

Queensland



Subordinate Legislation 2002 No. 17

Local Government Act 1993

**LOCAL GOVERNMENT (LIMITED
REVIEWABLE LOCAL GOVERNMENT
MATTERS) REGULATION 2002**

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PART 1—PRELIMINARY

1 Short title

This regulation may be cited as the *Local Government (Limited Reviewable Local Government Matters) Regulation 2002*.

2 Definitions

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

3 Receiving local government

The “**receiving local government**” is—

- (a) for the Esk/Laidley relevant area—the Council of the Shire of Esk; or
- (b) for the Laidley/Ipswich relevant area—the Council of the Shire of Laidley.

4 Transferring local government

The “**transferring local government**” is—

- (a) for the Esk/Laidley relevant area—the Council of Shire of Laidley; or
- (b) for the Laidley/Ipswich relevant area—the Council of the City of Ipswich.

PART 2—IMPLEMENTATION OF LIMITED REVIEWABLE LOCAL GOVERNMENT MATTERS

5 Changes in external boundaries

(1) The external boundaries of the local government area of each transferring local government are changed by excluding the relevant area for which the local government is the transferring local government.

(2) The external boundaries of the local government area of each receiving local government are changed by including the relevant area for which the local government is the receiving local government.

6 New external boundaries

(1) Map no. LGB76 edition 3 shows the external boundaries of the local government area of the Shire of Laidley with the Esk/Laidley relevant area excluded.

(2) Map no. LGB50 edition 4 shows the external boundaries of the local government area of the Shire of Esk with the Esk/Laidley relevant area included.

(3) Map no. LGB66 edition 6 shows the external boundaries of the local government area of the City of Ipswich with the Laidley/Ipswich relevant area excluded.

(4) Map no. LGB76 edition 4 shows the external boundaries of the local government area of the Shire of Laidley with the Laidley/Ipswich relevant area included.

PART 3—PROVISIONS FOR FACILITATING IMPLEMENTATION OF LIMITED REVIEWABLE LOCAL GOVERNMENT MATTERS

Division 1—Receiving local government’s expanded role

7 Receiving local government to take over particular functions and powers

(1) This section applies if—

- (a) under an Act, a local government may perform a function or exercise a power; and
- (b) the transferring local government for a relevant area started to perform the function or exercise the power for the relevant area before the commencing day, but did not finish performing the function or exercising the power.

(2) The receiving local government for the relevant area may perform the function or exercise the power.

Example—

If, under an Act, a person made an application about land in the Esk/Laidley relevant area to the Council of the Shire of Laidley, the Council of the Shire of Esk may deal with it.

8 Application of receiving local government’s local laws to relevant area

(1) To remove any doubt, it is declared that the local laws of the receiving local government for a relevant area in force immediately before the commencing day apply to the relevant area.

(2) Subsection (1) has effect subject to division 2.

Division 2—Instruments

9 Existing instruments to continue in force

(1) This section applies to an instrument, other than a local law or instrument made under the planning legislation, that—

- (a) was made by the transferring local government for a relevant area under an Act or a local law before the commencing day about—
 - (i) a resident in the relevant area; or
 - (ii) an owner of land in the relevant area; or
 - (iii) land in the relevant area; or
 - (iv) a person’s entitlement to carry out an activity in the relevant area; and
- (b) is in force immediately before the commencing day.

(2) For the purposes of the receiving local government for the relevant area dealing with an instrument made under an Act, the instrument is taken to have been made under the Act by the receiving local government.

(3) For the purposes of the receiving local government for the relevant area dealing with an instrument made under a local law—

- (a) the local law is taken to be a local law of the receiving local government; and
- (b) the instrument is taken to have been made by the receiving local government under the local law and to be in force for the relevant area; and
- (c) the receiving local government is responsible for administering the local law in order to deal with the instrument; and
- (d) the instrument continues in force until it would have otherwise ended under the local law.

Division 3—Financial matters

10 Levying rates already made

(1) This section applies if, immediately before the commencing day, the transferring local government for a relevant area—

- (a) had made a rate for land in the relevant area; but
- (b) had not levied the rate on a person or otherwise demanded payment of the rate.

(2) The receiving local government for the relevant area—

- (a) is taken to have made the rate; and
- (b) may levy the rate or otherwise demand payment of the rate.

11 Recovery of unpaid rates

(1) This section applies if—

- (a) before the commencing day the transferring local government for a relevant area had made and levied a rate for land in the relevant area on a person; and
- (b) immediately before the commencing day the rate had not been paid.

(2) If the time for payment of the rate had not ended before the commencing day—

- (a) the time continues to run; and
- (b) the amount of the rate is payable by the person to the receiving local government for the relevant area.

(3) If the time for payment of the rate had ended before the commencing day, the rate becomes payable by the person to the receiving local government.

(4) The receiving local government—

- (a) is taken to have made and levied the rate; and
- (b) may receive payment of, or recover, the amount of the rate.

(5) If, on or after the commencing day, the transferring local government receives the amount of the rate, the transferring local government must pay the amount to the receiving local government.

