246B. 22  
23

**‘246B Form and content of sustainability declaration’** 24

- ‘(1) A sustainability declaration for a class 1a or 2 building must be in the approved form. 25  
26
- ‘(2) The approved form may only make provision for information about features of a class 1a or 2 building, or an enclosed class 10a building attached to a class 1a or 2 building or class 10b structure associated with a class 1a or 2 building, that support or enhance— 27  
28  
29  
30  
31

- 
- (a) the building’s or structure’s sustainable energy or water use; or 1  
2
- (b) the amenity or safety of persons using the building or structure. 3  
4
- Example of information for the sustainability declaration—* 5
- information about how lighting in a building compares to standards under the building assessment provisions or a regulation about sustainable energy use 6  
7  
8

**‘Division 2                      Preparing, amending and replacing sustainability declarations’** 9  
10

**‘246C Requirement to have sustainability declaration’** 11

- ‘(1) This section applies if a seller of a class 1a or 2 building proposes to— 12  
13
- (a) sell, or invite an offer to buy, the building; or 14
- (b) engage another person to sell, or invite an offer to buy, the building. 15  
16
- ‘(2) The seller must, before the building is offered for sale or an invitation to buy the building is made by the seller or another person engaged by the seller— 17  
18  
19
- (a) prepare or have another person prepare a sustainability declaration for the building; and 20  
21
- (b) sign the declaration. 22
- Maximum penalty—20 penalty units. 23
- ‘(3) For subsection (2), the requirement to prepare a sustainability declaration is taken to be satisfied if a person completes the declaration to the best of the person’s ability and knowledge. 24  
25  
26
- Example—* 27
- The requirement might be satisfied even if a person does not include information about a feature of a building stated in the declaration if the person can not reasonably find out the information or has no technical knowledge about the feature. 28  
29  
30  
31

[s 29]

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‘(4) Subsection (3) applies despite the *Acts Interpretation Act 1954*, section 49(2)(b). 1  
2

**‘246D Amending or replacing sustainability declaration 3**

‘(1) This section applies if, in the relevant period for a class 1a or 2 4  
building, the seller of the building becomes aware that 5  
information about a feature of the building included in the 6  
sustainability declaration prepared under section 246C for the 7  
building is not correct. 8

‘(2) The seller must as soon as practicable after becoming aware 9  
the information is not correct— 10

(a) amend the sustainability declaration, or have another 11  
person amend it, to ensure the information is correct; or 12

(b) prepare, or have another person prepare, a new 13  
sustainability declaration for the building (the 14  
*replacement declaration*) and sign the replacement 15  
declaration. 16

Maximum penalty—20 penalty units. 17

‘(3) Section 246C(3) and (4) apply to the preparation of the 18  
replacement declaration— 19

(a) as if the reference in section 246C(3) to subsection (2) 20  
were a reference to subsection (2)(b); and 21

(b) as if the reference in section 246C(3) to a sustainability 22  
declaration were a reference to the replacement 23  
declaration. 24

‘(4) In this section— 25

*feature*, of a class 1a or 2 building, includes a feature of an 26  
enclosed class 10a building attached to the building or class 27  
10b structure associated with the building. 28

*relevant period*, for a class 1a or 2 building, means the 29  
period— 30

(a) starting when the sustainability declaration for the 31  
building is prepared under section 246C; and 32

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|                    |   |                      |
|--------------------|---|----------------------|
| (b)                | ending on the earlier of the following days to happen—  | 1                    |
| (i)                | the day the building is sold;   | 2                    |
| (ii)               | the day the building is withdrawn from sale.  | 3                    |
| <b>‘Division 3</b> | <b>Requirements about advertising</b>   | 4                    |
|                    | <b>sale, and inspection, of buildings</b>   | 5                    |
| <b>‘246E</b>       | <b>Application of div 3</b>   | 6                    |
| ‘(1)               | This division applies to the seller of a class 1a or 2 building<br>if—  | 7<br>8               |
| (a)                | the seller has not engaged another person to sell, or<br>invite an offer to buy, the building; and  | 9<br>10              |
| (b)                | under section 246C, a sustainability declaration must be<br>prepared for the building.  | 11<br>12             |
| ‘(2)               | However, this division applies to the seller only until the<br>earlier of the following days to happen—   | 13<br>14             |
| (a)                | the day the building is sold;   | 15                   |
| (b)                | the day the building is withdrawn from sale.  | 16                   |
| <b>‘246F</b>       | <b>Requirements about advertising sale of building</b>  | 17                   |
| ‘(1)               | The seller must not publish a relevant advertisement for the<br>sale of the building unless the advertisement includes<br>information about where a person may obtain a copy of the<br>building’s current sustainability declaration. | 18<br>19<br>20<br>21 |
|                    | Maximum penalty—20 penalty units.   | 22                   |
| ‘(2)               | The seller must not give a person a document advertising the<br>sale of the building unless—  | 23<br>24             |
| (a)                | the person has a copy of the building’s current<br>sustainability declaration; or   | 25<br>26             |
| (b)                | a copy of the declaration accompanies the document.   | 27                   |
|                    | Maximum penalty—20 penalty units.   | 28                   |

[s 29]

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- ‘(3) Subsection (2) does not apply to the seller if the document is given to the person at—
- (a) the building; and
  - (b) a time it is generally open to the public for inspection by potential buyers of the building.

**‘246G Requirements about inspection of building**

- ‘(1) At any time the building is generally open to the public for inspection by potential buyers of the building, the seller must ensure a copy of the building’s current sustainability declaration is conspicuously displayed so anyone entering the building can easily read the declaration.

Maximum penalty—20 penalty units.

- ‘(2) If a person enters the building to inspect it as a potential buyer of the building, other than at a time mentioned in subsection (1), the seller must ensure—

- (a) the person has a copy of the building’s current sustainability declaration before the person enters the building; or
- (b) a copy of the current sustainability declaration is readily available for inspection by the person before the person enters the building and the person is advised by the seller that a copy is available for inspection; or
- (c) a copy of the current sustainability declaration is conspicuously displayed at the building so the person can easily read it.

Maximum penalty—20 penalty units.

**‘246H Requirement to give copy of sustainability declaration**

- ‘If a person who is a potential buyer of the building asks the seller for a copy of the building’s current sustainability

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declaration, the seller must give the person a copy as soon as practicable. 1  
2  
Maximum penalty—20 penalty units. 3

**‘Division 4                    Other matters                    4**

**‘246I    Compensation for false or misleading sustainability declaration                    5  
6**

- ‘(1) This section applies if— 7
- (a) a person (the *buyer*) buys a class 1a or 2 building; and 8
  - (b) a document that is or purports to be a current sustainability declaration for the building is, under division 3 or the *Property Agents and Motor Dealers Act 2000*, chapter 11, part 5, division 2, given or made available to the buyer by a seller of the building or another person; and 9  
10  
11  
12  
13  
14
  - (c) the declaration is false or misleading in a material particular or is otherwise prepared without the exercise of reasonable skill and care; and 15  
16  
17
  - (d) the buyer incurs loss or expense because of paragraph (c). 18  
19
- ‘(2) The seller of the building is liable to compensate the buyer for the loss or expense. 20  
21
- ‘(3) Payment of compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction. 22  
23  
24
- ‘(4) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case. 25  
26  
27

**‘246J    No right to terminate contract for publishing or giving sustainability declaration                    28  
29**

- ‘(1) This section applies if— 30

[s 29]

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|                    |   |                      |
|--------------------|---|----------------------|
| (a)                | a seller of a class 1a or 2 building—   | 1                    |
| (i)                | publishes a relevant advertisement for the sale of the building that includes information about a current sustainability declaration for the building; or   | 2<br>3<br>4<br>5     |
| (ii)               | gives or makes available to a person a current sustainability declaration for the building; and   | 6<br>7               |
| (b)                | the declaration is incomplete or contains information that is false or misleading.  | 8<br>9               |
| ‘(2)               | The buyer under a contract for the sale of the building can not terminate the contract merely because the current sustainability declaration is incomplete or contains information that is false or misleading. | 10<br>11<br>12<br>13 |
| <b>‘246K</b>       | <b>Breach of obligation does not generally give rise to right or remedy</b>   | 14<br>15             |
|                    | ‘Other than as provided for under section 246I, a breach of an obligation under this part does not of itself give rise to an action for breach of statutory duty or another civil right or remedy.              | 16<br>17<br>18<br>19 |
| <b>‘Part 2</b>     | <b>Provisions to support sustainable housing</b>  | 20<br>21             |
| <b>‘Division 1</b> | <b>Preliminary</b>  | 22                   |
| <b>‘246L</b>       | <b>Purpose of pt 2</b>  | 23                   |
|                    | ‘The purpose of this part is to regulate the effect of particular instruments on stated activities or measures likely to support sustainable housing.   | 24<br>25<br>26       |



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**‘246M Definitions for pt 2**

‘In this part—

*bathroom* includes an ensuite.

*energy efficient*, in relation to a window in a prescribed building, means the window reduces heat conduction and solar radiation passing through the window.

*Examples—*

tinted glass windows, double-glazed windows and triple-glazed windows

*prescribed building* means—

- (a) a class 1a or 2 building; or
- (b) an enclosed class 10a building attached to a class 1a or 2 building.

