

Local Government and Other Legislation Amendment Bill 2006

Amendments agreed to during Consideration

1 Clause 4 (Insertion of new ch 3, pt 1, div 8A)—

At page 8, lines 15 to 17, page 9, lines 1 to 29, page 10, lines 1 to 31, page 11, lines 1 to 26, page 12, lines 1 to 27, page 13, lines 1 to 34 and page 14, lines 1 to 21—

omit, insert—

‘4 Amendment of s 18 (Declaration of classes of local government areas)

‘(1) Section 18(2), at the end—

insert—

‘• another class prescribed under a regulation.’.

‘(2) Section 18(3), after ‘town’—

insert—

‘, or another class prescribed under a regulation,’.

‘(3) Section 18—

insert—

‘(4) A provision of this Act that makes a reference generally to the 3 classes of city, town and shire is taken also to include a similar reference to any other class prescribed under a regulation under subsection (2).’.

2 Before clause 5 (Insertion of new ch 3, pt 2, div 5)—

At page 14, before line 22—

insert—

‘4A Insertion of new ch 3, pt 1A

‘Chapter 3—

insert—

‘Part 1A Whole of Queensland local government boundaries reform

‘Division 1 Preliminary

‘159A Application of pt 1A

- ‘(1) This part does not apply to the Brisbane City Council, or its local government area, and does not affect any special reference for a reviewable local government matter or the implementation of a reviewable local government matter as a result of a special reference.
- ‘(2) This part applies to Torres Strait Islander local governments.
- ‘(3) To remove any doubt, it is declared that this part also applies to—
 - (a) community governments under the *Local Government (Community Government Areas) Act 2004*; and
 - (b) the local governments of the Shire of Aurukun and the Shire of Mornington under the *Local Government (Aboriginal Lands) Act 1978*.

‘159B Objective of pt 1A

‘The objective of this part is the achievement of the organisation of local government in a way that—

- (a) facilitates optimum service delivery to Queensland communities; and
- (b) ensures that local governments effectively contribute to and participate in Queensland regional economies; and
- (c) manages economic, environmental and social planning consistently with regional communities of interest; and
- (d) effectively partners local government with other levels of government to ensure sustainable and viable communities.

‘159C Achieving objective of pt 1A

‘For achieving the objective of this part, this part—

- (a) establishes a Local Government Reform Commission—
 - (i) to examine, and to make recommendations for the reform of, on a whole of Queensland basis, local government area boundaries, and local government classes and names; and
 - (ii) to make recommendations for the composition of local governments and for the internal divisional arrangements of local government areas; and
 - (iii) to make recommendations for the implementation of the recommendations mentioned in subparagraphs (i) and (ii); and
- (b) provides for the submission of the reform commission’s recommendations to the Minister; and
- (c) provides for the suspension of actions under part 1 while the whole of Queensland reform process proceeds.

‘159D Definitions for pt 1A

‘In this part—

chairperson means the chairperson of the reform commission.

reform commission means the Local Government Reform Commission established under section 159F.

reform commissioner see section 159G(1).

SSS review process means the review process—

- (a) adopted for examining governance and service delivery arrangements in relation to 2 or more local governments; and
- (b) carried out under a review framework—
 - (i) put in place by the Local Government Association, local governments and the department; and
 - (ii) generally referred to using the expression ‘Size, Shape and Sustainability’.

‘159E Suspension of particular actions while part 1A processes operate

- ‘(1) Until the relevant day—
- (a) the Minister must not act under part 1 to refer a reviewable local government matter to the commissioner; and
 - (b) a local government must not apply to the commissioner under section 80(1) for determination of a reviewable local government matter; and
 - (c) neither the commissioner, nor any electoral and boundaries review commission, may take any further action in relation to a reviewable local government matter that has been referred to or is otherwise before the commissioner or the commission; and
 - (d) no reviewable local government matter may be implemented under part 1, division 10, other than as that division is applied under section 159Z; and
 - (e) no reviewable community government matter may be implemented under the *Local Government (Community Government Areas) Act 2004*, section 19.
- ‘(2) In this section—
- relevant day* means—
- (a) the conclusion of the last 2008 quadrennial election held for a local government area; or
 - (b) an earlier day prescribed under a regulation.

