



Queensland

Local Government and Other Legislation Amendment Bill 2013



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Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of City of Brisbane Act 2010	
3	Act amended	7
4	Amendment of s 152 (Qualifications of councillors)	7
5	Amendment of s 153 (Disqualification for certain offences)	7
6	Insertion of new s 173B	8
	173B Obligation of councillor to correct register of interests	8
7	Amendment of s 179 (Preliminary assessments of complaints)	9
8	Amendment of schedule (Dictionary)	10
Part 3	Amendment of Local Government Act 2009	
9	Act amended	11
10	Replacement of s 18 (Who may start the change process)	11
	18 Who may start the change process	11
11	Amendment of s 19 (Assessment)	11
12	Amendment of s 152 (Qualifications of councillors)	11
13	Amendment of s 153 (Disqualification for certain offences)	12
14	Insertion of new s 171B	12
	171B Obligation of councillor to correct register of interests	12
15	Amendment of s 176B (Preliminary assessments of complaints)	14
16	Amendment of s 196 (Appointing other local government employees)	15
17	Amendment of s 260F (Implementation)	15
18	Amendment of s 297 (Continuation of particular provisions for corporate entities)	16
19	Insertion of new ch 9, pt 7	16

Contents

	Part 7	Transitional provisions for Local Government and Other Legislation Amendment Act 2013	
	Division 1	Former corporate entities	
	302	Exemption from continuation of particular provisions for corporate entities	16
	303	Continuation of particular provisions of other Acts for corporate entities	17
	Division 2	New local governments	
	304	Definition for div 2.	18
	305	Meeting to approve budget and levy rates and charges for period ending 30 June 2014.	18
	306	Post-election meeting not required.	19
20		Amendment of sch 4 (Dictionary).	19
Part 4		Amendment of Local Government and Other Legislation Amendment Act 2012	
21		Act amended	20
22		Amendment of s 2 (Commencement)	20
23		Amendment of s 172 (Amendment of s 270 (Regulation-making power))	20
Part 5		Amendment of Sustainable Planning Act 2009	
24		Act amended	20
25		Amendment of s 15 (State planning instruments under Act)	21
26		Amendment of s 26 (Relationship with other instruments).	21
27		Replacement of s 43 (Relationship with local planning instruments)	21
	43	Relationship with regional plans and local planning instruments.	21
28		Renumbering and relocation of ch 2, pts 3 and 4.	21
29		Amendment of s 74 (Notice of repeal)	22
30		Insertion of new s 86	22
	86	Planning schemes for particular local governments.	22
31		Insertion of new ch 10, pt 8	24
	Part 8	Transitional provisions for Local Government and Other Legislation Amendment Act 2013	
	Division 1	State planning instruments	
	948	Existing development applications	24
	Division 2	De-amalgamation of particular local governments	
	Subdivision 1	Preliminary	
	949	Definitions for pt 8, div 2.	25

	Subdivision 2	Applications or requests made before changeover day	
	950	Application or request relating to land wholly within continuing local government area	27
	951	Application or request relating to land wholly within new local government area	27
	952	Application or request relating to land within continuing and new local government area	28
	953	Continuing local government to assist related new local government	29
	Subdivision 3	Existing proceedings	
	954	Land wholly within new local government area	30
	955	Land within both continuing and new local government area	31
	Subdivision 4	Proceedings commenced after changeover day	
	956	Land wholly within new local government area	31
	957	Land within both continuing and new local government area	32
	Subdivision 5	Enforcement provision	
	958	Enforcement that may be taken by new local governments	33
	Subdivision 6	Miscellaneous	
	959	Provision about consultations	34
32		Amendment of sch 3 (Dictionary)	35
Part 6		Minor and consequential amendments	
33		Legislation amended	36
Schedule 1		Minor and consequential amendments	37
		City of Brisbane Act 2010	37
		City of Brisbane Regulation 2012	38
		Local Government Act 2009	39
		Local Government Regulation 2012	40
		Sustainable Planning Act 2009	41

2013

A Bill

for

An Act to amend the *City of Brisbane Act 2010*, the *Local Government Act 2009*, the *Local Government and Other Legislation Amendment Act 2012* and the *Sustainable Planning Act 2009* for particular purposes, and to make consequential or minor amendments of other legislation as stated in schedule 1 for purposes related to those purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Local Government and Other
Legislation Amendment Act 2013*. 4
5

Clause 2 Commencement 6

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

- sections 25 to 29; 9
- section 31 to the extent it inserts new chapter 10, part 8,
division 1; 10
11
- section 32(3) to (6); 12
- schedule 1 to the extent it amends the *Sustainable
Planning Act 2009*. 13
14

(2) The following provisions commence on 1 January 2014— 15

- section 17; 16
- section 19 to the extent it inserts new chapter 9, part 7,
division 2; 17
18
- section 31 to the extent it inserts new chapter 10, part 8,
division 2; 19
20
- section 32(1) and (2). 21

