

Queensland



**LOCAL GOVERNMENT
(PLANNING AND
ENVIRONMENT)
AMENDMENT ACT 1992**

Act No. 37 of 1992

Queensland



**LOCAL GOVERNMENT (PLANNING
AND ENVIRONMENT) AMENDMENT
ACT 1992**

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Queensland



**Local Government (Planning and
Environment) Amendment Act 1992**

Act No. 37 of 1992

**An Act to amend the *Local Government (Planning and Environment)
Act 1990***

[Assented to 23 July 1992]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

Short title

1. This Act may be cited as the *Local Government (Planning and Environment) Amendment Act 1992*.

Commencement

2. Amendment 9 in the Schedule commences on a day to be fixed by proclamation.

Amended Act

3. The *Local Government (Planning and Environment) Act 1990* is amended as set out in this Act.

Insertion of new Part 1A

4. After section 1.4—

insert—

‘PART 1A—PLANNING POLICIES**‘State planning policies**

‘1A.1.(1) The Governor in Council may, by order in council, make planning policies in relation to town planning and related environmental matters that are, in the Governor in Council's opinion, of State significance.

‘(2) A State planning policy applies to the whole of the State except so far as it otherwise provides.

‘Notification, tabling, disallowance etc. of State planning policies

‘1A.2 Orders in council making State planning policies are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.

‘Numbering of State planning policies etc.

‘1A.3.(1) State planning policies, and other statutory instruments prescribed by regulation for the purposes of this section, must be numbered in accordance with subsection (2).

‘(2) The instruments must be numbered—

- (a) in a regular arithmetical series for each calendar year, beginning with the number 1; and
- (b) in the order in the year in which they are made.

‘(3) A State planning policy may be cited by reference to the year in which it was made and its number.

‘Local planning policies

‘1A.4.(1) A local authority may, by resolution, make planning policies that are not inconsistent with this Act.

‘(2) As soon as practicable after a local planning policy is made, full details of the policy, and the date it was made, are to be recorded in a register called the ‘Register of Local Planning Policies’ to be kept by the local authority.

‘(3) The clerk is to give public notice in a newspaper of the title of the local planning policy and—

- (a) if the policy is new—its purport; and
- (b) in any other case—the purport of the amendment or repeal.

‘(4) On the day of commencement of a new planning scheme (other than a consolidated scheme under section 2.17), all local planning policies

existing immediately before the commencement of the new planning scheme cease to have effect.

‘(5) Each local planning policy (other than a local planning policy mentioned in section 6.2 or 8.2(15)) is to have application throughout the planning scheme area.

‘(6) If a local authority had, before the commencement of this section—

- (a) adopted a planning policy; or
- (b) recorded details about the adoption of a planning policy in a register called the ‘Register of Planning Policies’;

then—

- (c) the planning policy is taken to have been made by the local authority under this section as a local planning policy; and
- (d) the register forms part of the register mentioned in subsection (2) that is to be kept by the local authority.’.

Amendment of s. 2.7 (Planning studies)

5.(1) Section 2.7(1)—

omit, insert—

‘(1) A planning study is to be prepared in connection with the formulation of each—

- (a) planning scheme; and
- (b) strategic plan; and
- (c) development control plan.

‘(1A) In preparing the planning study, the local authority concerned must have regard to relevant State planning policies.

‘(1B) The planning study must include a statement about the extent to which the local authority had regard to State planning policies.’.

(2) Section 2.7(2) (after ‘formulation of’)—

insert ‘the planning scheme,’.

Amendment of s. 2.9 (Planning scheme and supporting documents open to inspection)

6.(1) Heading to section 2.9—

omit, insert—

‘Inspection of planning documents’.

(2) Section 2.9(1)—

omit, insert—

‘(1) If a planning scheme is in force in relation to a local authority area, the local authority must keep open to inspection a copy of—

- (a) each State planning policy that is in force; and
- (b) each planning scheme that is in force in relation to the area; and
- (c) its Register of Local Planning Policies (if any); and
- (d) the planning study prepared in relation to each planning scheme that is in force in relation to the area.’.

(3) Section 2.9(3)—

omit, insert—

‘(3) The chief executive must keep open to inspection at an office of the department at all times during which the office is open for the transaction of public business a copy of—

- (a) each State planning policy that is in force; and
- (b) each planning scheme that is in force in the State; and
- (c) the planning study prepared in relation to each planning scheme that is in force in the State.’.