*relevant instrument* means any of the following—

- (a) a sublease or sub-sublease of a lease held under the *Land Act 1994*;
- (b) a building management statement under the *Land Act 1994* or *Land Title Act 1994*;
- (c) a community management statement for a community titles scheme under the *Body Corporate and Community Management Act 1997*, including by-laws in the statement and the provisions of any architectural and landscape code adopted under the statement;
- (d) a by-law in force for a building units plan or group titles plan under the *Building Units and Group Titles Act 1980*;
- (e) a management statement under the *South Bank Corporation Act 1989*, including by-laws in the statement;
- (f) a development approval under the *South Bank Corporation Act 1989*;

[s 29]

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- (g) a development control by-law in force for an approved scheme under the *Integrated Resort Development Act 1987*; 1  
2  
3
- (h) a management statement under the *Mixed Use Development Act 1993*; 4  
5
- (i) development control by-laws, activities by-laws and property by-laws in effect, and made by a community body corporate or precinct body corporate, under the *Mixed Use Development Act 1993*; 6  
7  
8  
9
- (j) a development control by-law or residential zone activities by-law in force, and made by the principal body corporate, under the *Sanctuary Cove Resort Act 1985*; 10  
11  
12  
13
- (k) a contract or other agreement, entered into in relation to a prescribed building, a provision of which includes a prohibition, requirement or restriction mentioned in division 2 that operates to the benefit of, or is enforceable by, a person other than the owner or occupier of the building. 14  
15  
16  
17  
18  
19
- solar hot water system*** includes any part of a water heating system designed to heat water using light or heat from the sun. 20  
21
- treat***, in relation to a window in a prescribed building, means apply a colour tint or other substance to the window to reduce solar radiation passing through the window. 22  
23  
24

**‘246N Application of pt 2** 25

- ‘(1) This part applies to a relevant instrument— 26
- (a) even if it were made or entered into before 1 January 2010; and 27  
28
- (b) despite any provision of an Act mentioned in section 246M, definition *relevant instrument*. 29  
30
- ‘(2) To remove any doubt, it is declared that this part applies to a relevant instrument even if it is registered or recorded under the *Land Act 1994* or *Land Title Act 1994*. 31  
32  
33

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|                    |  |                            |
|--------------------|--|----------------------------|
| ‘(3)               | However, despite subsection (1)(a), this part does not apply in relation to a prescribed matter that, on 1 January 2010, is included in—   | 1<br>2<br>3                |
| (a)                | a relevant instrument that is a contract or other agreement mentioned in section 246M, definition <i>relevant instrument</i> , paragraph (k) and entered into before 1 January 2010; or  | 4<br>5<br>6<br>7           |
| (b)                | another relevant instrument made or entered into before 1 January 2010 that is in force or effect for a lot within the meaning of the <i>Land Title Act 1994</i> .   | 8<br>9<br>10               |
| ‘(4)               | In this section—   | 11                         |
|                    | <i>prescribed matter</i> means a prohibition, requirement or restriction mentioned in section 246O(1)(a) to (f), 246P(1), 246Q(1)(a) or (b), 246R(1) or 246S(1)(a) or (b).   | 12<br>13<br>14             |
| <b>‘Division 2</b> | <b>Limiting effect of prohibitions etc. for particular sustainable housing measures</b>  | 15<br>16<br>17             |
| <b>‘246O</b>       | <b>Prohibitions or requirements that have no force or effect</b>   | 18<br>19                   |
| ‘(1)               | This section applies to a relevant instrument that, but for this section, would have the effect of—  | 20<br>21                   |
| (a)                | prohibiting the use of a colour for the roof of a class 1a building or an enclosed class 10a building attached to a class 1a building, if using the colour would achieve a solar absorptance value for the upper surface of the roof of not more than 0.55; or | 22<br>23<br>24<br>25<br>26 |
| (b)                | prohibiting—   | 27                         |
| (i)                | the use in a prescribed building of a window that is energy efficient; or  | 28<br>29                   |
| (ii)               | the treatment of a window in a prescribed building to ensure the window is energy efficient; or  | 30<br>31                   |

[s 29]

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- |      |  |                      |
|------|--|----------------------|
| (c)  | prohibiting a person from occupying a class 1a building before particular landscaping, fencing, driveways or similar work associated with the construction of the building is completed; or        | 1<br>2<br>3<br>4     |
| (d)  | requiring—   | 5                    |
|      | (i) a minimum floor area for a class 1a building; or   | 6                    |
|      | (ii) a minimum number of bathrooms or bedrooms for a class 1a building; or   | 7<br>8               |
|      | (iii) the construction of a class 1a building, or any landscaping, fencing, driveways or similar work associated with the construction of the building, to be completed within a stated period; or | 9<br>10<br>11<br>12  |
|      | (iv) more than 1 garage ancillary to a class 1a building; or   | 13<br>14             |
| (e)  | requiring—   | 15                   |
|      | (i) a minimum pitch for the roof of a class 1a building; or  | 16<br>17             |
|      | (ii) a class 1a building or an enclosed class 10a building attached to a class 1a building to be orientated on a parcel of land in a particular way; or  | 18<br>19<br>20<br>21 |
| (f)  | prohibiting the use of a specific material or type of surface finish for the roof or external walls of a class 1a building or an enclosed class 10a building attached to a class 1a building; or   | 22<br>23<br>24<br>25 |
| (g)  | prohibiting the installation of a solar hot water system or photovoltaic cells on the roof or other external surface of a prescribed building.   | 26<br>27<br>28       |
| ‘(2) | For a prohibition or requirement mentioned in subsection (1)(a) to (d), the relevant instrument has no force or effect to the extent of the prohibition or requirement.                            | 29<br>30<br>31       |
| ‘(3) | For a requirement or prohibition mentioned in subsection (1)(e) to (g), the relevant instrument has no force or effect to  | 32<br>33             |

the extent the prohibition applies merely to enhance or  
preserve the external appearance of the building.

*Example of prohibition applying for other than a purpose mentioned in  
subsection (3)—*

The installation of a solar hot water system with a roof storage tank on a  
roof might be prohibited because an engineering report shows the  
system would be too heavy for the roof.

**'246P Restrictions that have no force or effect—roof  
colours and windows**

(1) This section applies to a relevant instrument that, but for this  
section, would have the effect of—

(a) restricting the use of a colour for the roof of a class 1a  
building or an enclosed class 10a building attached to a  
class 1a building, if using the colour would achieve a  
solar absorptance value for the upper surface of the roof  
of not more than 0.55; or

(b) restricting—

(i) the use in a prescribed building of a window that is  
energy efficient; or

(ii) the treatment of a window in a prescribed building  
to ensure the window is energy efficient.

(2) For a restriction mentioned in subsection (1), the relevant  
instrument has no force or effect to the extent the restriction  
prevents a person—

(a) using a colour for the roof of the building to achieve a  
solar absorptance value for the upper surface of the roof  
of not more than 0.55, if use of the colour—

(i) minimises potential adverse effects on the external  
appearance of the building; and

(ii) does not unreasonably prevent or interfere with a  
person's use and enjoyment of the building or  
another building; or

[s 29]

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|              |  |                      |
|--------------|--|----------------------|
| (b)          | using in a prescribed building a window that is energy efficient or treating a window in a prescribed building to ensure the window is energy efficient, if the type of window to be used or the treatment—                              | 1<br>2<br>3<br>4     |
| (i)          | minimises potential adverse effects on the external appearance of the building; and  | 5<br>6               |
| (ii)         | does not unreasonably prevent or interfere with a person’s use and enjoyment of the building or another building.  | 7<br>8<br>9          |
| <b>‘246Q</b> | <b>Restrictions that have no force or effect—other restrictions</b>  | 10<br>11             |
| ‘(1)         | This section applies to a relevant instrument that, but for this section, would have the effect of—  | 12<br>13             |
| (a)          | restricting a person from occupying a class 1a building before particular landscaping, fencing, driveways or similar work associated with the construction of the building is completed; or  | 14<br>15<br>16<br>17 |
| (b)          | restricting the use of a specific material or type of surface finish for the roof or external walls of a class 1a building or an enclosed class 10a building attached to a class 1a building; or   | 18<br>19<br>20<br>21 |
| (c)          | restricting the location on the roof or other external surface of a prescribed building where a solar hot water system or photovoltaic cells may be installed.   | 22<br>23<br>24       |
| ‘(2)         | For a restriction mentioned in subsection (1)(a) or (b), the relevant instrument has no force or effect to the extent the restriction applies merely for the purpose of preserving or enhancing the external appearance of the building. | 25<br>26<br>27<br>28 |
| ‘(3)         | For a restriction mentioned in subsection (1)(c), the relevant instrument has no force or effect to the extent the restriction—  | 29<br>30             |
| (a)          | applies merely to enhance or preserve the external appearance of the building; and   | 31<br>32             |

- 
- (b) prevents a person from installing a solar hot water system or photovoltaic cells on the roof or other external surface of the building. 1  
2  
3
- Example of restriction applying for other than a purpose mentioned in subsection (3)—* 4  
5
- The installation of a solar hot water system at a particular location on a roof may be restricted to maximise available space for the installation of other hot water systems or to prevent noise from piping associated with the system causing unreasonable interference with a person's use or enjoyment of the building. 6  
7  
8  
9  
10

**'246R When requirement to obtain consent for particular activities can not be withheld—roof colours and windows** 11  
12  
13