Part 2	Amendment of City of Brisbane Act 2010	1 2
Clause 3	Act amended	3
	This part amends the <i>City of Brisbane Act 2010</i> .	4
	<i>Note—</i>	5
	See also the amendments in schedule 1.	6
Clause 4	Amendment of s 152 (Qualifications of councillors)	7
	Section 152(a) to (c)—	8
	<i>omit, insert—</i>	9
	(a) is an adult Australian citizen; and	10
	(b) resides in Brisbane; and	11
	(c) is, under the Electoral Act, enrolled on an electoral roll for an electoral district in Brisbane; and	12 13 14
	(d) is not disqualified from being a councillor because of a section in this division.	15 16
	<i>Note—</i>	17
	See the <i>Local Government Electoral Act 2011</i> , section 26 about who may be nominated as a candidate, or for appointment, as a councillor.	18 19 20
Clause 5	Amendment of s 153 (Disqualification for certain offences)	21 22
	(1) Section 153(4)(c)—	23
	<i>omit.</i>	24
	(2) Section 153(5)—	25
	<i>omit, insert—</i>	26
	(5) An <i>integrity offence</i> is an offence against—	27

[s 6]

- (a) section 173, 173A(2) or (3), 174(5) or 215;
or 1 2
- (b) section 173B(2), if the person is convicted
of an offence to which paragraph (a) of the
penalty applies; or 3 4 5
- (c) section 98B, 98E or 98G(a) or (b) of the
Criminal Code. 6 7

Clause 6 Insertion of new s 173B 8

After section 173A— 9

insert— 10

**173B Obligation of councillor to correct register of
interests** 11 12

(1) This section applies if— 13

- (a) a councillor has an interest that must be
recorded in a register of interests under a
regulation in relation to the councillor or a
person who is related to the councillor; or 14 15 16 17
- (b) there is a change to an interest recorded in a
register of interests under a regulation in
relation to a councillor or a person who is
related to a councillor. 18 19 20 21

Editor's note— 22

See the *City of Brisbane Regulation 2012*, chapter 8,
part 5 (Register of interests). 23 24

(2) The councillor must, in the approved form,
inform the chief executive officer of the
particulars of the interest or the change to the
interest within 30 days after the interest arises or
the change happens. 25 26 27 28 29

Maximum penalty— 30

- (a) if the councillor fails to comply with
subsection (2) intentionally—100 penalty
units; or 31 32 33

	(b) otherwise—85 penalty units.	1
	<i>Note—</i>	2
	Under section 153(5), an offence against subsection (2) is an integrity offence if a person is convicted of an offence to which paragraph (a) of the penalty applies.	3 4 5
	(3) For subsection (1), a person is <i>related</i> to a councillor if—	6 7
	(a) the person is the councillor’s spouse; or	8
	(b) the person is totally or substantially dependent on the councillor and—	9 10
	(i) the person is the councillor’s child; or	11
	(ii) the person’s affairs are so closely connected with the affairs of the councillor that a benefit derived by the person, or a substantial part of it, could pass to the councillor.	12 13 14 15 16
Clause 7	Amendment of s 179 (Preliminary assessments of complaints)	17 18
	(1) Section 179(1) to (5)—	19
	<i>omit, insert—</i>	20
	(1) This section applies if any of the following make or receive a complaint about the conduct or performance of a councillor—	21 22 23
	(a) the council;	24
	(b) the department’s chief executive;	25
	(c) the chief executive officer.	26
	(2) If an entity mentioned in subsection (1)(a) or (b) makes or receives the complaint—	27 28
	(a) the entity must give written notice of the complaint to the chief executive officer; and	29 30

[s 8]

- (b) the chief executive officer must conduct a preliminary assessment of the complaint. 1
2
- (3) The chief executive officer must also conduct a preliminary assessment of a complaint received from an entity, other than an entity mentioned in subsection (1)(a) or (b). 3
4
5
6
- (4) If the chief executive officer makes the complaint— 7
8
 - (a) the chief executive officer must give written notice of the complaint to the department’s chief executive; and 9
10
11
 - (b) the department’s chief executive must conduct a preliminary assessment of the complaint. 12
13
14
- (2) Section 179(6) to (8)— 15
renumber as section 179(5) to (7). 16

Clause 8 Amendment of schedule (Dictionary) 17

- (1) Schedule, definition *local government related law*, paragraphs (d) to (h)— 18
19
renumber as paragraphs (e) to (i). 20
- (2) Schedule, definition *local government related law*— 21
insert— 22
 - (d) the Building Act; and 23
- (3) Schedule, definition *major policy decision*, paragraph (d)(i), ‘\$150000’— 24
25
omit, insert— 26
\$200000 27
- (4) Schedule, definition *preliminary assessment*, ‘section 179(6)’— 28
29

<i>omit, insert—</i>	1
section 179(5)	2

Part 3	Amendment of Local Government Act 2009	3 4
---------------	---	--------

Clause 9	Act amended	5
	This part amends the <i>Local Government Act 2009</i> .	6
	<i>Note—</i>	7
	See also the amendments in schedule 1.	8
Clause 10	Replacement of s 18 (Who may start the change process)	9
	Section 18—	10
	<i>omit, insert—</i>	11
	18 Who may start the change process	12
	Only the Minister may propose a local government change to the change commission.	13 14
Clause 11	Amendment of s 19 (Assessment)	15
	Section 19(1), ‘proposed local government change’—	16
	<i>omit, insert—</i>	17
	local government change proposed by the Minister	18
Clause 12	Amendment of s 152 (Qualifications of councillors)	19
	Section 152(a) to (c)—	20
	<i>omit, insert—</i>	21
	(a) is an adult Australian citizen; and	22

[s 13]