Insertion of new s. 2.10A

7. After section 2.10—

insert—

‘Preparation of strategic plan or development control plan

‘2.10A. Before a local authority prepares—

- (a) a strategic plan; or
- (b) a development control plan; or
- (c) an amendment of a strategic plan; or
- (d) an amendment of a development control plan;

it must—

- (e) adopt a resolution to do so and, in the case of the proposed preparation of a development control plan, define in the resolution the area that it is proposed to include in the development control plan; and
- (f) send a copy of the resolution to the chief executive; and

- (g) if the resolution concerns a development control plan or an amendment of a development control plan—send to the chief executive a map delineating the area to be covered by the development control plan or amended development control plan.’.

Replacement of s. 2.11 (Prior approval of Minister required in certain instances)

8. Section 2.11—

omit, insert—

‘Strategic plan—exemption

‘2.11.(1) A local authority may apply to the Minister for an exemption from the requirement that it must prepare a strategic plan as part of a planning scheme.

‘(2) If the Minister grants the application, section 2.1(c) does not apply to the planning scheme.’.

Amendment of s. 2.18 (Amendment of a planning scheme by Minister or Local Authority)

9. After section 2.18(4)—

insert—

‘(4A) If the proponent is a local authority, it must give to the chief executive a written notice setting out the details of, and the reasons for, the proposal before it gives public notice of the proposal under subsection (4).’.

Amendment of s. 2.19 (Assessment of proposed planning scheme amendment)

10.(1) After section 2.19(1)—

insert—

‘(1A) If the proposal is a proposal to which section 2.18(2), (3) or (3A) applies, the proponent must have regard to relevant State planning policies.’.

(2) Section 2.19(2)(c) and (h)—

omit.

(3) After section 2.19(3)—

insert—

‘(4) The proponent must decide that the proposal should not be proceeded with if—

- (a) the proposal, even with all appropriate conditions or modifications, conflicts with any relevant strategic plan or development control plan; and
- (b) there are not sufficient planning grounds to justify proceeding with the proposal despite the conflict.’

Amendment of s. 4.4 (Assessment of proposed planning scheme amendment)

11.(1) Section 4.4(3)(c) and (h)—

omit.

(2) After section 4.4(3)—

insert—

‘(3A) The local authority must have regard to relevant State planning policies in making its decision on the application.’

(3) After section 4.4(5)—

insert—

‘(5A) The local authority must refuse to approve the application if—

- (a) the application conflicts with any relevant strategic plan or development control plan; and
- (b) there are not sufficient planning grounds to justify approving the application despite the conflict.’

Amendment of s. 4.7 (Assessment of rezoning of land in stages)

12. Section 4.7(3)(c) and (h)—

omit.

(2) After section 4.7(3)—

insert—

‘(3A) The local authority must have regard to relevant State planning policies in making its decision on the application.’.

(3) After section 4.7(5)—

insert—

‘(5A) The local authority must refuse to approve the application if—

- (a) the application conflicts with any relevant strategic plan or development control plan; and
- (b) there are not sufficient planning grounds to justify approving the application despite the conflict.’.

Amendment of s. 4.13 (Assessment of town planning consent application)

13.(1) After section 4.13(3)—

insert—

‘(3A) The local authority must have regard to relevant State planning policies in making its decision on the application.’.

(2) After 4.13(5)—

insert—

‘(5A) The local authority must refuse to approve the application if—

- (a) the application conflicts with any relevant strategic plan or development control plan; and
- (b) there are not sufficient planning grounds to justify approving the application despite the conflict.’.

Amendment of s. 4.15 (Modification of certain applications and approvals)**14.** Section 4.15(1)—*omit, insert—*

‘(1) An application may be made to a local authority seeking the modification of—

- (a) an application to which this section applies; or
- (b) an approval to which this section applies; or
- (c) a condition to which this section applies.

‘(1A) This section applies to any application made under—

- (a) section 4.3(1) (Amendment of a planning scheme etc. by an applicant); or
- (b) section 4.6(1) (Application for rezoning of land in stages); or
- (c) section 4.9(1) (Subsequent staged rezoning approvals); or
- (d) section 4.12(1) (Application for town planning consent); or
- (e) section 5.1(1) (Application for subdivision, etc.); or
- (f) section 5.2(1) (Subdivisions involving works); or
- (g) section 5.9(1) (Staged subdivision); or
- (h) section 5.11(1) (Application for amalgamation of land); or
- (i) section 5.12(1) (Application for access easement);

and any equivalent application made under the Local Government Act or the *City of Brisbane Town Planning Act 1964*.

‘(1B) This section applies to—

- (a) any approval given following the making of an application to which this section applies; and
- (b) any equivalent approval given under the Local Government Act or the *City of Brisbane Town Planning Act 1964*.