- '(1) This section applies if, under a relevant instrument, the consent of an entity is required to— 14  
15
- (a) use a colour for the roof of a class 1a building or an enclosed class 10a building attached to a class 1a building; or 16  
17  
18
- (b) use in a prescribed building a window that is energy efficient or treat a window in a prescribed building to ensure the window is energy efficient. 19  
20  
21
- '(2) The entity can not withhold consent for an activity mentioned in subsection (1)(a) if use of the colour— 22  
23
- (a) achieves a solar absorptance value for the upper surface of the roof of not more than 0.55; and 24  
25
- (b) minimises potential adverse effects on the external appearance of the building; and 26  
27
- (c) does not unreasonably prevent or interfere with a person's use and enjoyment of the building or another building. 28  
29  
30
- '(3) The entity can not withhold consent for an activity mentioned in subsection (1)(b) if the type of window to be used or the treatment— 31  
32  
33

[s 29]

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- (a) minimises potential adverse effects on the external appearance of the building; and 1  
2
- (b) does not unreasonably prevent or interfere with a person's use and enjoyment of the building or another building. 3  
4  
5
- '(4) A requirement under this section to not withhold consent— 6
  - (a) is taken to be a requirement under the relevant instrument; and 7  
8
  - (b) applies to the relevant instrument despite any other provision of the instrument. 9  
10
- '246S When requirement to obtain consent for particular activities can not be withheld—other matters 11  
12**
- '(1) This section applies if, under a relevant instrument, the consent of an entity is required to— 13  
14
  - (a) occupy a class 1a building before particular landscaping, fencing, driveways or similar work associated with the construction of the building is completed; or 15  
16  
17
  - (b) use a specific material or type of surface finish for the roof or external walls of a class 1a building or an enclosed class 10a building attached to a class 1a building; or 18  
19  
20  
21
  - (c) install a solar hot water system or photovoltaic cells on the roof or other external surface of a prescribed building. 22  
23  
24
- '(2) The entity can not withhold consent for an activity mentioned in subsection (1)(a) or (b) merely to enhance or preserve the external appearance of the building. 25  
26  
27
- '(3) The entity can not withhold consent for an activity mentioned in subsection (1)(c) merely to enhance or preserve the external appearance of the building, if withholding the consent prevents a person from installing a solar hot water system or photovoltaic cells on the roof or other external surface of the building. 28  
29  
30  
31  
32  
33



- 
- ‘(4) A requirement under this section to not withhold consent— 1
- (a) is taken to be a requirement under the relevant 2  
instrument; and 3
  - (b) applies to the relevant instrument despite any other 4  
provision of the instrument. 5

**‘Division 3                      Miscellaneous provisions                      6**

**‘246T Particular limitation on operation of pt 2                      7**

- ‘(1) This section applies if, under this part and in relation to the 8  
installation of a solar hot water system or photovoltaic cells 9  
on the roof or other external surface of a prescribed 10  
building— 11
- (a) a provision of a relevant instrument has no force or 12  
effect; or 13
  - (b) an entity can not withhold consent for the installation. 14
- ‘(2) The operation of this part does not give rise to any entitlement 15  
to install a solar hot water system or photovoltaic cells on the 16  
roof or other external surface of the building in a way that 17  
unreasonably prevents or interferes with a person’s use and 18  
enjoyment of any part of the building. 19

**‘246U No compensation payable                      20**

‘To remove any doubt, it is declared that no compensation is 21  
payable by the State or another person for any loss or expense 22  
arising out of the operation of this part or its effect on a 23  
relevant instrument. 24

[s 29]

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|                    |   |                  |
|--------------------|---|------------------|
| <b>‘Chapter 8B</b> | <b>Transport noise corridors</b>  | 1                |
| <b>‘Part 1</b>     | <b>Preliminary</b>  | 2                |
| <b>‘246V</b>       | <b>Purpose of ch 8B</b>   | 3                |
|                    | ‘The purpose of this chapter is to provide for the designation of land as a transport noise corridor for building assessment provisions expressed to apply specifically for the reduction of noise in class 1, 2, 3 or 4 buildings. | 4<br>5<br>6<br>7 |
| <b>‘246W</b>       | <b>Definitions for ch 8B</b>  | 8                |
|                    | ‘In this chapter—   | 9                |
|                    | <i>railway land</i> means rail corridor land, commercial corridor land or future railway land under the Transport Infrastructure Act, schedule 6.   | 10<br>11<br>12   |
|                    | <i>road</i> , for a road under the control of a local government, means any part of the surface of the road on which motor vehicles ordinarily travel.  | 13<br>14<br>15   |
|                    | <i>State-controlled road</i> means a road or land, or part of a road or land, declared under the Transport Infrastructure Act, section 24 to be a State-controlled road.  | 16<br>17<br>18   |
|                    | <i>transport chief executive</i> means the chief executive of the department in which the Transport Infrastructure Act is administered.   | 19<br>20<br>21   |
|                    | <i>Transport Infrastructure Act</i> means the <i>Transport Infrastructure Act 1994</i> .  | 22<br>23         |
|                    | <i>transport noise corridor</i> means land designated under this chapter as a transport noise corridor.   | 24<br>25         |

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|                |  |                            |
|----------------|--|----------------------------|
| <b>‘Part 2</b> | <b>Designation by local governments</b>  | 1<br>2                     |
| <b>‘246X</b>   | <b>Designation of transport noise corridor—local governments</b>   | 3<br>4                     |
| ‘(1)           | A local government may, by gazette notice, designate land as a transport noise corridor.   | 5<br>6                     |
| ‘(2)           | A local government may designate land under subsection (1) only if—  | 7<br>8                     |
| (a)            | the land is within—  | 9                          |
| (i)            | 100m of a road under its control; or   | 10                         |
| (ii)           | a distance of more than 100m but not more than 200m of a road under its control, if the noise level caused by traffic on the road at the distance has been measured, in a way approved by the chief executive, to be at least 58db(A); and | 11<br>12<br>13<br>14<br>15 |
| (b)            | the road has an AADT of at least 3000 vehicles.  | 16                         |
| ‘(3)           | At least 20 business days before acting under subsection (1), the local government must give the chief executive written notice about the proposed designation.  | 17<br>18<br>19             |
| ‘(4)           | The notice must—   | 20                         |
| (a)            | identify the land that is proposed to be designated; and   | 21                         |
| (b)            | include information reasonably required by the chief executive about the likely levels of noise within the proposed transport noise corridor caused by traffic on the road for which the designation is proposed; and                      | 22<br>23<br>24<br>25       |
| (c)            | state the proposed gazettal day for the designation.   | 26                         |
| ‘(5)           | The information mentioned in subsection (4)(b) must be given in the form required by the chief executive.  | 27<br>28                   |
| ‘(6)           | If the local government designates land under this section, the land must be—  | 29<br>30                   |
| (a)            | identified specifically in the gazette notice; or  | 31                         |

[s 29]

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|       |   |                  |
|-------|---|------------------|
| (b)   | identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available for inspection at an office of the local government mentioned in the gazette notice. | 1<br>2<br>3<br>4 |
| ‘(7)  | In this section—  | 5                |
|       | <i>AADT</i> , for a road, means its annual average daily traffic rate worked out by using the following formula—  | 6<br>7           |
|       | $AADT = \frac{V}{365}$  |                  |
|       | where—  | 8                |
|       | <i>AADT</i> is the annual average daily traffic rate.   | 9                |
|       | <i>V</i> is the total volume of vehicular traffic for the road in a year, worked out under a relevant guideline for measuring traffic volume published by Austroads.  | 10<br>11<br>12   |
| ‘246Y | <b>Notification about designation of transport noise corridor</b>   | 13<br>14         |
| ‘(1)  | As soon as practicable after designating land as a transport noise corridor, the local government must—   | 15<br>16         |
| (a)   | give notice of the designation to the chief executive; and  | 17               |
| (b)   | include a record of the transport noise corridor in its planning scheme.  | 18<br>19         |
| ‘(2)  | The record must—  | 20               |
| (a)   | identify the land that is within the transport noise corridor; and  | 21<br>22         |
| (b)   | include details about the levels of noise within the corridor caused by traffic on the road for which it is designated; and   | 23<br>24<br>25   |
| (c)   | state that interested persons may obtain details about the transport noise corridor and the levels of noise from the local government.  | 26<br>27<br>28   |



[s 30]

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|   |                      |
|---|----------------------|
| <b>‘246ZA Notification about designation of transport noise corridor</b>  | 1                    |
|   | 2                    |
| ‘(1) As soon as practicable after designating land as a transport noise corridor, the transport chief executive must give notice of the designation to—   | 3<br>4<br>5          |
| (a) the chief executive of the department in which this Act is administered; and  | 6<br>7               |
| (b) the local government in whose area the transport noise corridor is situated.  | 8<br>9               |
| ‘(2) The notice must include information about the levels of noise within the corridor caused by rolling stock or traffic on the railway land or State-controlled road for which it is designated.  | 10<br>11<br>12<br>13 |
| ‘(3) As soon as practicable after receiving the notice, the local government must include a record of the transport noise corridor in its planning scheme.  | 14<br>15<br>16       |
| ‘(4) The record must—   | 17                   |
| (a) identify the land that is within the transport noise corridor; and  | 18<br>19             |
| (b) include details about the levels of noise within the corridor caused by rolling stock or traffic on the railway land or State-controlled road for which it is designated; and   | 20<br>21<br>22<br>23 |
| (c) state that interested persons may obtain details about the transport noise corridor and the levels of noise from the local government.  | 24<br>25<br>26       |
| ‘(5) Information required to be included in the record must be included in a way that readily allows an applicant for a building development approval to identify whether land the subject of the approval is within a transport noise corridor.’ | 27<br>28<br>29<br>30 |
| <b>Clause 30 Amendment of s 258 (Guidelines)</b>  | 31                   |
| Section 258—  | 32                   |
| <i>insert—</i>  | 33                   |

- 
- ‘(2) Without limiting subsection (1), the chief executive may make a guideline to help persons to prepare a sustainability declaration under chapter 8A, part 1, division 2.’.