	(b) resides in the local government’s area; and	1
	(c) is enrolled on an electoral roll kept under the Electoral Act, section 58; and	2 3
	(d) is not disqualified from being a councillor because of a section in this division.	4 5
	<i>Note—</i>	6
	See the <i>Local Government Electoral Act 2011</i> , section 26 about who may be nominated as a candidate, or for appointment, as a councillor.	7 8 9
Clause 13	Amendment of s 153 (Disqualification for certain offences)	10 11
	(1) Section 153(4)(c)— <i>omit.</i>	12 13
	(2) Section 153(5)— <i>omit, insert—</i>	14 15
	(5) An <i>integrity offence</i> is an offence against—	16
	(a) section 171, 171A(2) or (3), 172(5) or 234; or	17 18
	(b) section 171B(2), if the person is convicted of an offence to which paragraph (a) of the penalty applies; or	19 20 21
	(c) section 98B, 98E or 98G(a) or (b) of the Criminal Code.	22 23
Clause 14	Insertion of new s 171B	24
	After section 171A— <i>insert—</i>	25 26
	171B Obligation of councillor to correct register of interests	27 28
	(1) This section applies if—	29

-
- (a) a councillor has an interest that must be recorded in a register of interests under a regulation in relation to the councillor or a person who is related to the councillor; or
- (b) there is a change to an interest recorded in a register of interests under a regulation in relation to a councillor or a person who is related to a councillor.
- Editor's note—*
- See the *Local Government Regulation 2012*, chapter 8, part 5 (Register of interests).
- (2) The councillor must, in the approved form, inform the chief executive officer of the particulars of the interest or the change to the interest within 30 days after the interest arises or the change happens.
- Maximum penalty—
- (a) if the councillor fails to comply with subsection (2) intentionally—100 penalty units; or
- (b) otherwise—85 penalty units.
- Note—*
- Under section 153(5), an offence against subsection (2) is an integrity offence if a person is convicted of an offence to which a penalty under maximum penalty, paragraph (a) applies.
- (3) For subsection (1), a person is *related* to a councillor if—
- (a) the person is the councillor's spouse; or
- (b) the person is totally or substantially dependent on the councillor and—
- (i) the person is the councillor's child; or
- (ii) the person's affairs are so closely connected with the affairs of the councillor that a benefit derived by the

[s 15]

	person, or a substantial part of it, could	1
	pass to the councillor.	2
Clause 15	Amendment of s 176B (Preliminary assessments of complaints)	3
		4
	Section 176B(1) to (5)—	5
	<i>omit, insert—</i>	6
	(1) This section applies if any of the following make	7
	or receive a complaint about the conduct or	8
	performance of a councillor of a local	9
	government—	10
	(a) the local government;	11
	(b) the department’s chief executive;	12
	(c) the mayor;	13
	(d) the chief executive officer of the local	14
	government.	15
	(2) If an entity mentioned in subsection (1)(a) or (b)	16
	makes or receives the complaint—	17
	(a) the entity must give written notice of the	18
	complaint to the chief executive officer of	19
	the local government; and	20
	(b) the chief executive officer must conduct a	21
	preliminary assessment of the complaint.	22
	(3) If an entity mentioned in subsection (1)(c) or (d)	23
	makes the complaint—	24
	(a) the entity must give written notice of the	25
	complaint to the department’s chief	26
	executive; and	27
	(b) the department’s chief executive must	28
	conduct a preliminary assessment of the	29
	complaint.	30
	(4) If the mayor receives the complaint—	31

	(a) the mayor must give written notice of the complaint to the chief executive officer of the local government; and	1 2 3
	(b) the chief executive officer must conduct a preliminary assessment of the complaint.	4 5
	(5) The chief executive officer of the local government must also conduct a preliminary assessment of a complaint received from an entity, other than an entity mentioned in subsection (1)(a), (b) or (c).	6 7 8 9 10
Clause 16	Amendment of s 196 (Appointing other local government employees)	11 12
	(1) Section 196— <i>insert</i> —	13 14
	(4A) The deputy mayor may delegate the deputy mayor’s functions under subsection (4) to another councillor of the local government.	15 16 17
	(2) Section 196— <i>insert</i> —	18 19
	(6) In this section— <i>function</i> includes power.	20 21
	(3) Section 196(4A) to (6)— <i>renumber</i> as section 196(5) to (7).	22 23
Clause 17	Amendment of s 260F (Implementation)	24
	Section 260F(5), ‘, other than a duty under the <i>Duties Act 2001</i> ’— <i>omit</i> .	25 26 27

[s 18]

Clause 18	Amendment of s 297 (Continuation of particular provisions for corporate entities)	1 2	
	Section 297, after heading—	3	
	<i>insert—</i>	4	
	<i>Note—</i>	5	
	See also section 302 (Exemption from continuation of particular provisions for corporate entities) and section 303 (Continuation of particular provisions of other Acts for corporate entities).	6 7 8 9	
Clause 19	Insertion of new ch 9, pt 7	10	
	Chapter 9—	11	
	<i>insert—</i>	12	
	Part 7	Transitional provisions for Local Government and Other Legislation Amendment Act 2013	13 14 15 16
	Division 1	Former corporate entities	17
	302 Exemption from continuation of particular provisions for corporate entities	18 19	
	(1) This section applies to a corporate entity mentioned in section 297(1).	20 21	
	(2) Despite section 297(3), section 72(1) of the repealed regulation does not prevent a person being both of the following at the same time—	22 23 24	
	(a) a director of the corporate entity;	25	
	(b) a councillor of a local government.	26	
	(3) However—	27	