‘(1C) This section applies to any condition—

- (a) attaching to an approval to which this section applies; and

- (b) imposed under section 2.19(3)(a) following a proposal under section 2.18(3)(c) or (d) or section 2.18(3A).

‘(1D) An application to modify cannot be made to a local authority seeking the modification of—

- (a) an application made under section 4.3(1), 4.6(1) or 4.9(1); or
- (b) an approval given following the making of an application mentioned in paragraph (a); or
- (c) a condition attaching to an approval mentioned in paragraph (b);

once the local authority has made application under section 4.5(1), 4.8(1) or 4.10(1) for approval by the Governor in Council of the relevant amendment or rezoning.’.

Amendment of s. 5.1 (Application for subdivision, etc.)

15.(1) After section 5.1(4)—

insert—

‘(4A) The local authority must have regard to relevant State planning policies in making its decision on the application.’.

(2) After section 5.1(6)—

insert—

‘(6A) The local authority must refuse to approve the application if—

- (a) the application conflicts with any relevant strategic plan or development control plan; and
- (b) there are not sufficient planning grounds to justify approving the application despite the conflict.’.

Amendment of s. 5.9 (Staged subdivision)

16.(1) After section 5.9(4)—

insert—

‘(4A) The local authority must have regard to relevant State planning policies in making its decision on the application.’.

(2) After section 5.9(6)—

insert—

‘(6A) The local authority must refuse to approve the application if—

- (a) the application conflicts with any relevant strategic plan or development control plan; and
- (b) there are not sufficient planning grounds to justify approving the application despite the conflict.’

SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

1. Section 1.4(1) (definitions “access”, “economic impact assessment” and “major shopping development”)—

omit.

2. Section 1.4(1)—

insert—

“access” means the practical means of entry for persons and vehicles onto an allotment from a constructed road which abuts the allotment or, if permitted by a local authority under section 5.12, access by means of an easement, but does not include an access restriction strip;

“local planning policy” means a planning policy made under section 1A.4;

“State planning policy” means a planning policy made under section 1A.1;’.

3. Section 2.2(c)(ii)—

omit ‘buildings’, *insert* ‘structures’.

4. Section 2.6(1)—

omit, insert—

‘(1) Each planning scheme is to be supported by—

- (a) planning studies; and
- (b) local planning policies (if any).’.

5. Section 2.8—

omit.

SCHEDULE (continued)

6. Section 2.9(2)—

omit ‘or otherwise reproducing’, *insert* ‘, reproducing or otherwise obtaining’.

7. Section 2.10(3)—

omit ‘Minister’, *insert* ‘chief executive’.

8. Section 2.13(1)(d)—

omit.

9. Section 2.13(1)—

omit—

‘a certificate as town planner, prescribed by the *Local Government Town Planners Regulations 1981*’,

insert—

‘a prescribed certificate as town planner’.

10. Section 2.13(2)—

omit ‘to the Minister’, *insert* ‘to the chief executive’.

11. Section 2.14(1)—

omit ‘to the Minister’.

12. Section 2.14(2)—

omit ‘(if any)’.

SCHEDULE (continued)

13. Section 2.14(4)(a)—

omit ‘, if any.’.

14. Section 2.14(4)(a)—

omit—

‘(or otherwise reproducing) the copy and postage, where posted’,

insert—

‘, reproducing or otherwise obtaining the copy and, if the copy is posted, of posting the copy’.

15. Section 2.15(1)—

omit ‘to the Minister’, *insert* ‘to the chief executive’.

16. Section 2.15(1)—

omit—

‘or, if the Minister upon application being made by the Local Authority allows a longer period or periods, the period or periods so allowed’.

17. After section 2.15(1)—

insert—

‘**(1A)** The local authority may, by resolution, extend or further extend the period mentioned in subsection (1).

‘**(1B)** The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.’.

SCHEDULE (continued)

18. Section 2.15(2)(a)—

omit ‘(if any)’.

19. Section 2.15(3) and (4)—

omit.

20. Section 2.15(5)—

omit—

‘, in considering the recommendation of the Minister in respect of a planning scheme.’.

21. Section 2.15(8)—

omit, insert—

‘(8) The approval of a planning scheme is to be given by order in council.

‘(9) The planning scheme becomes the planning scheme for the area concerned, and has the force of law, on notification in the Gazette of the making of the order in council.

‘(10) The chief executive is to record the date of approval on any supporting documents mentioned in subsection (2)(a).

‘(11) Orders in council under this section are declared to be—

(a) subordinate legislation; and

(b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’.

22. Section 2.16(2) (after ‘publication’)—

insert ‘or notification’.