- Clause 31      Amendment of s 260 (Evidentiary aids)**
- Section 260(2)—  
*omit, insert—*
- ‘(2) A certificate purporting to be signed by the general manager of BSA stating any of the following matters is evidence of the matter—
- (a) a stated document is a copy of, or an extract from or part of—
    - (i) a licence; or
    - (ii) the register; or
    - (iii) another document kept or made under chapter 6, part 2, 3 or 4;
  - (b) on a stated day, or during a stated period, a licence—
    - (i) was, or was not, in force; or
    - (ii) was, or was not, subject to a stated condition; or
    - (iii) was, or was not, cancelled or suspended.
- ‘(3) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
- (a) a stated document is a copy of, or an extract from or part of—
    - (i) the BCA; or
    - (ii) the QDC; or
    - (iii) a document kept or made under this Act, other than a document kept or made under chapter 6, part 2, 3 or 4;

[s 32]

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- (b) an edition of the BCA was the current edition of the BCA at a stated time or during a stated period; 1  
2
- (c) a particular version of the QDC was in force at a stated time or during a stated period; 3  
4
- (d) a particular part of the QDC was in force at a stated time or during a stated period.’ 5  
6

|                  |   |                      |
|------------------|---|----------------------|
| <b>Clause 32</b> | <b>Insertion of new ch 11, pt 8</b>   | 7                    |
|                  | Chapter 11—   | 8                    |
|                  | <i>insert—</i>  | 9                    |
| <b>‘Part 8</b>   | <b>Transitional provisions for<br/>Building and Other Legislation<br/>Amendment Act 2009</b>  | 10<br>11<br>12       |
| <b>‘286</b>      | <b>Continuing application of s 154</b>  | 13                   |
|                  | ‘(1) This section applies to a relevant person who does not have at least 1 years experience as a building surveying technician employed by a local government or under the supervision of a private certifier. | 14<br>15<br>16<br>17 |
|                  | ‘(2) Section 154 as in force immediately before 1 January 2010 continues to apply to the relevant person—   | 18<br>19             |
|                  | (a) while the person is licensed as a building surveying technician; and  | 20<br>21             |
|                  | (b) until the person has the experience mentioned in subsection (1).  | 22<br>23             |
|                  | ‘(3) In this section—   | 24                   |
|                  | <i>relevant person</i> means a person—  | 25                   |
|                  | (a) licensed as a building surveying technician immediately before 1 January 2010; or   | 26<br>27             |



- 
- (b) issued with a licence or a renewed licence on a decision  
for an application mentioned in section 287(1). 1  
2

*Note—* 3

This section commenced on 1 January 2010. 4

**‘287 Continuing application of s 155 5**

‘(1) This section applies to a following application made but not  
decided before 1 January 2010— 6  
7

(a) an application under section 155 for a licence at the  
level of building surveying technician; 8  
9

(b) an application under section 167 for renewal of a licence  
at the level of building surveying technician. 10  
11

‘(2) For considering and deciding the application, section 155 as in  
force immediately before 1 January 2010 continues to apply.’. 12  
13

**Clause 33 Replacement of sch 1 (The QDC on 26 February 2008) 14**

Schedule 1— 15

*omit, insert—* 16

[s 33]

## 'Schedule 1 The QDC on 26 October 2009

1

section 13

2

| Part                                       | Description  | Former part reference |
|--|--|-----------------------|
| <b>Siting and amenity—detached housing</b> |  |                       |
| MP 1.1                                     | Design and siting standard for single detached housing on lots under 450m <sup>2</sup> , but only— <ul style="list-style-type: none"> <li>(a) the headings 'application' and 'commencement' and the words under those headings; and</li> <li>(b) performance criteria 1, 2, 3 and 6; and</li> <li>(c) the relevant acceptable solutions for the performance criteria; and</li> <li>(d) definitions relevant to the provisions mentioned in paragraphs (a) to (c).</li> </ul>   | 11                    |
| MP 1.2                                     | Design and siting standard for single detached housing on lots 450m <sup>2</sup> and over, but only— <ul style="list-style-type: none"> <li>(a) the headings 'application' and 'commencement' and the words under those headings; and</li> <li>(b) performance criteria 1, 2, 3 and 6; and</li> <li>(c) the relevant acceptable solutions for the performance criteria; and</li> <li>(d) definitions relevant to the provisions mentioned in paragraphs (a) to (c).</li> </ul> | 12                    |
| <b>Fire safety</b>                         |  |                       |
| MP 2.1                                     | Fire safety in budget accommodation buildings  | 14                    |
| MP 2.2                                     | Fire safety in residential care buildings  | 14.1                  |
| MP 2.4                                     | Buildings in bushfire-prone areas  | —                     |

| Part                                      | Description                                    | Former part reference |
|---|--|-----------------------|
| <b>Special buildings and structures</b>   |  |                       |
| MP 3.1                                    | Floating buildings                             | 31                    |
| MP 3.2                                    | Tents  | 28                    |
| <b>Building sustainability</b>            |  |                       |
| MP 4.1                                    | Sustainable buildings                          | 29                    |
| MP 4.2                                    | Water savings targets                          | 25                    |
| MP 4.3                                    | Alternative water sources—commercial buildings | —                     |
| <b>General health, safety and amenity</b> |  |                       |
| MP 5.1                                    | Workplaces                                     | 1                     |
| MP 5.2                                    | Higher risk personal appearance services       | 15                    |
| MP 5.3                                    | Retail meat premises                           | 4                     |
| MP 5.4                                    | Child care centres                             | 22                    |
| MP 5.5                                    | Private health facilities                      | 7                     |
| MP 5.6                                    | Pastoral workers' accommodation                | 21                    |
| MP 5.7                                    | Residential services building standard         | 20                    |
| MP 5.8                                    | Workplaces involving spray painting            | 2                     |
| <b>Maintenance of buildings</b>           |  |                       |
| MP 6.1                                    | Maintenance of fire safety installations       | — <sup>1</sup> .      |

**Clause 34 Amendment of sch 2 (Dictionary)**

(1) Schedule 2, definition *BCA classification change*—  
*omit.*

(2) Schedule 2—

1  
2  
3  
4

[s 34]

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|   |          |
|---|----------|
| <i>insert—</i>  | 1        |
| <i>‘bathroom</i> , for chapter 8A, part 2, see section 246M.                          | 2        |
| <i>BCA classification or use change</i> see section 109.                              | 3        |
| <i>current sustainability declaration</i> , for chapter 8A, part 1, see section 246A. | 4<br>5   |
| <i>energy efficient</i> , for chapter 8A, part 2, see section 246M.                   | 6        |
| <i>prescribed building</i> , for chapter 8A, part 2, see section 246M.                | 7        |
| <i>publish</i> , for chapter 8A, part 1, see section 246A.                            | 8        |
| <i>railway land</i> , for chapter 8B, see section 246W.                               | 9        |
| <i>relevant advertisement</i> , for chapter 8A, part 1, see section 246A.             | 10<br>11 |
| <i>relevant instrument</i> , for chapter 8A, part 2, see section 246M.                | 12       |
| <i>road</i> , for chapter 8B, see section 246W.                                       | 13       |
| <i>seller</i> , for chapter 8A, part 1, see section 246A.                             | 14       |
| <i>solar hot water system</i> , for chapter 8A, part 2, see section 246M.             | 15<br>16 |
| <i>State-controlled road</i> , for chapter 8B, see section 246W.                      | 17       |
| <i>sustainability declaration</i> see section 246A.                                   | 18       |
| <i>transport chief executive</i> , for chapter 8B, see section 246W.                  | 19       |
| <i>Transport Infrastructure Act</i> , for chapter 8B, see section 246W.               | 20<br>21 |
| <i>transport noise corridor</i> see section 246W.                                     | 22       |
| <i>treat</i> , for chapter 8A, part 2, see section 246M.’.                            | 23       |
| (3) Schedule 2, definition <i>building</i> , ‘and is roofed’—                         | 24       |
| <i>omit, insert—</i>  | 25       |
| ‘or is roofed’.   | 26       |
| (4) Schedule 2, definition <i>self-assessable building work</i> , ‘section 21(2)’—    | 27<br>28 |

---

*omit, insert—* 1  
'section 21(3)'. 2

**Part 3** **Amendment of Animal** 3  
**Management (Cats and Dogs)** 4  
**Act 2008** 5

**Clause 35** **Act amended** 6  
This part amends the *Animal Management (Cats and Dogs)* 7  
*Act 2008*. 8

**Clause 36** **Amendment of long title** 9  
Long title, from 'and to amend'— 10  
*omit*. 11

**Clause 37** **Amendment of s 3 (Purposes of Act)** 12  
Section 3(c), 'cat'— 13  
*omit, insert—* 14  
'cats'. 15

**Clause 38** **Amendment of s 4 (How purposes are to be primarily achieved)** 16  
Section 4(g), services services'— 17  
*omit, insert—* 18  
'services'. 19  
20