**‘Division 2 The Local Government Reform
Commission**

‘Subdivision 1 Establishment

‘159F Establishment of reform commission

‘The Local Government Reform Commission is established.

‘Subdivision 2 Reform commissioners

‘159G Appointment

- ‘(1) The reform commission consists of 7 persons (each a *reform commissioner*), made up of a chairperson and 6 other reform commissioners.
- ‘(2) The reform commissioners are to be appointed by the Governor in Council.
- ‘(3) The reform commissioners may be appointed as full-time or part-time reform commissioners.

‘159H Eligibility for appointment

‘A person is eligible for appointment as a reform commissioner only if the person—

- (a) has extensive knowledge of and experience in 1 or more of the following—
 - (i) local government;
 - (ii) public administration;
 - (iii) law;
 - (iv) public finance;
 - (v) community affairs; or
- (b) has other knowledge and experience the Governor in Council considers appropriate.

‘159I Duration of appointment

- ‘(1) Subject to sections 159K and 159L, a reform commissioner holds office for the term stated in the reform commissioner’s instrument of appointment.
- ‘(2) A person appointed as a reform commissioner is eligible for reappointment.

‘159J Terms and conditions of appointment

- ‘(1) A reform commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- ‘(2) A reform commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

‘159K Resignation

‘A reform commissioner may resign by signed notice given to the Minister.

‘159L Termination of appointment

- ‘(1) The Governor in Council may end a reform commissioner’s appointment for misbehaviour or for physical or mental incapacity.
- ‘(2) Unless it is ended sooner under this part, a reform commissioner’s appointment ends when this part expires.

‘159M Effect of appointment to fill vacancy

- ‘(1) This section applies if the Governor in Council appoints a person (the *new appointee*) to be a reform commissioner, or to act in the office of a reform commissioner, because of the removal or suspension of a reform commissioner from office or because the office of a reform commissioner has otherwise become permanently or temporarily vacant for any reason.
- ‘(2) The reform commission’s capacity to continue to perform its functions under this part is taken not to be affected by the change in the persons comprising the reform commission.

‘159N Disclosure of interests

- ‘(1) This section applies if—
 - (a) a reform commissioner has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the reform commission; and

- (b) the interest could conflict with the proper performance of the reform commissioner's functions for a matter.
- '(2) The reform commissioner must, as soon as practicable, disclose the interest to—
 - (a) for the chairperson—the other reform commissioners; or
 - (b) for another reform commissioner—the chairperson.
- '(3) A reform commissioner who has disclosed an interest relating to a matter is not prevented from participating in the reform commission's consideration of the matter.

'Subdivision 3 Meetings and other business of reform commission

'159O Conduct of business

'Subject to this division, the reform commission may conduct its business, including its meetings, in the way it considers appropriate.

'159P Decisions outside meetings

- '(1) A decision of the reform commission, other than a decision at a reform commission meeting, may be made only with the written agreement of 2 reform commissioners.
- '(2) The reform commission must keep a record of any decisions under subsection (1).

'Subdivision 4 Staff and other assistance to reform commission

'159Q Administrative support

'The chairperson and the chief executive may arrange for the services of officers or employees of the department to be made available to the reform commission.

‘159R Supply of information about current reviewable local government matters

‘The commissioner and each Local Government Electoral and Boundaries Review Commission must give the reform commission all information the commissioner or commission has about any reviewable local government matter, other than any special reference, that has been referred to or is otherwise before the commissioner or the commission.