-
- (a) no more than 1 director of the corporate entity can be a councillor of a local government; and
- (b) a person who is both a director of the corporate entity and a councillor of a local government can not be the chairperson or deputy chairperson of the board of the corporate entity.
- (4) In this section—
repealed regulation means the repealed *Local Government (Beneficial Enterprises and Business Activities) Regulation 2010* as in force immediately before the commencement of section 297.
- 303 Continuation of particular provisions of other Acts for corporate entities**
- (1) This section applies to a corporate entity mentioned in section 297(1).
- (2) Each of the relevant Acts, as in force immediately before the commencement of the *Local Government and Other Legislation Amendment Act 2012* (the *amending Act*), continues to apply in relation to the corporate entity—
- (a) as if the Act were not amended under the amending Act; and
- (b) despite any amendment of the Act under the amending Act.
- (3) In this section—
relevant Act means either of the following—
- (a) the *Judicial Review Act 1991*;
- (b) the *Public Interest Disclosure Act 2010*.

[s 19]

Division 2	New local governments	1
	<i>Note—</i>	2
	See also the <i>Sustainable Planning Act 2009</i> , chapter 10, part 8, division 2 for other transitional provisions for continuing and new local governments.	3 4 5
304 Definition for div 2		6
	In this division—	7
	<i>new local government</i> means each of the following local governments that comes into existence on 1 January 2014—	8 9 10
	(a) Douglas Shire Council;	11
	(b) Livingstone Shire Council;	12
	(c) Mareeba Shire Council;	13
	(d) Noosa Shire Council.	14
305 Meeting to approve budget and levy rates and charges for period ending 30 June 2014		15 16
(1)	A new local government must, at a meeting of the local government—	17 18
	(a) adopt, by resolution, a budget presented by the mayor, with or without amendment, for the period—	19 20 21
	(i) starting on 1 January 2014; and	22
	(ii) ending on 30 June 2014; and	23
	(b) decide, by resolution, what rates and charges are to be levied for the period—	24 25
	(i) starting on 1 January 2014; and	26
	(ii) ending on 30 June 2014.	27
(2)	The meeting must be held—	28

	(a) before 1 February 2014; or	1
	(b) on a later day allowed by the Minister.	2
	(3) Sections 94(2) and 107A do not apply to a new local government for the 2013-14 financial year.	3 4
	306 Post-election meeting not required	5
	(1) Section 175 does not apply, and is taken to have never applied, to a new local government.	6 7
	<i>Editor's note—</i>	8
	Section 175 (Post-election meetings)	9
	(2) However, a new local government must, by resolution, appoint a deputy mayor from its councillors (other than the mayor) at its first meeting after it comes into existence on 1 January 2014.	10 11 12 13 14
Clause 20	Amendment of sch 4 (Dictionary)	15
	(1) Schedule 4, definition <i>Local Government Act</i> , paragraphs (c) to (g)—	16 17
	<i>renumber</i> as paragraphs (d) to (h).	18
	(2) Schedule 4, definition <i>Local Government Act—</i>	19
	<i>insert—</i>	20
	(c) the Building Act	21
	(3) Schedule 4, definition <i>major policy decision</i> , paragraph (d)(i), '\$150000'—	22 23
	<i>omit, insert—</i>	24
	\$200000	25

[s 21]

Part 4	Amendment of Local Government and Other Legislation Amendment Act 2012	1 2 3 4
Clause 21	Act amended	5
	<i>This part amends the Local Government and Other Legislation Amendment Act 2012.</i>	6 7
Clause 22	Amendment of s 2 (Commencement)	8
	Section 2, first dot point, from ‘, 151 and 172(1) and (3)’—	9
	<i>omit, insert—</i>	10
	and 151	11
Clause 23	Amendment of s 172 (Amendment of s 270 (Regulation-making power))	12 13
	Section 172(1) and (3)—	14
	<i>omit.</i>	15
	<i>Editor’s note—</i>	16
	Legislation ultimately amended—	17
	• <i>Local Government Act 2009</i>	18
Part 5	Amendment of Sustainable Planning Act 2009	19 20
Clause 24	Act amended	21
	<i>This part amends the Sustainable Planning Act 2009.</i>	22

	<i>Note—</i>	1
	See also the amendments in schedule 1.	2
Clause 25	Amendment of s 15 (State planning instruments under Act)	3 4
	Section 15(b) and (c)—	5
	<i>omit, insert—</i>	6
	(b) a State planning policy;	7
	(c) a regional plan;	8
Clause 26	Amendment of s 26 (Relationship with other instruments)	9
	Section 26(2) and (3)—	10
	<i>omit, insert—</i>	11
	(2) If there is an inconsistency between a regional plan and a local planning instrument, the regional plan prevails to the extent of the inconsistency.	12 13 14
Clause 27	Replacement of s 43 (Relationship with local planning instruments)	15 16
	Section 43—	17
	<i>omit, insert—</i>	18
	43 Relationship with regional plans and local planning instruments	19 20
	If there is an inconsistency between a State planning policy and a regional plan or local planning instrument, the State planning policy prevails to the extent of the inconsistency.	21 22 23 24
Clause 28	Renumbering and relocation of ch 2, pts 3 and 4	25
	(1) Chapter 2, parts 3 and 4—	26
	<i>renumber and relocate</i> as chapter 2, parts 4 and 3 respectively.	27