[s 39]

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|                  |   |                      |
|------------------|---|----------------------|
| <b>Clause 39</b> | <b>Amendment of s 13 (Supplier must ensure cat or dog is implanted)</b>   | 1<br>2               |
|                  | Section 13(1), note—  | 3                    |
|                  | <i>omit, insert—</i>  | 4                    |
|                  | <i>Note—</i>  | 5                    |
|                  | For requirements about implanting a PPID in a cat or dog that is less than 8 weeks old, see section 24 (Age restriction for implanting PPID).’.   | 6<br>7               |
| <b>Clause 40</b> | <b>Amendment of s 24 (Minimum age for cat or dog to be implanted)</b>   | 8<br>9               |
|                  | (1) Section 24, heading—  | 10                   |
|                  | <i>omit, insert—</i>  | 11                   |
| <b>‘24</b>       | <b>Age restriction for implanting PPID’.</b>  | 12                   |
|                  | (2) Section 24(1)—  | 13                   |
|                  | <i>omit, insert—</i>  | 14                   |
|                  | ‘(1) An authorised implanter must not implant a PPID in a cat or dog that is less than 8 weeks old, unless—   | 15<br>16             |
|                  | (a) the implanter has a reasonable excuse; or   | 17                   |
|                  | (b) the implanter is a veterinary surgeon who considers implanting the PPID is not likely to be a serious risk to the health of the cat or dog; or  | 18<br>19<br>20       |
|                  | (c) there is a signed veterinary surgeon’s certificate for the cat or dog stating that implanting the PPID when it is less than 8 weeks old is not likely to be a serious risk to the health of the cat or dog. | 21<br>22<br>23<br>24 |
|                  | Maximum penalty—60 penalty units.’.   | 25                   |
| <b>Clause 41</b> | <b>Amendment of s 34 (PID must not be removed or otherwise interfered with)</b>   | 26<br>27             |
|                  | Section 34(2), definition <i>interfere with</i> , ‘it a way’—   | 28                   |
|                  | <i>omit, insert—</i>  | 29                   |
|                  | ‘it in a way’.  | 30                   |

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|                  |   |    |
|------------------|---|----|
| <b>Clause 42</b> | <b>Amendment of s 90 (Notice of proposed declaration)</b> | 1  |
|                  | Section 90(1), ‘dog notice’—                              | 2  |
|                  | <i>omit, insert—</i>                                      | 3  |
|                  | ‘dog a notice’.   | 4  |
| <b>Clause 43</b> | <b>Amendment of s 97 (Declared dangerous dogs)</b>        | 5  |
|                  | Section 97(1), after ‘2 to 6’—                            | 6  |
|                  | <i>insert—</i>  | 7  |
|                  | ‘and 8’.  | 8  |
| <b>Clause 44</b> | <b>Amendment of s 98 (Declared menacing dogs)</b>         | 9  |
|                  | Section 98(1), ‘and 4 to 6’—                              | 10 |
|                  | <i>omit, insert—</i>                                      | 11 |
|                  | ‘, 4 to 6 and 8’.   | 12 |
| <b>Clause 45</b> | <b>Insertion of new ch 10, pt 1 hdg</b>                   | 13 |
|                  | Chapter 10, before section 211—                           | 14 |
|                  | <i>insert—</i>  | 15 |
|                  | <b>‘Part 1</b>  | 16 |
|                  | <b>Transitional provisions for Act</b>                    | 17 |
|                  | <b>No. 74 of 2008’.</b>                                   |    |
| <b>Clause 46</b> | <b>Insertion of new ch 10, pt 2</b>                       | 18 |
|                  | Chapter 10—   | 19 |
|                  | <i>insert—</i>  | 20 |

[s 47]

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|                  |   |                      |
|------------------|---|----------------------|
| <b>‘Part 2</b>   | <b>Transitional provision for</b>   | 1                    |
|                  | <b>Building and Other Legislation</b>   | 2                    |
|                  | <b>Amendment Act 2009</b>   | 3                    |
| <b>‘222</b>      | <b>Provision about offences under s 24</b>  | 4                    |
| ‘(1)             | A proceeding can not be started for an offence under pre-amended section 24(1) if the circumstances giving rise to the commission of the offence—                             | 5<br>6<br>7          |
| (a)              | would not, if the circumstances happened after the commencement of this section, give rise to the commission of an offence under post-amended section 24(1); or               | 8<br>9<br>10<br>11   |
| (b)              | involve an authorised implanter to which, if the circumstances happened after the commencement of this section, post-amended section 24(1), paragraph (c) could have applied. | 12<br>13<br>14<br>15 |
| ‘(2)             | In this section—  | 16                   |
|                  | <i>amending Act</i> means the <i>Building and Other Legislation Amendment Act 2009</i> .  | 17<br>18             |
|                  | <i>post-amended section 24(1)</i> means section 24(1) as replaced under the amending Act, section 40.   | 19<br>20             |
|                  | <i>pre-amended section 24(1)</i> means section 24(1) as in force immediately before the amending Act, section 40 commences.’.   | 21<br>22<br>23       |
| <b>Clause 47</b> | <b>Amendment of sch 1 (Permit conditions and conditions applying to declared dangerous and menacing dogs)</b>   | 24<br>25             |
|                  | Schedule 1, section 3(3), definition <i>relevant dog</i> , paragraph (a), after ‘menacing dog’—   | 26<br>27             |
|                  | <i>insert—</i>  | 28                   |
|                  | ‘or a dog the subject of a proposed declaration notice for a menacing dog declaration’.   | 29<br>30             |



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|                  |  |                            |
|------------------|--|----------------------------|
| <b>Part 4</b>    | <b>Amendment of Body Corporate and Community Management Act 1997</b>   | 1<br>2<br>3                |
| <b>Clause 48</b> | <b>Act amended</b>   | 4                          |
|                  | This part amends the <i>Body Corporate and Community Management Act 1997</i> .   | 5<br>6                     |
| <b>Clause 49</b> | <b>Amendment of s 66 (Requirements for community management statement)</b>   | 7<br>8                     |
|                  | Section 66—  | 9                          |
|                  | <i>insert—</i>   | 10                         |
|                  | ‘(3A) A community management statement must not include provisions adopting, under a regulation module, an architectural and landscape code or a provision of an architectural and landscape code that has no force or effect under the <i>Building Act 1975</i> , chapter 8A, part 2. | 11<br>12<br>13<br>14<br>15 |
|                  | <i>Editor’s note—</i>  | 16                         |
|                  | <i>Building Act 1975</i> , chapter 8A, part 2 (Provisions to support sustainable housing)’.  | 17<br>18                   |
| <b>Clause 50</b> | <b>Amendment of s 180 (Limitations for by-laws)</b>  | 19                         |
|                  | Section 180—   | 20                         |
|                  | <i>insert—</i>   | 21                         |
|                  | ‘(7) A by-law must not be oppressive or unreasonable, having regard to the interests of all owners and occupiers of lots included in the scheme and the use of the common property for the scheme.   | 22<br>23<br>24<br>25       |
|                  | ‘(8) A by-law must not include a provision that has no force or effect under the <i>Building Act 1975</i> , chapter 8A, part 2.  | 26<br>27                   |

[s 51]

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*Editor's note—*

*Building Act 1975*, chapter 8A, part 2 (Provisions to support sustainable housing)'. 1  
2  
3

**Clause 51 Amendment of sch 4 (By-laws)** 4

Schedule 4, section 8— 5

*insert—* 6

*Note—* 7

Under the *Building Act 1975*, sections 246R and 246S, a body corporate can not withhold consent for particular activities stated in the sections that might change the external appearance of a lot.'. 8  
9  
10

**Part 5 Amendment of Fire and Rescue Service Act 1990** 11  
12

**Clause 52 Act amended** 13

This part amends the *Fire and Rescue Service Act 1990*. 14

**Clause 53 Insertion of new ss 104SG–104SK** 15

After section 104SF— 16

*insert—* 17

**'104SG Assessors to help QCAT** 18

'(1) In conducting a proceeding that is a review of a notice given under section 69(2)(a) or part 9A or the terms of a notice, QCAT must be helped by the following chosen by the principal registrar from the list mentioned in section 104SI(3)— 19  
20  
21  
22  
23

(a) at least 1 assessor nominated under section 104SI(2)(b)(i); 24  
25

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|  |  |                      |
|--|--|----------------------|
| (b)  | at least 1 assessor nominated under section 104SI(2)(b)(ii);   | 1<br>2               |
| (c)  | if the notice is an occupancy notice or a decision notice under section 104KI—at least 1 assessor nominated under section 104SI(2)(b)(iii).                                    | 3<br>4<br>5          |
| ‘(2)   | A person chosen under subsection (1)(b) must have been nominated by the local government of the area in which the premises to which the notice relates are situated.           | 6<br>7<br>8          |
| ‘(3)   | For subsection (2)—  | 9                    |
| (a)  | if the local government is not the person seeking the review, the person nominated must be a person appointed to be a building certifier by the local government; and          | 10<br>11<br>12<br>13 |
| (b)  | if the local government is the person seeking the review, the person nominated must be a person appointed to be a building certifier by another local government.              | 14<br>15<br>16       |
| ‘(4)   | Subsection (2) does not apply to a review of a notice or the terms of a notice, given under section 69(2)(a), that relates to premises other than a building.                  | 17<br>18<br>19       |
| ‘(5)   | Despite subsection (1), a proceeding may be conducted without the help of assessors if the presiding member is satisfied it is necessary because of the urgency of the matter. | 20<br>21<br>22       |
| ‘(6)   | In this section—   | 23                   |
|  | <i>presiding member</i> see the QCAT Act, schedule 3.  | 24                   |
|  | <i>principal registrar</i> see the QCAT Act, schedule 3.   | 25                   |
|  | <i>proceeding</i> see the QCAT Act, schedule 3.  | 26                   |
| <b>‘104SH Function and powers of assessors</b> |  | 27                   |
| ‘(1)   | The function of an assessor is to help QCAT decide questions of fact in a proceeding.  | 28<br>29             |
| ‘(2)   | To enable an assessor to perform the assessor’s function, the assessor may, during a proceeding—   | 30<br>31             |
| (a)  | ask questions of a witness in the proceeding; and  | 32                   |

