

Queensland



Local Government (Planning and Environment) Act 1990

LOCAL GOVERNMENT (PLANNING AND ENVIRONMENT) REGULATION 1991

**Reprinted as in force on 7 March 1997
(includes amendments up to SL No. 424 of 1996)**

Reprint No. 1

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This regulation is reprinted as at 7 March 1997. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- correct spelling and use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- reorder provisions consistent with current drafting practice (s 30A)
- use appropriate names for instruments and provision units (s 32)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 37 and 39)
- omit the words of notification (s 42A)
- correct minor errors (s 44).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed names and titles**
 - **table of changed citations and remade laws**
 - **table of obsolete and redundant provisions**
 - **table of corrected minor errors.**

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LOCAL GOVERNMENT (PLANNING AND ENVIRONMENT) REGULATION 1991

[as amended by all amendments that commenced on or before 7 March 1997]

Short title

1. This regulation may be cited as the *Local Government (Planning and Environment) Regulation 1991*.

Interpretation

3. In this regulation—

“**major shopping development**” has the meaning given by section 19.

“**subject land**”, in relation to an application, means the land to which the application relates.

“**subject premises**”, in relation to an application, means the premises to which the application relates.

Forms

4. For the purposes of the Act and this regulation, a form referred to as a “**prescribed form**” or “**form prescribed**” is the form approved by the chief executive for the purpose.

Public notice of planning schemes

4A. For the purposes of section 2.14 of the Act, public notice of an intention to make application for an approval of a planning scheme must be given in the prescribed form.

Land prescribed in relation to proposal to amend planning scheme

5.(1) For the purposes of section 2.18(3A) of the Act, the following land

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is prescribed land—

- (a) land which is to be used or developed for any purpose associated with the provision of residential accommodation for which the Queensland Housing Commission is responsible;
- (b) land which, in the opinion of the Minister, is to be used or developed for any of the purposes within the jurisdiction of the Department of Family Services and Aboriginal and Islander Affairs;
- (c) land which is to be used or developed for the purpose of providing community services or facilities, if the Minister is satisfied that such services or facilities are required in the public interest.

(2) For the purposes of section 2.18(3A) of the Act, the following land is prescribed land if the relevant local government supports or, in the opinion of the Minister, should support the zoning or rezoning of the land—

- (a) vacant unallocated State land which was formerly a dedicated road or a part of a dedicated road;
- (b) unallocated State Land which—
 - (i) has been set aside for a specific public purpose; and
 - (ii) is no longer required for that purpose; and
 - (iii) is to be disposed of in priority by way of sale or lease to the previous owner of the land or the owner of adjoining land;
- (c) land in respect of which an error or omission was made in the approval of a planning scheme.

(3) For the purposes of section 2.18(3A) of the Act, the following land is prescribed land subject to any reasonable terms, conditions and planning criteria that may be recommended by the relevant local government—

- (a) unallocated State land which is to be developed for and on behalf of the chief executive for sale to the public by auction, tender or ballot;
- (b) unallocated State land which—
 - (i) has been set aside for a specific purpose and is no longer

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- required for that purpose; and
- (ii) is to be alienated by way of lease or disposed of by way of sale by public tender or public auction so that it may be used or developed for other purposes;
- (c) unallocated State land in respect of which the airspace above the land or land below the land—
- (i) is to be developed by persons who have purchased or are in the process of purchasing the airspace or underground rights by way of public tender or public auction; or
 - (ii) has been alienated or is intended to be alienated by way of lease for the purposes of development;
- (d) unallocated State land on which is erected a Government building the whole or part of which is to be leased at a commercial rental;
- (e) land which—
- (i) is, in the opinion of the Minister, under the control of the Department of Manufacturing and Commerce or the Corporation of The Minister for Industrial Development of Queensland; and
 - (ii) is to be used for a particular industrial purpose pursuant to the *Industrial Development Act 1963*;
- if the Minister is satisfied that such action should be taken in the public interest;
- (f) vacant unallocated State land which has been reclaimed from tidal waters, if the Minister is satisfied that the taking of such action is in the public interest.
- (4)** For the purposes of section 2.18(3A) of the Act, land (other than land referred to in subsection (1), (2) or (3)) is prescribed land if—
- (a) the relevant local government supports the zoning or rezoning of the land; and
 - (b) the exercise by the Minister of the powers under section 2.18(3A) of the Act would, in the Minister’s opinion, be beneficial to—
 - (i) the owner of the land; or

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- (ii) any other person who has, or may have, an interest in the land; and
- (c) the land is, in the opinion of the Minister—
 - (i) to be used for religious, ethnic, cultural, heritage preservation, community welfare or other community activity purposes; or
 - (ii) to be developed as an integral part of a Crown project to exchange, develop or redevelop other lands owned by the Crown on such terms as the Crown may determine.