[s 29]

- (2) Sections 40 to 49— 1
renumber as sections 22 to 31. 2
- (3) Sections 22 to 39— 3
renumber as sections 32 to 49. 4

- Clause 29 Amendment of s 74 (Notice of repeal) 5**
Section 74(6), ‘the eligible Minister’— 6
omit, insert— 7
the Minister 8

- Clause 30 Insertion of new s 86 9**
After section 85— 10
insert— 11
- 86 Planning schemes for particular local governments 12**
13
- (1) This section applies to the planning scheme for 14
the following local governments— 15
- (a) Ipswich City Council; 16
- (b) Moreton Bay Regional Council; 17
- (c) Sunshine Coast Regional Council. 18
- (2) The *Statutory Instruments Act 1992*, section 23 19
(**section 23**), applies for the following 20
development control plans (each a **DCP**) under 21
the repealed LGP&E Act— 22
- (a) the DCP known as the Development Control 23
Plan 1 Kawana Waters; 24
- Editor’s note*— 25
- At the commencement of this section, a copy of the 26
DCP was available on the Sunshine Coast Regional 27
Council’s website at <www.sunshinecoast.qld.gov.au>. 28

-
- (b) the DCP known as the Mango Hill Infrastructure Development Control Plan; 1
2
- Editor's note—* 3
- At the commencement of this section, a copy of the DCP was available on the Moreton Bay Regional Council's website at <www.moretonbay.qld.gov.au>. 4
5
6
- (c) the DCP known as the Springfield Structure Plan. 7
8
- Editor's note—* 9
- At the commencement of this section, a copy of the DCP was available on the Ipswich City Council's website at <www.ipswich.qld.gov.au>. 10
11
12
- (3) However, a DCP can not be incorporated into the text of the planning scheme itself. 13
14
- (4) A planning scheme may under section 23 apply or adopt a DCP by including a statement that the DCP applies to the part of the planning scheme area to which the DCP applies (an ***adopted DCP***). 15
16
17
18
19
- (5) Section 857 and any definition relevant to it apply for an adopted DCP— 20
21
- (a) as if— 22
- (i) the planning scheme were an existing planning scheme to which that section applies; and 23
24
25
- (ii) the adopted DCP were a development control plan to which that section applies; and 26
27
28
- (iii) as if a reference in the section to a development control plan being included in an existing planning scheme under repealed IPA, section 6.1.45A were a reference to the adopted DCP; and 29
30
31
32
33
34
- (b) with necessary changes. 35
-

[s 31]

Clause 31	Insertion of new ch 10, pt 8	1	
	After section 947—	2	
	<i>insert—</i>	3	
	Part 8	Transitional provisions	4
		for Local Government	5
		and Other Legislation	6
		Amendment Act 2013	7
	Division 1	State planning instruments	8
	948 Existing development applications	9	
	(1) This section applies to a development application made, but not decided, before this section commences.	10 11 12	
	(2) The development application must be dealt with and decided under this Act as if sections 26 and 43, as in force before the commencement, had not been amended by the amending Act.	13 14 15 16	
	(3) However, for assessing or deciding the application, an assessment manager or referral agency for the application may apply the sections amended by the amending Act to the extent it considers appropriate.	17 18 19 20 21	
	(4) In this section—	22	
	<i>amending Act</i> means the <i>Local Government and Other Legislation Amendment Act 2013</i> .	23 24	

Division 2	De-amalgamation of particular local governments	1
		2
		3
Subdivision 1	Preliminary	4
949	Definitions for pt 8, div 2	5
	In this division—	6
	<i>application</i> means an application made under this Act.	7
		8
	<i>changeover day</i> means 1 January 2014.	9
	<i>continuing local government</i> means—	10
	(a) Cairns Regional Council; or	11
	(b) Rockhampton Regional Council; or	12
	(c) Sunshine Coast Regional Council; or	13
	(d) Tablelands Regional Council.	14
	<i>continuing local government area</i> , for a continuing local government, means the local government area for the continuing local government that comes into existence on the changeover day.	15
		16
		17
		18
		19
	<i>decision maker</i> , for a continuing or new local government, means an entity that has a function under this Act to make a decision about a matter.	20
		21
		22
	<i>existing proceeding</i> , means a proceeding that—	23
	(a) started under the Act before this section commences—	24
		25
	(i) before a building and development committee; or	26
		27
	(ii) in a court; and	28
	(b) on the commencement—	29
	(i) has not been decided; or	30

[s 31]

- (ii) has not been withdrawn, or dismissed, struck out or otherwise disposed of under the Act. 1
2
3
- land**, for an application, offence committed, proceeding or request means the land to which it relates. 4
5
6
- new local government** means each of the following local governments that comes into existence on the changeover day— 7
8
9
- (a) Douglas Shire Council; 10
(b) Livingstone Shire Council; 11
(c) Noosa Shire Council; 12
(d) Mareeba Shire Council. 13
- new local government area**, for a new local government, means the local government area for the new local government that comes into existence on the changeover day. 14
15
16
17
- related**— 18
- 1 Cairns Regional Council is *related* to 19
Douglas Shire Council. 20
- 2 Rockhampton Regional Council is *related* to 21
Livingstone Shire Council. 22
- 3 Sunshine Coast Regional Council is *related* 23
to Noosa Shire Council. 24
- 4 Tablelands Regional Council is *related* to 25
Mareeba Shire Council. 26
- request** means a request made under this Act. 27