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[s 53]

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- (b) discuss a question of fact with a person appearing for a party in the proceeding. 1  
2

**‘104SI Appointment of assessors 3**

- ‘(1) The commissioner must, for each year, appoint persons as assessors for helping QCAT in proceedings mentioned in section 104SG(1). 4  
5  
6
- ‘(2) A person is qualified to be appointed as an assessor only if— 7
- (a) the commissioner is satisfied the person has the knowledge, expertise and experience relevant for helping QCAT in the proceedings; and 8  
9  
10
- (b) the person is nominated by— 11
- (i) the chief executive of the department in which the *Building Act 1975* is administered; or 12  
13
- (ii) a local government in the State; or 14
- (iii) the chief executive (liquor licensing). 15
- ‘(3) The commissioner must, at the beginning of each year, give the principal registrar a list of the persons appointed as assessors for the year. 16  
17  
18
- ‘(4) The list must state, for each person appointed— 19
- (a) the area in which the person has relevant knowledge, expertise and experience; and 20  
21
- (b) whether the person was nominated under subsection (2)(b)(i), (ii) or (iii). 22  
23

**‘104SJ Disqualification from appointment as assessor 24**

‘A person may not be appointed or continue as an assessor if the person is not qualified, or ceases to be qualified, under section 104SI(2). 25  
26  
27

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|                  |   |    |
|------------------|---|----|
|                  | <b>‘104SK QCAT may have regard to assessor’s view</b>                           | 1  |
|                  | ‘In deciding a question of fact in a proceeding, the member or                  | 2  |
|                  | members constituting QCAT may, to the extent the member or                      | 3  |
|                  | members consider appropriate, have regard to the views of an                    | 4  |
|                  | assessor helping QCAT.’.  | 5  |
| <b>Clause 54</b> | <b>Amendment of sch 6 (Dictionary)</b>  | 6  |
|                  | Schedule 6—   | 7  |
|                  | <i>insert</i> —   | 8  |
|                  | ‘ <i>assessor</i> means an assessor appointed under section 104SI.              | 9  |
|                  | <i>presiding member</i> see section 104SG.                                      | 10 |
|                  | <i>principal registrar</i> see section 104SG.                                   | 11 |
|                  | <i>proceeding</i> see section 104SG.’.  | 12 |
|                  | <br>  |    |
|                  | <b>Part 6</b>   | 13 |
|                  | <b>Amendment of Land Title Act</b>  | 14 |
|                  | <b>1994</b>   |    |
| <b>Clause 55</b> | <b>Act amended</b>  | 15 |
|                  | This part amends the <i>Land Title Act 1994</i> .                               | 16 |
| <b>Clause 56</b> | <b>Amendment of s 50 (Requirements for registration of plan of subdivision)</b> | 17 |
|                  | Section 50(2)(b), ‘local government concerned’—                                 | 18 |
|                  | <i>omit, insert</i> —   | 19 |
|                  | ‘relevant planning body’.   | 20 |
| <b>Clause 57</b> | <b>Insertion of new s 54DA</b>  | 21 |
|                  | After section 54D—  | 22 |
|                  |   | 23 |

[s 58]

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*insert—*

**‘54DA When building management statement taken not to be registered**

- ‘(1) A registered building management statement is taken not to be registered under this Act to the extent it includes a prohibition, requirement or restriction that, under the *Building Act 1975*, chapter 8A, part 2, has no force or effect.

*Editor’s note—*

*Building Act 1975*, chapter 8A, part 2 (Provisions to support sustainable housing)

- ‘(2) Subsection (1) has effect only for a building management statement registered after the commencement of this section.
- ‘(3) The registrar may refuse to register an instrument purporting to be a building management statement if the registrar is satisfied it includes a prohibition, requirement or restriction that, under the *Building Act 1975*, chapter 8A, part 2, has no force or effect.’.

**Part 7 Amendment of Mixed Use Development Act 1993**

- Clause 58 Act amended**  
This part amends the *Mixed Use Development Act 1993*.
- Clause 59 Amendment of s 3 (Definitions)**
- (1) Section 3, definition *chief executive—*  
*omit.*
- (2) Section 3, definition *chief executive (valuations)*, from ‘within’—  
*omit, insert—*



[s 64]

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|                  |  |    |
|------------------|--|----|
| <b>Clause 64</b> | <b>Amendment of s 9 (Membership of board)</b>                          | 1  |
|                  | (1) Section 9, before paragraph (a)—                                   | 2  |
|                  | <i>omit, insert—</i>   | 3  |
| <b>‘9</b>        | <b>Membership of council</b>   | 4  |
|                  | ‘(1) The council consists of members appointed by the Minister.        | 5  |
|                  | ‘(2) The Minister decides the number of members.                       | 6  |
|                  | ‘(3) However, the membership must consist of—’.                        | 7  |
|                  | (2) Section 9(3)(a), as amended under this section, ‘a                 | 8  |
|                  | representative’—   | 9  |
|                  | <i>omit, insert—</i>   | 10 |
|                  | ‘at least 1 representative’.   | 11 |
|                  | (3) Section 9(3)(a)(vi), as amended under this section,                | 12 |
|                  | ‘Branch;’—   | 13 |
|                  | <i>omit, insert—</i>   | 14 |
|                  | ‘Branch; and’.   | 15 |
| <b>Clause 65</b> | <b>Amendment of s 10 (Appointment of deputy members)</b>               | 16 |
|                  | (1) Section 10, ‘Governor in Council’—                                 | 17 |
|                  | <i>omit, insert—</i>   | 18 |
|                  | ‘Minister’.  | 19 |
|                  | (2) Section 10(1), ‘section 9(a)’—                                     | 20 |
|                  | <i>omit, insert—</i>   | 21 |
|                  | ‘section 9(3)(a)’.   | 22 |
| <b>Clause 66</b> | <b>Amendment of s 11 (Chairperson and deputy chairperson of board)</b> | 23 |
|                  | (1) Section 11, heading, ‘board’—                                      | 24 |
|                  | <i>omit, insert—</i>   | 25 |
|                  | ‘ <b>council</b> ’.  | 26 |
|                  |  | 27 |



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|                    |  |    |
|--------------------|--|----|
|                    | (2) Section 11(1), ‘board’s’—  | 1  |
|                    | <i>omit, insert</i> —  | 2  |
|                    | ‘council’s’.   | 3  |
|                    | (3) Section 11, ‘Governor in Council’—   | 4  |
|                    | <i>omit, insert</i> —  | 5  |
|                    | ‘Minister’.  | 6  |
| <b>Clause 67</b>   | <b>Amendment of s 17 (Remuneration of members)</b>                                   | 7  |
|                    | Section 17, ‘Governor in Council’—   | 8  |
|                    | <i>omit, insert</i> —  | 9  |
|                    | ‘Minister’.  | 10 |
| <b>Clause 68</b>   | <b>Amendment of s 26 (Remuneration of committee members)</b>                         | 11 |
|                    | Section 26, ‘Governor in Council’—   | 12 |
|                    | <i>omit, insert</i> —  | 13 |
|                    | ‘Minister’.  | 14 |
| <b>Clause 69</b>   | <b>Insertion of new pt 10, div 6</b>   | 15 |
|                    | Part 10—   | 16 |
|                    | <i>insert</i> —  | 17 |
| <b>‘Division 6</b> | <b>Transitional provisions for Building and Other Legislation Amendment Act 2009</b> | 18 |
|                    |  | 19 |
|                    |  | 20 |
|                    |  | 21 |
| <b>‘177</b>        | <b>Definitions for div 6</b>   | 22 |
|                    | ‘In this division—   | 23 |

[s 69]

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|  |                |
|--|----------------|
| <i>commencement</i> means the day the <i>Building and Other Legislation Amendment Act 2009</i> , section 63 commences.   | 1<br>2         |
| <i>former board</i> see section 178(1).  | 3              |
| <b>‘178 Dissolution of Plumbers and Drainers Board</b>   | 4              |
| ‘(1) On the commencement—  | 5              |
| (a) the Plumbers and Drainers Board (the <i>former board</i> ) ceases to exist; and  | 6<br>7         |
| (b) the following go out of office—  | 8              |
| (i) the former board’s members;  | 9              |
| (ii) the former board’s chairperson and deputy chairperson;  | 10<br>11       |
| (iii) a member of a committee of the former board.   | 12             |
| ‘(2) To remove any doubt, it is declared that subsection (1) does not prevent a person mentioned in subsection (1)(b) from being nominated for, or holding office with, the council. | 13<br>14<br>15 |
| ‘(3) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State for or in connection with the enactment or operation of subsection (1).          | 16<br>17<br>18 |
| <b>‘179 Registrar and officers of former board</b>   | 19             |
| ‘On the commencement—  | 20             |
| (a) the former board’s registrar immediately before the commencement becomes the council’s registrar; and  | 21<br>22       |
| (b) another officer of the former board becomes an officer of the council in the same position as their former office with the board.  | 23<br>24<br>25 |
| <b>‘180 References to former board</b>   | 26             |
| ‘In an Act or document a reference to the former board may, if the context permits, be taken as a reference to the council.  | 27<br>28       |