SCHEDULE (continued)

23. Section 2.16(3)—

omit ‘Minister’, *insert* ‘chief executive’.

24. Section 2.16(4)(b)—

omit ‘subject to section 2.11(4),’.

25. Section 2.16(5) (after ‘publication’)—

insert ‘or notification’.

26. Section 2.16(6)—

omit, insert—

‘**(6)** The local authority may, by resolution, extend or further extend the period mentioned in subsection (5).

‘**(7)** The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.’.

27. Section 2.17(2)—

omit ‘Minister’, *insert* ‘chief executive’.

28. Section 2.17(3)—

omit—

‘to ensure its accuracy and having confirmed its accuracy, or having corrected it to ensure its accuracy, is to prepare a report to the Minister who is to submit it to the Governor in Council who may approve the consolidated planning scheme’,

SCHEDULE (continued)

insert—

‘to check its accuracy and to correct it if it is inaccurate’.

29. Section 2.17(4) and (5)—

omit, insert—

‘(4) The Governor in Council may approve the consolidated planning scheme by order in council.

‘(5) The consolidated planning scheme becomes the planning scheme for the area concerned, and supersedes the existing planning scheme for the area without any change to the rights and obligations of any person under the existing planning scheme, on notification in the Gazette of the making of the order in council.

‘(6) Orders in council under this section are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’.

30. Section 2.18(1)—

omit, insert—

‘(1) If the Minister has proposed under this section that a planning scheme be amended, the planning scheme may be amended by the Governor in Council by order in council.’.

31. Section 2.18(2)(e)—

omit, insert—

‘(e) in respect of 3 or more allotments, by—

- (i) zoning or rezoning land other than for the purposes of a development control plan; or
- (ii) amending a regulatory map; or

SCHEDULE (continued)

- (iii) amending a development control plan map; or
- (f) in respect of any number of allotments, by zoning or rezoning land for the purposes of a development control plan.’.

32. Section 2.18(3)(c)—*omit, insert—*

- ‘(c) in respect of 1 or 2 allotments, by—
 - (i) zoning or rezoning land other than for the purposes of a development control plan; or
 - (ii) amending a regulatory map;having first considered the matters specified in section 2.19(2);’.

33. Section 2.18(8)(a)—*omit—*

‘(or otherwise reproducing) the copy and postage, where posted’,

insert—

‘, reproducing or otherwise obtaining the copy and, if the copy is posted, of posting the copy’.

34. Section 2.18 (at the end)—*insert—*

‘(11) Orders in council under this section are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’.

SCHEDULE (continued)

35. Section 2.20(1)—

omit ‘to the Minister’, *insert* ‘to the chief executive’.

36. Section 2.20(1)—

omit—

‘or, if the Minister upon application being made by the Local Authority allows a longer period, the period so allowed’.

37. After section 2.20(1)—

insert—

‘**(1A)** The local authority may, by resolution, extend or further extend the period mentioned in subsection (1).

‘**(1B)** The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.’.

38. Section 2.20 (3), (4) and (5)—

omit.

39. Section 2.20(6)—

omit—

‘, in considering the recommendation of the Minister in respect of an amendment of a planning scheme,’.

SCHEDULE (continued)

40. Section 2.20(9)—*omit, insert—*

‘(9) The approval of an amendment of a planning scheme is to be given by order in council.

‘(10) The order in council is to identify each amendment that is approved.

‘(11) The planning scheme as amended becomes the planning scheme for the area concerned, and has the force of law, on notification in the Gazette of the making of the order in council.

‘(12) Any conditions imposed under section 2.19(3) (as subsequently amended under this Act) attach to the land and are binding on successors in title.

‘(13) Orders in council under this section are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’

41. Section 2.21(3)—*omit, insert—*

‘(3) If—

- (a) a road is closed or proposed to be closed; and
- (b) the Governor in Council is of the opinion that—
 - (i) the land comprising the closed road, or the road proposed to be closed, should be included in zones consistent with the zoning of adjoining lands; and
 - (ii) the proposed zoning would not substantially affect the public in an adverse way;

the Governor in Council may, despite the fact that the public notice provisions of section 2.18 have not been complied with, determine, by

SCHEDULE (continued)

order in council, that the land be zoned in the way specified in the determination.

‘**(3A)** If the road has not been closed, the order in council takes effect on the closing of the road.’.

42. Section 2.21 (at the end)—

insert—

‘**(5)** Orders in council under this section are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’.

43. Section 2.22(1)—

omit ‘Minister’, *insert* ‘chief executive’.