**Subdivision 2 Applications or requests
made before changeover
day** 1
2
3

**950 Application or request relating to land wholly
within continuing local government area** 4
5

- (1) This section applies if— 6
- (a) before the changeover day, a continuing
local government— 7
8
- (i) is the decision maker for an application
or request; and 9
10
- (ii) has not decided the application or
request; and 11
12
- (b) on the changeover day, the land is wholly
within the local government’s area. 13
14
- (2) On the changeover day, the local government
continues as the decision maker for the
application or request. 15
16
17

**951 Application or request relating to land wholly
within new local government area** 18
19

- (1) This section applies if— 20
- (a) before the changeover day, a continuing
local government— 21
22
- (i) is the decision maker for an application
or request; and 23
24
- (ii) has not decided the application or
request; and 25
26
- (b) on the changeover day, the land is wholly
within a new local government’s area. 27
28

[s 31]

- (2) On the changeover day, the new local government becomes the decision maker for the application or request. 1
2
3
- (3) Subsection (4) applies if, on the changeover day— 4
5
 - (a) the new local government must under this Act, take a particular step as decision maker for the application or request within a certain period; and 6
7
8
9
 - (b) the step has not been fully taken. 10
- (4) The local government has a further 10 business days to take the step as well as any unexpired part of the period. 11
12
13

952 Application or request relating to land within continuing and new local government area 14
15

- (1) This section applies if— 16
 - (a) before the changeover day, a continuing local government— 17
18
 - (i) is the decision maker for an application or request; and 19
20
 - (ii) has not decided the application or request; and 21
22
 - (b) on the changeover day the land is partly within— 23
24
 - (a) a continuing local government area; and 25
26
 - (b) a new local government area. 27
- (2) The continuing local government for the continuing local government area must decide by the end of 2 January 2014 whether it is to continue to be the decision maker for the application or request. 28
29
30
31
32

-
- (3) Within 2 business days of making the decision, the continuing local government must, give written notice of its decision to—
- (a) for an application—the applicant; and
 - (b) for a request—the person who made the request; and
 - (c) the new local government.
- (4) If the continuing local government gives notice that it is not continuing as the decision maker for the application or request, the new local government becomes the decision maker on the day it receives the notice (the *notification day*).
- (5) A continuing local government that continues as the decision maker, or a new local government that becomes the decision maker, under this section must consult the related local government, in the way it considers appropriate, before it decides the application or request.
- (6) Subsection (7) applies if, on the notification day—
- (a) the new local government is required to take a particular step as the decision maker for an application or request within a certain period; and
 - (b) the step has not been fully taken.
- (7) The new local government has a further 10 business days to take the step as well as any unexpired part of the period.

953 Continuing local government to assist related new local government

- (1) This section applies if a new local government becomes a decision maker for an application or request under this subdivision.

[s 31]

- (2) The related continuing local government must do all acts and things necessary or desirable to facilitate the transfer of the decision maker function to the new local government. 1
2
3
4
- (3) Without limiting subsection (2), the related continuing local government must give the new local government the documents that are necessary to enable compliance with a provision of this Act including, for example— 5
6
7
8
9
 - (a) all material relevant to the application or request the continuing local government had on the changeover day; and 10
11
12
 - (b) any material the continuing local government receives about the application or request after the new local government becomes the decision maker. 13
14
15
16

Subdivision 3 Existing proceedings 17

954 Land wholly within new local government area 18

- (1) This section applies to an existing proceeding if— 19
20
 - (a) the proceeding was started before the changeover day; and 21
22
 - (b) a continuing local government was a party to the proceeding; and 23
24
 - (c) on the changeover day, the land is wholly within a new local government area. 25
26
- (2) For the proceeding, the new local government becomes a party to the proceeding in place of the related continuing local government. 28
29

955 Land within both continuing and new local government area	1 2
(1) This section applies to an existing proceeding if—	3 4
(a) the proceeding was started before the changeover day; and	5 6
(b) a continuing local government was a party to the proceeding; and	7 8
(c) on the changeover day, the land to which the proceeding relates is partly within—	9 10
(i) a continuing local government area; and	11 12
(ii) a new local government area.	13
(2) Within 5 business days after the changeover day, the continuing local government must ask the Minister to make a decision under subsection (3).	14 15 16
(3) The Minister must decide whether one or both of the local governments is to be a party to the remainder of the proceeding.	17 18 19
(4) Until the decision is made, the continuing local government continues to be a party to the proceeding.	20 21 22
(5) Despite subsection (3), and at any time up until the Minister makes the decision, the new local government may elect to be joined as a party to the proceeding.	23 24 25 26
Subdivision 4 Proceedings commenced after changeover day	27 28
956 Land wholly within new local government area	29
(1) This section applies if—	30

[s 31]