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|                  |   |                      |
|------------------|---|----------------------|
| <b>‘181</b>      | <b>Legal proceedings</b>  | 1                    |
| ‘(1)             | A proceeding that has been started or could have been started or continued by or against the former board before the commencement may be started or continued by or against the council.                    | 2<br>3<br>4<br>5     |
| ‘(2)             | In this section—  | 6                    |
|                  | <i>proceeding</i> includes a referral under section 70A to QCAT.  | 7                    |
| <b>‘182</b>      | <b>Migration of undecided applications</b>  | 8                    |
|                  | ‘If, immediately before the commencement, an application had been made to the former board but not decided, the application is taken to have been made to the council when it was made to the former board. | 9<br>10<br>11<br>12  |
| <b>‘183</b>      | <b>Migration of former board’s matters</b>  | 13                   |
|                  | ‘On the commencement, the following made by the former board in force immediately before the commencement are taken to have been made by the council when the former board made them—                       | 14<br>15<br>16<br>17 |
|                  | (a) a decision;   | 18                   |
|                  | (b) a licence or other document;  | 19                   |
|                  | (c) a referral under section 70A to QCAT.’.   | 20                   |
| <b>Clause 70</b> | <b>Amendment of schedule (Dictionary)</b>   | 21                   |
| (1)              | Schedule, definition <i>board</i> —   | 22                   |
|                  | <i>omit, insert</i> —   | 23                   |
|                  | ‘ <i>council</i> means the Plumbing Industry Council established under section 5.’.   | 24<br>25             |
| (2)              | Schedule, definitions <i>chairperson, deputy chairperson, information notice, member</i> and <i>review period</i> , ‘board’—  | 26<br>27             |
|                  | <i>omit, insert</i> —   | 28                   |

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[s 71]

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|  |             |
|--|-------------|
| ‘council’.   | 1           |
| (3) Schedule, definitions <i>foreign licensing authority</i> , paragraph (b) and <i>interstate or the New Zealand licensing authority</i> , ‘board’s’— | 2<br>3<br>4 |
| <i>omit, insert</i> —  | 5           |
| ‘council’s’.   | 6           |

|               |  |        |
|---------------|--|--------|
| <b>Part 9</b> | <b>Amendment of Property Agents and Motor Dealers Act 2000</b> | 7<br>8 |
|---------------|--|--------|

|                  |   |                      |
|------------------|---|----------------------|
| <b>Clause 71</b> | <b>Act amended</b>  | 9                    |
|                  | This part amends the <i>Property Agents and Motor Dealers Act 2000</i> .  | 10<br>11             |
| <b>Clause 72</b> | <b>Amendment of s 363 (Purposes of ch 11)</b>   | 12                   |
|                  | Section 363—  | 13                   |
|                  | <i>insert</i> —   | 14                   |
|                  | ‘(d) to impose obligations on seller’s agents, under part 5, about the advertising and availability of information on sustainable housing measures for the sale of particular residential property.’. | 15<br>16<br>17<br>18 |
| <b>Clause 73</b> | <b>Insertion of new ch 11, pt 5</b>   | 19                   |
|                  | Chapter 11—   | 20                   |
|                  | <i>insert</i> —   | 21                   |

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|                    |  |    |
|--------------------|--|----|
| <b>‘Part 5</b>     | <b>Advertising sale of particular properties—sustainability declarations</b>   | 1  |
|                    |  | 2  |
|                    |  | 3  |
| <b>‘Division 1</b> | <b>Preliminary</b>   | 4  |
| <b>‘373A</b>       | <b>Definitions for pt 5</b>  | 5  |
|                    | ‘In this part—   | 6  |
|                    | <i>Building Act</i> means the Building Act 1975.   | 7  |
|                    | <i>current sustainability declaration</i> , for a residential dwelling, means the current sustainability declaration for the dwelling under the Building Act, chapter 8A, part 1.                          | 8  |
|                    |  | 9  |
|                    |  | 10 |
|                    | <i>publish</i> includes—   | 11 |
|                    | (a) publish on the internet; and   | 12 |
|                    | (b) cause to be published.   | 13 |
|                    | <i>relevant advertisement</i> means an advertisement in any form or medium, other than—  | 14 |
|                    |  | 15 |
|                    | (a) an advertisement published in a newspaper or magazine; or  | 16 |
|                    |  | 17 |
|                    | (b) a sign advertising the sale of a residential dwelling, if the sign was not prepared specifically to advertise the sale of the particular dwelling.   | 18 |
|                    |  | 19 |
|                    |  | 20 |
|                    | <i>residential dwelling</i> means a class 1a building or class 2 building under the Building Act for which a sustainability declaration must be prepared under chapter 8A, part 1, division 2 of that Act. | 21 |
|                    |  | 22 |
|                    |  | 23 |
|                    |  | 24 |
|                    | <i>Examples of a class 1a building—</i>  | 25 |
|                    | detached house, terrace house and town house   | 26 |

[s 73]

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|   |                            |
|---|----------------------------|
| <i>Example of a class 2 building—</i>   | 1                          |
| a building containing 2 or more sole-occupancy units that are separate dwellings  | 2<br>3                     |
| <i>seller's agent</i> see section 373B(1).  | 4                          |
| <b>'Division 2</b>  |                            |
| <b>Requirements about advertising sale, and inspection, of residential dwellings</b>  | 5<br>6<br>7                |
| <b>'373B Application of div 2</b>   | 8                          |
| '(1) This division applies to an entity (the <i>seller's agent</i> ) appointed to sell a residential dwelling under a written agreement under this Act by the person authorising the sale of the dwelling.  | 9<br>10<br>11<br>12        |
| '(2) However, this division applies to the seller's agent only until the earlier of the following days to happen—   | 13<br>14                   |
| (a) the day the dwelling is sold;   | 15                         |
| (b) the day the dwelling is withdrawn from sale.  | 16                         |
| <b>'373C Requirements about advertising sale of residential dwelling</b>  | 17<br>18                   |
| '(1) The seller's agent must not publish a relevant advertisement for the sale of the residential dwelling unless the advertisement includes information about where a person may obtain a copy of the current sustainability declaration for the dwelling. | 19<br>20<br>21<br>22<br>23 |
| Maximum penalty—100 penalty units.  | 24                         |
| <i>Example—</i>   | 25                         |
| An advertisement published on the internet might include a link to a website at which a person may obtain a copy of the declaration.  | 26<br>27                   |
| '(2) The seller's agent must not give a person a document advertising the sale of the residential dwelling unless—  | 28<br>29                   |

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|              |   |                            |
|--------------|---|----------------------------|
| (a)          | the person has a copy of the current sustainability declaration for the dwelling; or  | 1<br>2                     |
| (b)          | a copy of the declaration accompanies the document.   | 3                          |
|              | Maximum penalty—100 penalty units.  | 4                          |
| ‘(3)         | Subsection (2) does not apply to the seller’s agent if the document is given to the person at—  | 5<br>6                     |
| (a)          | the residential dwelling; and   | 7                          |
| (b)          | a time it is generally open to the public for inspection by potential buyers of the dwelling.   | 8<br>9                     |
| <b>‘373D</b> | <b>Requirements about inspection of residential dwelling</b>  | 10<br>11                   |
| ‘(1)         | At any time the residential dwelling is generally open to the public for inspection by potential buyers of the dwelling, the seller’s agent must ensure a copy of the current sustainability declaration for the dwelling is conspicuously displayed so anyone entering the dwelling can easily read the declaration. | 12<br>13<br>14<br>15<br>16 |
|              | Maximum penalty—100 penalty units.  | 17                         |
| ‘(2)         | If a person enters the residential dwelling to inspect it as a potential buyer of the dwelling, other than at a time mentioned in subsection (1), the seller’s agent must ensure—   | 18<br>19<br>20             |
| (a)          | the person has a copy of the current sustainability declaration before the person enters the dwelling; or   | 21<br>22                   |
| (b)          | a copy of the declaration is readily available for inspection by the person before the person enters the dwelling and the person is advised by the seller’s agent that a copy is available for inspection; or   | 23<br>24<br>25<br>26       |
| (c)          | a copy of the declaration is conspicuously displayed at the dwelling so the person can easily read it.  | 27<br>28                   |
|              | Maximum penalty—100 penalty units.  | 29                         |

[s 73]