44. Section 2.22(2)—

omit, insert—

‘**(2)** The Governor in Council may, by order in council, approve—

- (a) the whole of the part of the regulation mentioned in subsection (1) if the Governor in Council considers that the whole of the part is necessary and appropriate; or
- (b) that part of the part of the regulation mentioned in subsection (1) if the Governor in Council considers that that part is necessary and appropriate.

‘**(2A)** The approval may be limited to a specified part of the area mentioned in subsection (1).’.

SCHEDULE (continued)

45. Section 2.22(3) (after ‘publication’)—
insert ‘or notification’.

46. Section 2.22(4)—
omit.

47. Section 2.22(5)—
renumber as section 2.22(4).

48. Section 2.22 (at the end)—
insert—

‘(5) Orders in council under this section are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’

49. Section 3.4(2)—
omit ‘and the Minister may recommend’.

50. Section 3.4(4)—
omit ‘recommended pursuant to’, *insert* ‘suggested under’.

51. Section 3.5(8)—
omit ‘under this section:—’, *insert* ‘under subsection (1)(a)—’.

SCHEDULE (continued)

52. Section 4.3(2)(e)—

omit ‘restricts or controls the use of the land’,
insert ‘confers use rights’.

53. Section 4.3(7)(a)—

omit—

‘(or otherwise reproducing) the copy and postage, where posted’,

insert—

‘, reproducing or otherwise obtaining the copy and, if the copy is posted, of posting the copy’.

54. Section 4.4(4)—

omit, insert—

‘(4) The local authority must decide the application within 40 days of its receipt of the statutory declaration required by section 4.3(10).

‘(4A) The local authority may, by resolution, extend or further extend the period mentioned in subsection (4).

‘(4B) The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(4C) If the local authority extends or further extends the period mentioned in subsection (4), it must notify the applicant of the extension before the extension starts.’.

55. Section 4.4(12)(b)—

omit, insert—

SCHEDULE (continued)

‘(b) The conditions imposed by the local authority on its approval under section 4.4(5) (as subsequently amended under this Act) attach to the land and are binding on successors in title.’.

56. Section 4.5(1)—

omit ‘Minister’, *insert* ‘chief executive’.

57. Section 4.5(2)—

omit ‘to the Minister pursuant to subsection (1)’.

58. Section 4.5(2)(a)(ii) (after ‘appeal period’)—

insert ‘and the fulfilment of any other preconditions, whichever is later’.

59. Section 4.5(3)(h)—

omit ‘Minister’, *insert* ‘chief executive’.

60. Section 4.5(4) and (5)—

omit.

61. Section 4.5(6)—

omit—

‘, in considering the recommendation of the Minister in respect of an amendment of a planning scheme,’.

62. Section 4.5(9) and (10)—

omit, insert—

SCHEDULE (continued)

‘(9) The approval of an amendment of a planning scheme is to be given by order in council.

‘(10) The order in council is to identify each amendment that is approved.

‘(11) The planning scheme as amended becomes the planning scheme for the area concerned, and has the force of law, on notification in the Gazette of the making of the order in council.

‘(12) Any conditions imposed under section 4.4(5) (as subsequently amended under this Act) attach to the land and are binding on successors in title.

‘(13) Orders in council under this section are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’.

63. Section 4.6(7)(a)—

omit—

‘(or otherwise reproducing) the copy and postage, where posted’,

insert—

‘, reproducing or otherwise obtaining the copy and, if the copy is posted, of posting the copy’.

64. Section 4.7(4)—

omit, insert—

‘(4) The local authority must decide the application within 40 days of its receipt of the statutory declaration required by section 4.6(10).

‘(4A) The local authority may, by resolution, extend or further extend the period mentioned in subsection (4).

SCHEDULE (continued)

‘(4B) The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(4C) If the local authority extends or further extends the period mentioned in subsection (4), it must notify the applicant of the extension before the extension starts.’.

65. Section 4.8(1)—

omit ‘Minister’, insert ‘chief executive’.

66. Section 4.8(2)—

omit ‘to the Minister pursuant to subsection (1)’.

67. Section 4.8(2)(a)(ii) (after ‘appeal period’)—

insert ‘and the fulfilment of any other precondition, whichever is later’.

68. Section 4.8(3)(h)—

omit ‘Minister’, insert ‘chief executive’.

69. Section 4.8(4) and (5)—

omit.

70. Section 4.8(6)—

omit—

‘, in considering the recommendation of the Minister in respect of an amendment of a planning scheme,’.

SCHEDULE (continued)

71. Section 4.8(9) and (10)—

omit, insert—

‘**(9)** The approval of an amendment that is the rezoning of the first stage of the proposed development is to be given by order in council.

