



Queensland

Southern Moreton Bay Islands Development Entitlements Protection Act 2004

Current as at 18 December 2009



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Southern Moreton Bay Islands Development Entitlements Protection Act 2004

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Southern Moreton Bay Islands Development Entitlements Protection Act 2004

An Act to establish development entitlements for particular land on the Southern Moreton Bay Islands

1 Short title

This Act may be cited as the *Southern Moreton Bay Islands Development Entitlements Protection Act 2004*.

2 Definitions

The dictionary in the schedule defines particular words used in this Act.

3 Application of Act

This Act applies for an SMBI application and an SMBI request.

4 What is an SMBI application

An *SMBI application* is a development application (superseded planning scheme)—

- (a) in relation to a class 1 building on prescribed land; and
- (b) made by or on behalf of an owner of the prescribed land; and
- (c) for which the applicant states the owner wishes this Act to apply for its assessment.

4A What is an SMBI request

An *SMBI request* is a request made under the *Sustainable Planning Act 2009*, section 95(1)(a) to a local government—

- (a) about development that would not have required a development permit under a superseded planning scheme but requires a development permit under the Redland's IPA planning scheme; and
- (b) in relation to a class 1 building on prescribed land; and
- (c) made by or on behalf of the owner of the prescribed land within 10 years after the day the Redland's IPA planning scheme has effect; and
- (d) for which the person making the request states the owner wishes this Act to apply.

5 What is prescribed land

Prescribed land is land on the Southern Moreton Bay Islands that is—

- (a) included in the Residential A, Comprehensive Development or Rural Non Urban zone immediately before the Redland's IPA planning scheme had effect; and
- (b) located entirely in the Conservation zone under the scheme; and
- (c) prescribed under a regulation.

Editor's note—

The Redland's IPA planning scheme took effect on 30 March 2006.

6 Who is an owner

- (1) An *owner*, of prescribed land, means an individual who is solely or as a joint tenant or as a tenant in common, legally or beneficially entitled to an estate of freehold in possession in the land immediately before the end of the consultation period for the Redland's IPA planning scheme.
- (2) The term does not include—

- (a) a person who is an executor, administrator or trustee in relation to the individual; or
- (b) a mortgagee in possession of the land.

7 Modified application of Sustainable Planning Act 2009

- (1) Despite the *Sustainable Planning Act 2009*, section 96(1), if a person makes an SMBI request, the local government must not refuse the request.
- (2) The *Sustainable Planning Act 2009*, chapter 3, part 2, division 5 does not apply for an SMBI application.
- (3) For the *Sustainable Planning Act 2009*, an SMBI application must be assessed under the superseded planning scheme to which the application relates.
- (4) Despite the *Sustainable Planning Act 2009*, section 245, any development approval in relation to an SMBI application lapses if the land, the subject of the application, is sold or transferred to an individual other than another owner of the land before a final inspection certificate, under the *Building Act 1975*, is issued for the building for which the development approval was issued.
- (5) Prescribed land may not be taken under the *Sustainable Planning Act 2009*, section 714 unless all owners of the land agree.

8 Certain rights unaffected

This Act does not stop an owner of prescribed land from claiming compensation under the *Sustainable Planning Act 2009*, section 705 if an SMBI application or SMBI request has not been made for the land.

9 Council may buy land at any time

This Act does not stop the council from buying prescribed land at any time.

10 Regulation-making power

The Governor in Council may make regulations under this Act.

11 Transitional provision for Sustainable Planning Act 2009

- (1) This section applies to a development application (superseded planning scheme) as defined under this Act before the commencement that was made but not decided before the commencement.
- (2) This Act as in force before the commencement continues to apply for the application as if the *Sustainable Planning Act 2009* had not commenced.
- (3) In this section—
commencement means the day this section commences.

Schedule Dictionary

section 2

assessment manager see *Sustainable Planning Act 2009*, section 246(1).

class 1 building means a class 1 building within the meaning of the *Building Act 1975*.

consultation period, for the Redland's IPA planning scheme, see the repealed *Integrated Planning Act 1997*, schedule 10.

council means—

- (a) in relation to any matter arising before the commencement of this definition—the Redland Shire Council; or
- (b) otherwise—the Redland City Council.

development see the *Sustainable Planning Act 2009*, schedule 3.

development application see the *Sustainable Planning Act 2009*, schedule 3.

development application (superseded planning scheme) means a development application—

- (a) for development to which a superseded planning scheme under the *Sustainable Planning Act 2009* applies; and
- (b) made only to the council as assessment manager; and
- (c) made within 10 years after the day the Redland's IPA planning scheme had effect.

development approval see the *Sustainable Planning Act 2009*, schedule 3.

development permit see the *Sustainable Planning Act 2009*, schedule 3.

owner see section 6.

prescribed land see section 5.