‘Division 3 Review and recommendations

‘Subdivision 1 Reform commission

‘159S Functions of reform commission

- ‘(1) The reform commission has the following functions—
- (a) to carry out a structural review of all local government areas;
 - (b) to make recommendations to the Minister for—
 - (i) how many local government areas there should be; and
 - (ii) what the external boundaries of each of the local government areas should be, including the local government areas for which no external boundary change is recommended; and
 - (iii) any class of local government area that there should be in addition to the classes of city, town and shire, and the criteria that should apply for declaring a local government to be of that class;
 - (c) to recommend to the Minister, for each local government area as recommended by the reform commission under paragraph (b)(i) and (ii)—
 - (i) the name of the local government area; and
 - (ii) the class of the local government area; and

- (iii) the composition of the local government for the area; and
 - (iv) whether the local government area should have divisions, and if so, what the boundaries of the divisions should be, and how many councillors should be assigned to each division;
 - (d) to make recommendations to the Minister for implementation issues for any relevant reviewable local government matter mentioned in section 64(1)(a), (c), (e) or (f).
- ‘(2) The reform commission must act in the performance of its functions under subsection (1) in a way that is consistent with making its recommendations before 1 August 2007.
- ‘(3) However, the Minister may by gazette notice, whether published before or after 1 August 2007, declare a later date for the performance of—
- (a) the reform commission’s functions in relation to all or a part of the State; or
 - (b) an identified aspect of the reform commission’s functions in relation to all or a part of the State.
- ‘(4) Subsections (2) and (3) do not stop the Minister from receiving a recommendation from the reform commission after the time provided for under the subsections for receiving the recommendation.
- ‘(5) In this section—
- relevant reviewable local government matter* means a reviewable local government matter that must be implemented if a recommendation of the reform commission under this section is to be given effect.

‘159T Particular requirements for reform commission’s performance of its functions

- ‘(1) In performing its functions, the reform commission must have regard to—
- (a) the objective of this part; and

- (b) any terms of reference given to it by the Minister; and
 - (c) the terms of reference stated in this subdivision.
- ‘(2) Without limiting subsection (1)(b), terms of reference given by the Minister may provide for the reform commission to provide some or all of its recommendations in sequence for different parts of the State to the extent that this is reasonably consistent with providing its recommendations on a whole of Queensland basis.
- ‘(3) As soon as practicable after the reform commission’s establishment, the reform commission must, by public notice, invite suggestions from persons and entities.
- ‘(4) The public notice must state that suggestions are to be given to the reform commission at a stated address in writing within the time stated in the notice.
- ‘(5) The public notice must be published—
- (a) in the gazette; and
 - (b) on the department’s website; and
 - (c) in a newspaper circulating generally in the State.
- ‘(6) In making its recommendations to the Minister, the reform commission must consider all suggestions properly given to it.

‘159U Terms of reference

- ‘(1) This section states terms of reference for the reform commission in performing its functions.
- ‘(2) The reform commission must consider the grouping of like communities of interest to maintain the social fabric and character of communities and areas of the State, and in particular, must consider—
- (a) review areas established under SSS review processes; and
 - (b) boundaries of areas covered by the regions for which regional planning advisory committees have been established under the *Integrated Planning Act 1997*.

- ‘(3) The reform commission’s recommendations must be directed at—
 - (a) consolidating, to the extent practicable, regional natural resource management areas, including for example water catchment areas, and environmental areas, including for example, coastal wetlands; and
 - (b) creating local governments with improved financial sustainability.
- ‘(4) In making a recommendation for creating a new local government area from 2 or more existing local government areas, the reform commission must give preference, to the extent practicable, to including all of the existing local government areas in the new area rather than parts of the existing areas.
- ‘(5) The reform commission must identify options for community representation that reflect the diversity of the State’s regions and that promote representation of discrete communities.
- ‘(6) In making its recommendations for new arrangements, the reform commission must identify any issues requiring further consideration for successfully establishing the new arrangements.

‘159V General powers

‘The reform commission has the powers necessary or convenient to perform its functions and to help achieve the objective of this part.

‘Subdivision 2 The State

‘159W Minister

- ‘(1) The Minister may provide terms of reference to the reform commission for any aspect of the performance of its functions.
- ‘(2) The terms of reference must be consistent with the objective of this part.

- ‘(3) The Minister must consider all recommendations given to the Minister by the reform commission.
- ‘(4) The Minister must make the recommendations publicly available in the way the Minister considers appropriate.