‘**(10)** The order in council is to identify each amendment that is approved.

‘**(11)** The planning scheme amendment map is to—

- (a) be noted with the date of the notification in the Gazette of the making of the order in council; and
- (b) show the land comprising the stages approved by the local authority under section 4.7(5); and
- (c) show the proposed zone names and boundaries.

‘**(12)** The planning scheme as amended becomes the planning scheme for the area concerned, and has the force of law, on notification in the Gazette of the making of the order in council.

‘**(13)** Any conditions imposed under section 4.7(5) (as subsequently amended under this Act) attach to the land and are binding on successors in title.

‘**(14)** Orders in council under this section are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’

72. Section 4.9(3)—

omit, insert—

‘**(3)** The local authority must decide the application within 40 days of the lodgment of the application.

‘**(3A)** The local authority may, by resolution, extend or further extend the period mentioned in subsection (3).

SCHEDULE (continued)

‘(3B) The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(3C) If the local authority extends or further extends the period mentioned in subsection (3), it must notify the applicant of the extension before the extension starts.’.

73. Section 4.10(1)—

omit ‘additional’, insert ‘subsequent’.

74. Section 4.10(1)—

omit ‘Minister’, insert ‘chief executive’.

75. Section 4.10(2)—

omit ‘to the Minister pursuant to subsection (1)’.

76. Section 4.10(2)(a)(ii) (after ‘appeal period’)—

insert ‘and the fulfilment of any other preconditions, whichever is later’.

77. Section 4.10(3)(e)—

omit ‘Minister’, insert ‘chief executive’.

78. Section 4.10(4) and (5)—

omit.

SCHEDULE (continued)

79. Section 4.10(6)—*omit—*

‘, in considering the recommendation of the Minister in respect of the rezoning.’.

80. Section 4.10(8) and (9)—*omit, insert—*

‘**(8)** The approval of a rezoning is to be given by order in council.

‘**(9)** The order in council is to identify each rezoning approved.

‘**(10)** The planning scheme amendment map is to—

- (a) be noted with the date of the notification in the Gazette of the making of the order in council approving of the rezoning of land in the first stage of the proposed development; and
- (b) show the land comprising the stages approved by the local authority under section 4.7(5); and
- (c) show the proposed zone names and boundaries.

‘**(11)** The rezoning becomes part of the planning scheme for the area concerned, and has the force of law, on notification in the Gazette of the making of the order in council.

‘**(12)** Any conditions imposed under section 4.9(4) (as subsequently amended under this Act) attach to the land and are binding on successors in title.

‘**(13)** Orders in council under this section are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.’.

SCHEDULE (continued)

81. Section 4.11(2)(d) (after ‘combined application’)—

insert ‘and identify the component parts of the combined application’.

82. Section 4.11(4)(b) (after ‘combined application’)—

insert ‘and identify the component parts of the combined application’.

83. Section 4.11(7)—

omit ‘to the Minister’.

84. Section 4.11(10) (after ‘published’)—

insert ‘or notified’.

85. Section 4.12(6)(a)—

omit—

‘(or otherwise reproducing) the copy and postage, where posted’,

insert—

‘, reproducing or otherwise obtaining the copy and, if the copy is posted, of posting the copy’.

86. Section 4.13(4)—

omit, insert—

‘(4) The local authority must decide the application within 40 days of its receipt of the statutory declaration required by section 4.12(9).

‘(4A) The local authority may, by resolution, extend or further extend the period mentioned in subsection (4).

‘(4B) The resolution has effect subject to any written direction given by the Minister to the local authority—

SCHEDULE (continued)

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(4C) If the local authority extends or further extends the period mentioned in subsection (4), it must notify the applicant of the extension before the extension starts.’.

87. Section 4.13(13)(a)(ii) (after ‘appeal period’)—

insert ‘and the fulfilment of any other preconditions, whichever is later’.

88. Section 4.15(2)(c)—

omit—

‘the approval referred to in subsection (1)(a),

insert—

‘if the application to modify seeks the modification of an approval—the approval’.

89. Section 4.15(2)(d)—

omit.

90. Section 4.15(2)(e)—

omit, insert—

- ‘(e) the application to modify seeks the modification of a condition that was imposed because of an objection made when public notice of an application was given.’.

91. Section 4.15(3)(e)—

omit, insert—

SCHEDULE (continued)

‘(e) any altered ingress to or egress from the site is to be to or from the roads—

- (i) approved by the local authority in dealing with the relevant application; or
- (ii) specified in the relevant application;’.