- (a) before the changeover day— 1
 - (i) a continuing local government made a 2
decision (a *relevant decision*) about an 3
application, request or previous 4
decision made under this Act; or 5
 - (ii) a court made a decision (also a *relevant* 6
decision) about an application, request 7
or previous decision made under this 8
Act; and 9
- (b) immediately before the changeover day, a 10
person could have, but has not, commenced 11
a proceeding about the relevant decision; 12
and 13
- (c) on the changeover day, the land is wholly 14
within a new local government area. 15
- (2) A person— 16
 - (a) may start a proceeding about the relevant 17
decision against the new local government 18
for the new local government area; but 19
 - (b) can not start a proceeding about the relevant 20
decision against the continuing local 21
government. 22
- 957 Land within both continuing and new local 23
government area 24**
 - (1) This section applies if— 25
 - (a) before the changeover day— 26
 - (i) a continuing local government made a 27
decision (a *relevant decision*) about an 28
application, request or previous 29
decision made under this Act; or 30
 - (ii) a court made a decision (also a *relevant* 31
decision) about an application, request 32

-
- or previous decision made under this Act; and 1
2
- (b) immediately before the changeover day, a person could have, but has not, commenced a proceeding about the relevant decision; and 3
4
5
6
- (c) on the changeover day, the land to which the relevant decision relates is partly within— 7
8
- (i) a continuing local government area; and 9
10
- (ii) a new local government area. 11
- (2) If a person wishes to start a proceeding about the relevant decision, the person can only start it against both local governments. 12
13
14
- (3) Within 5 business days after service of the proceeding, the continuing local government must ask the Minister to make a decision under subsection (4). 15
16
17
18
- (4) If so requested, the Minister must decide whether one or both of the local governments is to be a party to the proceeding. 19
20
21
- (5) Until the Minister makes the decision, both local governments are parties to the proceeding. 22
23

Subdivision 5 Enforcement provision 24

958 Enforcement that may be taken by new local governments 25 26

- (1) This section applies for an offence against this Act if— 27
28
- (a) before the changeover day, a continuing local government would have been the assessing authority for the offence; and 29
30
31

[s 31]

- (b) on the changeover day, the land to which the offence relates is wholly or partly within a new local government area. 1
2
3
- (2) From the changeover day, the new local government for the new local government area may also do any of the following about the offence— 4
5
6
7
 - (a) give a show cause notice under chapter 7, part 3, division 2; 8
9
 - (b) give an enforcement notice under chapter 7, part 3, division 3; 10
11
 - (c) bring a proceeding under chapter 7, part 3, division 4 or 5. 12
13
- (3) For chapter 7, parts 3 and 4, as applied under subsection (2), the following applies, if the context permits— 14
15
16
 - (a) a reference to an assessing authority or a local government includes a reference to the new local government; 17
18
19
 - (b) a reference to a chief executive or the chief executive officer, however called, of an assessing authority includes a reference to a chief executive or the chief executive officer of the new local government. 20
21
22
23
24

Subdivision 6 Miscellaneous 25

959 Provision about consultations 26

- (1) This section applies for a requirement under this division for one local government to consult another about a decision. 27
28
29
- (2) The local government may carry out the consultation in any way it considers appropriate. 30
31

(3)	A failure to consult does not invalidate or otherwise affect the decision.	1 2
Clause 32	Amendment of sch 3 (Dictionary)	3
(1)	Schedule 3—	4
	<i>insert—</i>	5
	<i>changeover day</i> for chapter 10, part 8, division 2, see section 949.	6 7
	<i>continuing local government</i> for chapter 10, part 8, division 2, see section 949.	8 9
	<i>continuing local government area</i> for chapter 10, part 8, division 2, see section 949.	10 11
	<i>decision maker</i> for chapter 10, part 8, division 2, see section 949.	12 13
	<i>existing proceeding</i> for chapter 10, part 8, division 2, see section 949.	14 15
	<i>land</i> for chapter 10, part 8, division 2, see section 949.	16 17
	<i>new local government</i> for chapter 10, part 8, division 2, see section 949.	18 19
	<i>new local government area</i> for chapter 10, part 8, division 2, see section 949.	20 21
	<i>related</i> , for chapter 10, part 8, division 2, see section 949.	22 23
	<i>request</i> for chapter 10, part 8, division 2, see section 949.	24 25
(2)	Schedule 3, definition <i>application</i> —	26
	<i>omit, insert—</i>	27
	<i>application—</i>	28
	(a) for chapter 6, means a development application; or	29 30

[s 33]

- | | | |
|-----|--|----------------------|
| | (b) for chapter 10, part 8, division 2, see section 949. | 1
2 |
| (3) | Schedule 3, definition <i>designated region</i> , ‘section 22(1)’—
<i>omit, insert</i> —
section 32(1) | 3
4
5 |
| (4) | Schedule 3, definition <i>regional plan</i> , ‘section 23’—
<i>omit, insert</i> —
section 33 | 6
7
8 |
| (5) | Schedule 3, definition <i>State planning policy</i> , ‘section 40’—
<i>omit, insert</i> —
section 22 | 9
10
11 |
| (6) | Schedule 3, definition <i>temporary State planning policy</i> , ‘section 46(1) and (2)’—
<i>omit, insert</i> —
section 28(1) and (2) | 12
13
14
15 |

Part 6	Minor and consequential amendments	16 17
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- | | | |
|------------------|---|----|
| Clause 33 | Legislation amended | 18 |
| | Schedule 1 amends the Acts and regulations it mentions. | 19 |