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|---|----------------------------|
| <b>‘373E Requirement to give copy of sustainability declaration</b>   | 1                          |
| ‘If a person who is a potential buyer of the residential dwelling asks the seller’s agent for a copy of the current sustainability declaration for the dwelling, the seller’s agent must give the person a copy as soon as practicable.           | 2<br>3<br>4<br>5           |
| Maximum penalty—100 penalty units.  | 6                          |
| <br>  |                            |
| <b>‘373F Breach of obligation does not generally give rise to right or remedy</b>   | 7<br>8                     |
| ‘A breach of an obligation under this division does not of itself give rise to an action for breach of statutory duty or another civil right or remedy.   | 9<br>10<br>11              |
| <br>  |                            |
| <b>‘Division 3                      Publishing or giving incomplete or false or misleading sustainability declaration</b>   | 12<br>13<br>14             |
| <br>  |                            |
| <b>‘373G Application of div 3</b>   | 15                         |
| ‘This division applies if—  | 16                         |
| (a) a seller’s agent—   | 17                         |
| (i) publishes a relevant advertisement for the sale of a residential dwelling that includes information about a current sustainability declaration for the dwelling; or   | 18<br>19<br>20<br>21       |
| (ii) gives or makes available to a person a current sustainability declaration for the dwelling; and  | 22<br>23                   |
| (b) the declaration is incomplete or contains information that is false or misleading; and  | 24<br>25                   |
| (c) if the declaration contains information that is false or misleading—the information was not included in the declaration by the seller’s agent, or because of any representation made by or for the seller’s agent, after the seller signs it. | 26<br>27<br>28<br>29<br>30 |



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| <b>‘373H No right to terminate contract for publishing or giving declaration</b>   | 1<br>2                     |
| ‘The buyer under a relevant contract for the sale of the residential dwelling can not terminate the contract only because the declaration is incomplete or contains information that is false or misleading.   | 3<br>4<br>5<br>6           |
| <b>‘373I Publishing or giving declaration does not contravene particular provisions</b>  | 7<br>8                     |
| ‘(1) It is declared that the mere publication of the advertisement or the giving of or making available the declaration does not constitute a contravention of any of the following provisions by the seller’s agent—  | 9<br>10<br>11<br>12        |
| (a) section 573A, 573B(1), 573C(1) or 574(1);  | 13                         |
| (b) the <i>Fair Trading Act 1989</i> , section 38, 39, 40 or 40A.  | 14                         |
| <i>Editor’s note—</i>  | 15                         |
| <i>Fair Trading Act 1989</i> , section 38 (Misleading or deceptive conduct—TPA s 52), 39 (Unconscionable conduct—TPA s 51AB), 40 (False or misleading representations—TPA s 53) or 40A (False representations and other misleading or offensive conduct in relation to land—TPA s 53A) | 16<br>17<br>18<br>19<br>20 |
| ‘(2) To remove any doubt, it is declared that merely publishing the advertisement, or giving or making available the declaration, does not constitute a contravention of section 573A, 573B(1), 573C(1) or 574(1) for which a person may make a claim against the fund.                | 21<br>22<br>23<br>24<br>25 |
| ‘(3) Subsection (2) applies despite section 470(1)(a).’.   | 26                         |
| <b>Clause 74 Amendment of s 470 (Claims)</b>   | 27                         |
| Section 470(1)—  | 28                         |
| <i>insert—</i>   | 29                         |

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[s 75]

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‘*Note*— 1  
See, however, section 373I for particular activities that do not constitute 2  
a contravention of section 573A, 573B(1), 573C(1) or 574(1) for which 3  
a person may make a claim against the fund.’ 4

|                  |   |    |
|------------------|---|----|
| <b>Clause 75</b> | <b>Amendment of sch 2 (Dictionary)</b>  | 5  |
|                  | Schedule 2—   | 6  |
|                  | <i>insert</i> —   | 7  |
|                  | ‘ <b><i>Building Act</i></b> , for chapter 11, part 5, see section 373A.  | 8  |
|                  | <b><i>current sustainability declaration</i></b> , for chapter 11, part 5, see 9<br>section 373A.   | 10 |
|                  | <b><i>publish</i></b> , for chapter 11, part 5, see section 373A.   | 11 |
|                  | <b><i>relevant advertisement</i></b> , for chapter 11, part 5, see section 12<br>373A.  | 13 |
|                  | <b><i>residential dwelling</i></b> , for chapter 11, part 5, see section 373A. 14<br>seller’s agent, for chapter 11, part 5, see section 373B(1).’ 15 | 15 |

|                |                                 |    |
|----------------|---------------------------------|----|
| <b>Part 10</b> | <b>Amendment of Sustainable</b> | 16 |
|                | <b>Planning Act 2009</b>        | 17 |

|                  |   |    |
|------------------|---|----|
| <b>Clause 76</b> | <b>Act amended</b>  | 18 |
|                  | This part amends the <i>Sustainable Planning Act 2009</i> . | 19 |
| <b>Clause 77</b> | <b>Amendment of s 335 (Content of decision notice)</b>      | 20 |
|                  | Section 335(3), from ‘include’—                             | 21 |
|                  | <i>omit, insert</i> —                                       | 22 |

- 
- ‘— 1
- (a) include the approved drawings for the development 2  
approval; and 3
- (b) if the development involves building work that is 4  
building, repairing or altering a building—state the 5  
classification or proposed classification of the building 6  
or parts of the building under the BCA.’. 7

- Clause 78 Amendment of s 870 (References to repealed IPA)** 8
- (1) Section 870, heading, after ‘IPA’— 9
- insert—* 10
- ‘and other legislation’.** 11
- (2) Section 870(3)— 12
- renumber* as section 870(5). 13
- (3) Section 870— 14
- insert—* 15
- ‘(3) Subsection (4) applies— 16
- (a) for a reference in this Act to the *Local Government Act* 17  
*2009* or a provision of that Act or a regulation made 18  
under that Act (the **local government reference**); and 19
- (b) until the day the *Local Government Act 2009*, section 20  
288 commences. 21
- Note—* 22
- The *Local Government Act 2009*, section 288 repeals the *Local* 23  
*Government Act 1993*. 24
- ‘(4) The local government reference may, if the context permits, 25  
be taken as a reference to the *Local Government Act 1993* or 26  
any provision of that Act, all or part of which corresponds or 27  
substantially corresponds to the reference.’. 28

[s 79]

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**Part 11** **Amendment of Transport Infrastructure Act 1994** 1  
2

**Clause 79 Act amended** 3

This part amends the *Transport Infrastructure Act 1994*. 4

**Clause 80 Insertion of new s 477B** 5

After section 477A— 6

*insert—* 7

**‘477B Recording of information for land in transport noise corridor** 8  
9

‘(1) The chief executive may give the registrar of titles a written notice about land within a transport noise corridor. 10  
11

‘(2) The notice must include particulars of the land. 12

‘(3) If the chief executive acts under subsection (1), the registrar of titles must— 13  
14

(a) keep a record to show the land to which the notice relates is land within a transport noise corridor; and 15  
16

(b) keep the record in a way that a search of the register kept by the registrar under any Act relating to title to land will show the land is within a transport noise corridor. 17  
18  
19

‘(4) Subsection (5) applies if land for which a notice is given under subsection (1) is no longer within a transport noise corridor. 20  
21  
22

‘(5) As soon as practicable after becoming aware the land is no longer within the transport noise corridor, the chief executive must give the registrar of titles written notice of the fact. 23  
24  
25

‘(6) On receiving the notice, the registrar of titles must remove the record mentioned in subsection (3) from the registrar’s records. 26  
27  
28

‘(7) No fee is payable to the registrar for keeping or removing a record under this section. 29  
30

- 
- ‘(8) In this section— 1  
*transport noise corridor* means a transport noise corridor 2  
designated under the *Building Act 1975*, section 246Z.’ 3

**Part 12** **Amendment of Acquisition of** 4  
**Land Act 1967** 5

- Clause 81** **Act amended** 6  
This part amends the *Acquisition of Land Act 1967*. 7

- Clause 82** **Amendment of schedule (Purposes for taking land)** 8  
Schedule, part 2, after second dot point— 9  
*insert*— 10
- conservation of koalas on land in a ‘Rural Living Area’ 11  
or ‘Regional Landscape and Rural Protection Area’ 12  
under the regional plan for the SEQ region under the 13  
*Sustainable Planning Act 2009*, if the land is in the local 14  
government area of the Brisbane City Council, Gold 15  
Coast City Council, Ipswich City Council, Logan City 16  
Council, Moreton Bay Regional Council, Redland City 17  
Council or Sunshine Coast Regional Council’. 18

|                 |  |                             |
|-----------------|--|-----------------------------|
| <b>Schedule</b> | <b>Consequential amendments of<br/>Plumbing and Drainage<br/>Act 2002</b>  | 1<br>2<br>3                 |
|                 | section 61   | 4                           |
| <b>1</b>        | <b>Sections 6 to 8, 14, 19 to 25, 27 to 29, 30, 32 to 34, 36 to 43, 46 to 48, 50 to 53, 55 to 70A, 70C to 77 and 107, part 2, divisions 5 and 7 headings and part 3, division 7, subdivision 2 heading, ‘board’—</b><br><i>omit, insert—</i><br>‘council’. | 5<br>6<br>7<br>8<br>9<br>10 |
| <b>2</b>        | <b>Sections 6(1), 14(c), 25(4)(a), 27(7), 29(4) and 33 heading, ‘board’s’—</b><br><i>omit, insert—</i><br>‘council’s’.   | 11<br>12<br>13<br>14        |
| <b>3</b>        | <b>Part 2, divisions 3, 4 and 8 headings, section 20(1) and sections 46, 68, 69 and 70A headings, ‘Board’—</b><br><i>omit, insert—</i><br>‘Council’.   | 15<br>16<br>17<br>18        |
| <b>4</b>        | <b>Section 57 heading, ‘Board’s’—</b><br><i>omit, insert—</i><br>‘Council’s’.  | 19<br>20<br>21              |