Division 4—Planning schemes and related matters

12 Existing planning schemes continue

(1) The existing planning scheme for a relevant area—

- (a) continues to apply to the relevant area until—
 - (i) the planning scheme for the local government area of the receiving local government for the relevant area is amended to include the relevant area; or
 - (ii) a new planning scheme incorporating the relevant area is approved under the planning legislation; and
- (b) is to be implemented, administered and enforced by the receiving local government to the extent it relates to the relevant area; and
- (c) for paragraph (b), is taken to be part of a planning scheme for the local government area of the receiving local government; and
- (d) binds the receiving local government.

(2) An instrument that is in force under the existing planning scheme immediately before the commencing day continues in force to the extent that it relates to the relevant area, until it—

- (a) expires; or
- (b) is repealed under the existing planning scheme or a planning scheme replacing the existing planning scheme in whole or relevant part.

Examples of continuing instruments—

Applications, approvals and consents.

13 Continuing application of decisions

(1) This section applies to a decision made by the transferring local government for a relevant area before the commencing day under an existing planning scheme for land in the relevant area.

(2) The decision continues to apply to the land and for that purpose is taken to have been made by the receiving local government for the relevant area.

14 Outstanding applications

(1) This section applies to an application that—

- (a) was made to the transferring local government for a relevant area before the commencing day under an Act, or an existing planning scheme, in relation to land in the relevant area; and
- (b) had not been finally decided before the commencing day.

(2) As soon as practicable after the commencing day, the transferring local government must pay the fees received by it for the application to the receiving local government for the relevant area.

(3) The receiving local government must decide the application.

(4) If, before the commencing day, the transferring local government had started to investigate the application, it is sufficient compliance with subsection (2) if, as soon as practicable after the commencing day, it gives the receiving local government—

- (a) the results of its investigation of the application; and
- (b) the fees received by it, less a reasonable amount for the costs of its investigation of the application.

15 Appeals

(1) This section applies to an appeal that—

- (a) was started before the commencing day against a decision of the transferring local government for a relevant area made under an existing planning scheme; and
- (b) had not been completed before the commencing day.

(2) The receiving local government for the relevant area takes the place of the transferring local government in the appeal.

Division 5—Miscellaneous provisions

16 Valuation of lands

(1) The valuation of land in a relevant area applying immediately before the commencing day continues to be the valuation of the land until a further valuation applies to the land.

(2) Subsection (1) applies subject to an objection or appeal under the *Valuation of Land Act 1944* about the valuation, but the objection or appeal may not be based on the fact the land is no longer in the local government area it was in at the time of the valuation.

(3) In this section—

“**valuation**”, of land, means the unimproved value of the land under the *Valuation of Land Act 1944*.

17 Ownership of material in fixed assets

To remove any doubt, it is declared that the materials of all roads, bridges and other public works in a relevant area belong to the receiving local government for the relevant area.

18 Reference in documents to transferring local government

In a document about a relevant area (including, for example, a contract to which the transferring local government for the relevant area was a party), a reference to the transferring local government may, as appropriate, be taken to be a reference to the receiving local government for the relevant area.

19 Duty to facilitate change in boundaries

(1) The transferring and receiving local governments for a relevant area must do all acts and things necessary or desirable to help in the implementation of the external boundary changes involving the relevant area.

(2) Without limiting subsection (1), the transferring local government for a relevant area must give the receiving local government for the relevant area the records necessary to enable compliance with this regulation.

PART 4—REPEAL PROVISION

20 Regulation repealed

The *Local Government (Limited Reviewable Local Government Matters) Regulation 1998* is repealed.

21 Expiry of pt 4

This part expires the day after the commencing day.

SCHEDULE

DICTIONARY

section 2

“commencing day” means the day this regulation commences.

“Esk/Laidley relevant area” means the part of lot 1 on RP 108757 identified in attachment C of the Esk/Laidley report as part of the local government area of the Shire of Laidley.

“Esk/Laidley report” means the report of August 2001 called ‘Local Government Electoral & Boundaries Review Commission—Report on the limited reviewable local government matter affecting Esk/Laidley Shire—Changes to the external boundaries of the area of the Shire of Esk and the area of the Shire of Laidley’.

“existing planning scheme”, for a relevant area, means the planning scheme in force for the relevant area immediately before the commencing day.

“Laidley/Ipswich relevant area” means the part of lot 105 on RP 866712 identified in attachment B of the Laidley/Ipswich report as part of the local government area of the City of Ipswich.

“Laidley/Ipswich report” means the report of October 2001 called ‘Local Government Electoral & Boundaries Review Commission—Report on the limited reviewable local government matter affecting Laidley Shire/Ipswich City—Changes to the external boundaries of the area of the Shire of Laidley and the City of Ipswich’.

“planning legislation” means—

- (a) the repealed *Local Government (Planning and Environment) Act 1990*; or
- (b) the *Integrated Planning Act 1997*.

SCHEDULE (continued)

“rate” means a rate or charge under section 963(1) of the Act¹, and includes any interest accrued or premium owing on the rate or charge.

“receiving local government” see section 3.

“relevant area” means the following—

- (a) the Esk/Laidley relevant area;
- (b) the Laidley/Ipswich relevant area.

“transferring local government” see section 4.

ENDNOTES

1. Made by the Governor in Council on 7 February 2002.
2. Notified in the gazette on 8 February 2002.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Local Government and Planning.

1 Section 963 (Power to make and levy rates and charges) of the Act