Schedule 1	Minor and consequential amendments	1 2
	section 33	3
	City of Brisbane Act 2010	4
1	Section 6, ‘the schedule’—	5
	<i>omit, insert—</i>	6
	schedule 1	7
2	Section 14(3)(a)(ii), ‘and community plans’—	8
	<i>omit, insert—</i>	9
	plan	10
3	Section 15(1)(b)(iii), ‘and community plans’—	11
	<i>omit, insert—</i>	12
	plan	13
4	Section 51(4)(a), ‘section 8’—	14
	<i>omit, insert—</i>	15
	section 10	16
5	Schedule—	17
	<i>renumber</i> as schedule 1.	18

City of Brisbane Regulation 2012	1
1 Section 240—	2
<i>omit.</i>	3
2 Section 270, heading—	4
<i>omit, insert—</i>	5
270 Obligation of chief executive officer and senior executive employees to correct register of interests	6
	7
	8
3 Section 270(1) and (2)—	9
<i>omit.</i>	10
4 Section 270(3) to (6)—	11
<i>renumber as section 270(1) to (4).</i>	12
5 Section 270(1), as renumbered, ‘Subsection (4)’—	13
<i>omit, insert—</i>	14
Subsection (2)	15
6 Section 270(3), as renumbered, ‘Subsection (6)’—	16
<i>omit, insert—</i>	17
Subsection (4)	18
7 Section 270, after subsection (4) as renumbered—	19
<i>insert—</i>	20
<i>Note—</i>	21
See the Act, section 173B about the obligation of a councillor to correct the register of interests.	22
	23

Local Government Act 2009		1
1	Section 12(3)(a)(ii), ‘and community plans’—	2
	<i>omit, insert—</i>	3
	plan	4
2	Section 13(2)(b)(iii), ‘and community plans’—	5
	<i>omit, insert—</i>	6
	plan	7
3	Section 25(4), ‘section 19’—	8
	<i>omit, insert—</i>	9
	section 18	10
4	Section 47(4)(a), ‘section 8’—	11
	<i>omit, insert—</i>	12
	section 10	13
5	Schedule 4, definition <i>conflict of interest</i>, ‘section 173(3)’—	14
	<i>omit, insert—</i>	15
	section 173(2)	16
6	Schedule 4, definition <i>senior executive employee</i>, ‘section 196(5)’—	18
	<i>omit, insert—</i>	19
	section 196(6)	20
		21

	Local Government Regulation 2012	1
1	Section 253—	2
	<i>omit.</i>	3
2	Section 292, heading—	4
	<i>omit, insert—</i>	5
	292 Obligation of chief executive officer and senior executive employees to correct register of interests	6
		7
		8
3	Section 292(1) and (2)—	9
	<i>omit.</i>	10
4	Section 292(3) to (6)—	11
	<i>renumber</i> as section 270(1) to (4).	12
5	Section 292(1), as renumbered, ‘Subsection (4)’—	13
	<i>omit, insert—</i>	14
	Subsection (2)	15
6	Section 292(3), as renumbered, ‘Subsection (6)’—	16
	<i>omit, insert—</i>	17
	Subsection (4)	18
7	Section 292, after subsection (4) as renumbered—	19
	<i>insert—</i>	20
	<i>Note—</i>	21
	See the Act, section 171B about the obligation of a councillor to correct the register of interests.	22
		23

Sustainable Planning Act 2009		1
1	Section 27(1), as renumbered, ‘section 44’—	2
	<i>omit, insert—</i>	3
	section 26	4
2	Section 28(1) and (2), as renumbered, ‘section 47’—	5
	<i>omit, insert—</i>	6
	section 29	7
3	Section 39(1), as renumbered, ‘section 22(1)’—	8
	<i>omit, insert—</i>	9
	section 32(1)	10
4	Section 43(3), as renumbered, ‘section 31(4)’—	11
	<i>omit, insert—</i>	12
	section 41(4)	13
5	Section 83, note—	14
	<i>omit, insert—</i>	15
	<i>Note—</i>	16
	For the relationship between planning schemes and State planning instruments, see sections 19 (Relationship with other instruments), 25 (Relationship with local planning instruments), 36 (Relationship with other instruments) and 53 (Relationship with local planning instruments).	17 18 19 20 21 22
6	Section 104, note—	23
	<i>omit, insert—</i>	24
	<i>Note—</i>	25

Schedule 1

	For the relationship between temporary local planning instruments and State planning instruments, see sections 19 (Relationship with other instruments), 25 (Relationship with local planning instruments), 36 (Relationship with other instruments) and 53 (Relationship with local planning instruments).	1 2 3 4 5 6
7	Section 129, note, ‘section 29’— <i>omit, insert—</i> section 39	7 8 9
8	Schedule 3, definition <i>Minister</i>, paragraph (a), ‘part 2 or 3’— <i>omit, insert—</i> part 2 or 4	10 11 12 13
9	Schedule 3, definition <i>Minister</i>, paragraph (b), ‘part 4 or 5’— <i>omit, insert—</i> part 3 or 5	14 15 16 17
10	Schedule 3, definition <i>regional planning committee</i>, ‘section 31’— <i>omit, insert—</i> section 41	18 19 20 21
11	Schedule 3, definition <i>regional planning Minister</i>, paragraph (a), ‘part 2 or 3’— <i>omit, insert—</i> part 2 or 4	22 23 24 25