92. Section 4.15(5)(a)(i)—

omit—

‘in the case of an application to modify made under subsection (1)(a)’,

insert—

‘if it seeks the modification of an approval or a condition attaching to an approval’.

93. Section 4.15(5)(a)(ii)—

omit, insert—

- ‘(ii) if it seeks the modification of an application—to be made by the person who made the application;
- (iii) if it seeks the modification of a condition imposed under section 2.19(3)(a)—to be made by the owner of the land that the condition relates to or a person authorised by the owner in writing to make the application to modify;’.

94. Section 4.15(13)—

omit ‘made pursuant to subsection (1)(b)’.

95. Section 4.15(14)—

omit ‘for consent under section 4.12’, *insert* ‘to modify’.

SCHEDULE (continued)

96. Section 4.15(14)—*omit—*

‘, pursuant to section 4.13(12), is to forthwith issue an approval, a town planning consent permit or an interim development permit’,

insert—

‘must issue an approval or permit’.

97. Section 4.15(15)—*omit* ‘a consent’.**98.** Section 4.15(15) (after ‘until’)—*insert* ‘an approval or’.**99.** Section 5.1(5)—*omit, insert—*

‘(5) Subject to section 5.5, the local authority must decide the application within 40 days of its receipt of the application, or its receipt of any amended proposal plan, whichever happens later.

‘(5A) The local authority may, by resolution, extend or further extend the period mentioned in subsection (5).

‘(5B) The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(5C) If the local authority extends or further extends the period mentioned in subsection (5), it must notify the applicant of the extension before the extension starts.’.

SCHEDULE (continued)

100. Section 5.1(8)—*omit, insert—*

‘(8) The conditions imposed by a local authority on its approval under subsection (6) (as subsequently amended under this Act) attach to the land and are binding on successors in title.’

101. Section 5.3(1)(b)—*omit* ‘pursuant to a planning scheme’,*insert* ‘under any provision of this Act other than section 5.1’.**102.** Section 5.4(3) (after ‘5.1 and 5.2’)—*insert* ‘(as subsequently amended under this Act)’.**103.** Section 5.5(3)(a) (after ‘publication’)—*insert* ‘or notification’.**104.** Section 5.6(2)—*omit—*

‘such area as is prescribed by the planning scheme or by-law of the Local Authority’,

insert—

‘the area provided for in a local planning policy’.

105. Section 5.6(4)—*omit—*

‘the amount prescribed by the planning scheme or by by-law of the Local Authority’,

SCHEDULE (continued)

insert—

‘the amount provided for in a local planning policy’.

106. Section 5.6(7), (8) and (9)—

omit.

107. Section 5.9(5)—

omit, insert—

‘(5) The local authority must decide the application within 40 days of its receipt of the application, or its receipt of any amended staged subdivision plan, whichever happens later.

‘(5A) The local authority may, by resolution, extend or further extend the period mentioned in subsection (5).

‘(5B) The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(5C) If the local authority extends or further extends the period mentioned in subsection (5), it must notify the applicant of the extension before the extension starts.’.

108. Section 5.9(7)—

omit, insert—

‘(7) The conditions imposed by a local authority on its approval under subsection (6) (as subsequently amended under this Act) attach to the land and are binding on successors in title.’.

SCHEDULE (continued)

109. Section 5.11(3) and (4)—*omit, insert—*

‘(3) The local authority must have regard to applicable State planning policies in making its decision on the application and must have regard to—

- (a) the number and type of buildings erected on the land; and
- (b) whether it is proposed to resubdivide the parcel under the *Building Units and Group Titles Act 1980*.

‘(4) The local authority must decide the application within 40 days of its receipt of the application

‘(4A) The local authority may, by resolution, extend or further extend the period mentioned in subsection (4).

‘(4B) The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(4C) If the local authority extends or further extends the period mentioned in subsection (4), it must notify the applicant of the extension before the extension starts.’.

110. Section 5.11(6)—*omit, insert—*

‘(6) The conditions imposed by a local authority on its approval under subsection (5) (as subsequently amended under this Act) attach to the land and are binding on successors in title.’.

111. Section 5.11(11)—*omit, insert—*

SCHEDULE (continued)

‘(11) This section (other than subsection (13)) does not apply if an amalgamation is required to be effected as a condition of an approval granted by a local authority following an application made under any other section of this Act.’.

112. After section 5.12(2)—

insert—

‘(2A) The local authority must have regard to relevant State planning policies in making its decision on the application.’.

113. Section 5.12(3)—

omit, insert—

‘(3) The local authority must decide the application within 40 days of its receipt of the application.

‘(3A) The local authority may, by resolution, extend or further extend the period mentioned in subsection (3).