Example—

publication on the department’s website

‘Division 4 **Miscellaneous**

‘159X **Review of particular decisions and actions**

- ‘(1) A designated decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside, or called into question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.
- ‘(2) Without limiting subsection (1), a person may not bring a proceeding for an injunction or any other order to stop or otherwise restrain the performance of a designated act, or for a declaration about the validity of a designated act.
- ‘(3) In this section—

decision includes—

 - (a) conduct engaged in to make a decision; and
 - (b) conduct related to making a decision; and
 - (c) failure to make a decision.

designated act means—

 - (a) an act of the reform commission, including the act of making a recommendation to the Minister, the performance of which is authorised, or purportedly authorised, under this part; or

(b) an act of the Minister the performance of which is authorised, or purportedly authorised, under this part.

designated decision means a decision to perform a designated act.

‘159Y Expiry of pt 1A

‘This part expires at the end of 31 December 2008, or at an earlier time fixed under a regulation.’.

3 Clause 10 (Amendment of s 248 (Access to registers))

At page 21, lines 9 to 11—

omit, insert—

‘the information relates to any of the following—’.

4 Clause 10 (Amendment of s 248 (Access to registers))

At page 21, line 15, ‘(5C)’—

omit, insert—

‘(5B)’.

5 Clause 10 (Amendment of s 248 (Access to registers))

At page 21, lines 15 and 16, ‘prescribed under’—

omit, insert—

‘included in the register of councillor’s interests about a matter mentioned in’.

6 Clause 11 (Amendment of s 250 (Improper use of information by councillors))—

At page 21, lines 24 to 27—

omit, insert—

‘(1) Section 250(2), from ‘that—’ to ‘confidential.’.

omit, insert—

‘that is confidential to the local government.’.

7 After clause 51 (Insertion of new s 461A)

At page 51, after line 33—

insert—

‘51A Insertion of new s 473A

‘Chapter 6, part 1, division 6—

insert—

‘473A Community boards

- ‘(1) A local government may establish 1 or more community boards for local communities within its local government area to advise the local government about matters relating particularly to the local communities.
- ‘(2) In establishing a community board, a local government must—
 - (a) to the extent practicable, identify the local communities; and
 - (b) appoint the members of the community board.

Example of possible suitable members—
recognised community leaders
- ‘(3) A regulation may provide for—
 - (a) other matters about the establishment of community boards; and
 - (b) requirements about the operation of community boards.
- ‘(4) Subject to a regulation providing for a requirement about the operation of community boards, a community board may conduct its business, including its meetings, in the way it considers appropriate.’.

‘51B Amendment of s 899A (Definitions for pt 5)

- ‘(1) Section 899A, definition *expiry date*, paragraph (a), ‘2010’—
omit, insert—
‘2012’.
- ‘(2) Section 899A, definitions *first review date* and *subsequent review date*, ‘2008’—
omit, insert—
‘2010’.’.

8 After clause 66 (Amendment of s 11 (Provisions of Local Government Act 1993 that apply))

At page 65, after line 20—
insert—

‘Part 6 Amendment of Integrated Planning Act 1997

‘67 Act amended in pt 6

‘This part amends the *Integrated Planning Act 1997*.

‘68 Amendment of s 6.1.20 (Planning scheme policies for infrastructure)

- ‘(1) Section 6.1.20(4), ‘expires’—
omit, insert—
‘ceases to have effect, in relation to the planning scheme.’.
- ‘(2) Section 6.1.20(4)(a), ‘30 June 2007’—
omit, insert—
‘30 June 2008’.

‘69 Amendment of s 6.1.31 (Conditions about infrastructure for applications)

‘Section 6.1.31(3)(b)(i), ‘30 June 2007’—

omit, insert—

‘30 June 2008’.

‘Part 7 Amendment of Judicial Review Act 1991

‘70 Act amended in pt 7

‘This part amends the *Judicial Review Act 1991*.

‘71 Amendment of sch 1 (Operation of other laws)

‘Schedule 1, part 1—

insert—

‘*Local Government Act 1993*, section 159X’.’.