Redland's IPA planning scheme means the planning scheme for the council that took effect on 30 March 2006.

SMBI application see section 4.

SMBI request see section 4A.

Southern Moreton Bay Islands means Karragarra Island, Lamb Island, Macleay Island, Perulpa Island and Russell Island.

superseded planning scheme see the *Sustainable Planning Act 2009*, schedule 3.

1 Index to endnotes

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2 Key

Key to abbreviations in list of legislation and annotations

| Key | Explanation | Key | Explanation |
|-------------|---------------------------------------|---------------|----------------------------|
| AIA | = Acts Interpretation Act 1954 | (prev) | = previously |
| amd | = amended | proc | = proclamation |
| amd | = amendment | prov | = provision |
| t | | | |
| ch | = chapter | pt | = part |
| def | = definition | pubd | = published |
| div | = division | R[X] | = Reprint No. [X] |
| exp | = expires/expired | RA | = Reprints Act 1992 |
| gaz | = gazette | reloc | = relocated |
| hdg | = heading | renu | = renumbered |
| | | m | |
| ins | = inserted | rep | = repealed |
| lap | = lapsed | (retro | = retrospectively |
| | |) | |
| notf | = notified | rv | = revised version |
| d | | | |
| num | = numbered | s | = section |

| | | | |
|---------------|---------------------------|----------------|--|
| Key | Explanation | Key | Explanation |
| o in c | = order in council | sch | = schedule |
| om | = omitted | sdiv | = subdivision |
| orig | = original | SIA | = Statutory Instruments Act 1992 |
| p | = page | SIR | = Statutory Instruments Regulation 2012 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum m | = unnumbered |
| prev | = previous | | |

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

| Reprint No. | Amendments included | Effective | Notes |
|--------------------|----------------------------|------------------|--------------|
| 1 | none | 12 October 2004 | |
| 1A | 2006 Act No. 36 | 1 September 2006 | |

| Reprint No. | Amendments included | Effective | Notes |
|--------------------|----------------------------|------------------|--------------|
| 1B | 2007 Act No. 59 | 15 March 2008 | |
| 1C | 2009 Act No. 36 | 18 December 2009 | |

4 List of legislation

Southern Moreton Bay Islands Development Entitlements Protection Act 2004 No. 32

date of assent 12 October 2004
 commenced on date of assent
 amending legislation—

Building and Other Legislation Amendment Act 2006 No. 36 pt 1, s 101 sch

date of assent 10 August 2006
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 September 2006 (2006 SL No. 226)

Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007 No. 59 ss 1–2, 152 sch

date of assent 22 November 2007
 ss 1–2 commenced on date of assent
 remaining provisions commenced 15 March 2008 (2007 SL No. 336)

Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2

date of assent 22 September 2009
 ss 1–2 commenced on date of assent
 remaining provisions commenced 18 December 2009 (2009 SL No. 281)

5 List of annotations

Application of Act

s 3 amd 2009 No. 36 s 872 sch 2

What is an SMBI application

s 4 amd 2006 No. 36 s 101 sch; 2009 No. 36 s 872 sch 2

What is an SMBI request

s 4A ins 2009 No. 36 s 872 sch 2

What is prescribed land

s 5 amd 2009 No. 36 s 872 sch 2

Modified application of Sustainable Planning Act 2009

s 7 amd 2006 No. 36 s 101 sch; 2009 No. 36 s 872 sch 2

Certain rights unaffected

s 8 amd 2009 No. 36 s 872 sch 2

Transitional provision for Sustainable Planning Act 2009

s 11 ins 2009 No. 36 s 872 sch 2

SCHEDULE—DICTIONARY

def *assessment manager* amd 2009 No. 36 s 872 sch 2

def *class 1 building* ins 2009 No. 36 s 872 sch 2

def *consultation period* sub 2009 No. 36 s 872 sch 2

def *council* sub 2007 No. 59 s 152 sch

def *development* amd 2009 No. 36 s 872 sch 2

def *development application* amd 2009 No. 36 s 872 sch 2

def *development application (superseded planning scheme)* sub 2009 No. 36 s 872 sch 2

def *development approval* amd 2009 No. 36 s 872 sch 2

def *development permit* amd 2009 No. 36 s 872 sch 2

def *IPA planning scheme* om 2009 No. 36 s 872 sch 2

def *Redland's IPA planning scheme* sub 2009 No. 36 s 872 sch 2

def *SMBI request* ins 2009 No. 36 s 872 sch 2

def *superseded planning scheme* amd 2009 No. 36 s 872 sch 2

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