‘(3B) The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(3C) If the local authority extends or further extends the period mentioned in subsection (3), it must notify the applicant of the extension before the extension starts.’.

114. Section 5.12(9)—

omit, insert—

SCHEDULE (continued)

‘(9) This section does not apply if an easement is required to be effected as a condition of an approval granted by a local authority in respect of an application made under any other section of this Act.’.

115. Section 6.2(2)—

omit ‘planning policy’, *insert* ‘local planning policy’.

116. Section 6.2(6)(b)—

omit—

‘, notwithstanding section 2.8(6)—to be determined in accordance with a planning policy adopted by the Local Authority’,

insert—

‘—to be determined under a local planning policy’.

117. Section 6.2(7)—

omit ‘planning policy’ (wherever occurring),

insert ‘local planning policy’.

118. Section 6.2(8)—

omit ‘planning policy’, *insert* ‘local planning policy’.

119. Section 6.3(5), (6) and (7)—

omit.

120. Section 6.4(5)—

omit.

SCHEDULE (continued)

121. Section 7.5(7)—

omit ‘planning policy of’, *insert* ‘local planning policy of’.

122. Section 7.5(7)—

omit ‘planning policy pursuant to section 2.8’,
insert ‘local planning policy under section 1A.4’.

123. Section 7.6(1)(a) (after ‘appeal’)—

insert ‘or other proceedings’.

124. Section 7.6(1)(b)(i)—

omit ‘that the appeal was’,
insert ‘the appeal or other proceedings to have been’.

125. Section 7.6(3)—

omit ‘at Brisbane’.

126. Section 7.8(1)—

omit ‘by Order in Council published in the Gazette’,
insert ‘by order in council’.

127. Section 8.2(6)—

omit, insert—

‘(6) The chief executive may extend or further extend the period mentioned in subsection (5B).

SCHEDULE (continued)

‘(6A) If the chief executive extends or further extends the period mentioned in subsection (5B), the chief executive must notify the applicant of the extension before the extension starts.’.

128. Section 8.2(11)—

omit, insert—

‘(11) The local authority must decide an application to which subsection (2) applies within 60 days of—

- (a) its receipt of the statutory declaration required by section 4.3(10), 4.6(10) or 4.12(9); or
- (b) the making of the application;

whichever happens later.

‘(11A) The local authority may, by resolution, extend or further extend the period mentioned in subsection (11).

‘(11B) The resolution has effect subject to any written direction given by the Minister to the local authority—

- (a) shortening the extension or further extension; or
- (b) directing that the extension or further extension ceases to have effect on the giving of the direction.

‘(11C) If the local authority extends or further extends the period mentioned in subsection (11), it must notify the applicant of the extension before the extension starts.

‘(11D) When it decides an application to which subsection (2) applies, the local authority must have regard to the environmental impact statement submitted with the application as well as any other matters relevant to the application.

‘(11E) Subsections (11) to (11D) have effect despite any other provision of this Act which is inconsistent.’.

SCHEDULE (continued)

129. Section 8.2(13)—
omit ‘the Minister or’.

130. Section 8.2(13)—
omit ‘the Minister may’, *insert* ‘the chief executive may’.

131. Section 8.2(14)—
omit ‘Minister’ (wherever occurring), *insert* ‘chief executive’.

132. Section 8.2(15) (definition “**designated development**”, paragraph (b))—
omit ‘planning policy’, *insert* ‘local planning policy’.

133. Section 8.3—
omit.

134. Section 8.3A(2)—
omit—

‘Where land the subject of a proposal under section 2.18(3)(c) or 2.18(3A) or an application under section 4.3 or 4.6 is land prescribed under subsection (1)—’,

insert—

‘If land that is the subject of a proposal under section 2.18(3)(c) or 2.18(3A), or an application under section 4.3, 4.6, 4.12, 5.1 or 5.9, is land prescribed under subsection (1), and the proposal or application involves a change from a prescribed purpose to a purpose that is not prescribed—’.

SCHEDULE (continued)

135. Section 8.3A(4)—

omit ‘2.19, 4.4 or 4.7’, *insert* ‘2.19, 4.4, 4.7, 4.13, 5.1 or 5.9’.

136. Section 8.7(1)—

omit.

137. Section 8.7(3)—

omit ‘the Minister or the Local Authority, as the case may require’,
insert ‘the local authority’.

138. Section 8.7(5)—

omit ‘the Minister or the Local Authority, as the case may be, who’,
insert ‘the local authority that’.

139. Section 8.7(5)—

omit ‘the Minister or the Local Authority, as the case may be, from’,
insert ‘the local authority from’.