Interim development control

6. The regulation in respect of interim development control is as set out in schedule 3.

Application for amendments, rezoning in stages and subsequent staged rezoning

7.(1) The prescribed information for the purposes of section 4.3(3)(b) and 4.6(2)(b) of the Act is—

- (a) the postal address, property description and area of the subject premises; and
- (b) the full name and postal address of the applicant; and
- (c) the zone in which the subject premises are included; and
- (d) if it is proposed to zone or rezone the subject premises—the zone in which it is intended they be included and, if applicable, the notation to be made on the relevant zoning map; and
- (e) if it is proposed that conditions attached to an approval under section 4.4 of the Act be amended—details of the relevant conditions and of the amendments sought; and
- (f) if it is proposed that a use noted on a relevant zoning map in respect of the zoning of the subject premises be amended—the existing noted use and the intended noted use; and

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- (g) if it is proposed that a regulatory map or a development control plan map which affects the subject premises be amended—the existing and proposed designation; and
 - (h) the use being made of the subject premises at the time of lodgment of the application and, if the premises are not then being used, the last use of those premises; and
 - (i) the use proposed to be made of the subject premises if the application is approved and whether it is proposed that the subject premises be subdivided; and
 - (j) if required by the Act—an environmental impact statement; and
 - (k) if the application relates to land prescribed under section 8.3A(1) of the Act—as far as is practicable, a history of present and past uses of the land; and
 - (l) if the application is made pursuant to section 4.6 of the Act—a map identifying—
 - (i) the first stage of the rezoning in stages and successive stages, numbered in accordance with the proposed sequence of the stages; and
 - (ii) the location of proposed zonings for the whole of the subject premises; and
 - (m) such other information as may be required by the Act or by the local government pursuant to its planning scheme.
- (2) The prescribed information for the purposes of section 4.9(2)(b) of the Act is—
- (a) the information referred to in subsection (1)(a), (b), (c) and (d);
 - (b) a map identifying—
 - (i) all approved stages of the rezoning in stages; and
 - (ii) the land the subject of successive stages, numbered in accordance with the proposed sequence of the stages;together with details of the dates of approval of the rezoning in stages already approved; and

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- (c) such other information as may be required by the Act or by the local government pursuant to its planning scheme.

Combined applications

8. The information to be contained in a combined application to a local government for approval at the one time in respect of 2 or more of the applications referred to in section 4.11(1) of the Act is such information as is prescribed for each application which forms part of the combined application.

Application for town planning consent

9. The prescribed information to be contained in an application for the consent of a local government by the issue of a town planning consent permit or interim development permit, as the case may require, pursuant to section 4.12 of the Act is—

- (a) the postal address, property description and area of the subject premises; and
- (b) the full name and postal address of the applicant; and
- (c) the zone (if any) in which the subject premises are included and, if applicable, the notation recorded on the relevant zoning map; and
- (d) the length of frontage to each road to which the subject premises have frontage; and
- (e) the use being made of the subject premises at the time of lodgment of the application; and
- (f) the nature of the proposed use which is, where appropriate, to be described by the use of words or terms used in the relevant planning scheme; and
- (g) if the application relates to the erection of a building or structure—the dimensions and gross floor area and the number of storeys of the proposed building or structure; and
- (h) the number of motor vehicles for which parking provision is to

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- be made on the subject premises; and
- (i) the number of persons proposed to be engaged on the subject premises; and
 - (j) a description of the nature of the machinery to be used if its combined power load is greater than 1.5 KW; and
 - (k) if required by the Act—an environmental impact statement; and
 - (l) such other information as may be required by the Act or by the local government pursuant to its planning scheme.

Application for subdivision, etc.

10.(1) The prescribed information to be contained in an application to a local government to subdivide land pursuant to section 5.1 of the Act is—

- (a) the postal address, property description and area of the subject land; and
- (b) the full name and postal address of the applicant; and
- (c) the use being made of the subject land (including the use of any building or structure on the land) at the time of lodgment of the application; and
- (d) the proposed use of the subject land after subdivision (including the proposed use of any building or structure on the land); and
- (e) the area of any proposed roads, parks or other public places; and
- (f) details of any proposal to fill the subject land and the nature of the filling; and
- (g) details of any encumbrances which affect the subject land; and
- (h) if required by the Act—an environmental impact statement; and
- (i) such other information as may be required by the Act or by the local government pursuant to its planning scheme.

(2) The prescribed information to be contained in an application to a local government to subdivide land pursuant to section 5.1 of the Act is to include, in the proposal plan (drawn to scale) required by section 5.1(2) of the Act to accompany the application, or in some other part of the

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application—

- (a) the boundaries of the subject land and the boundaries of the proposed allotments into which it is to be subdivided; and
- (b) the number and dimensions of the proposed allotments; and
- (c) the location of any existing or proposed easements or reserves affecting the subject land; and
- (d) the boundaries of any existing or proposed roads within or which adjoin the subject land and the length of the boundaries; and
- (e) the contours of the subject land, if the inclusion of that information is reasonable and necessary for the determination of the application; and
- (f) the location of significant vegetation on the subject land; and
- (g) areas of the subject land which are subject to subsidence, slip or erosion; and
- (h) the line of any watercourse and the position of any waterhole on the subject land; and
- (i) flood levels, drainage patterns and catchment areas; and
- (j) the location and size of any existing building or structure on the subject land; and
- (k) such other information as may be required by the Act or by the local government pursuant to its planning scheme.

Application for staged subdivision

11. The prescribed information to be contained in an application to a local government to subdivide land in stages pursuant to section 5.9 of the Act is as follows and is to be contained in the staged subdivision plan (drawn to scale) required by section 5.9(2) of the Act to accompany the application, or in some other part of the application—

- (a) the boundaries of the whole of the subject land and the boundaries of each of the proposed stages;
- (b) by numbers, each stage of the proposed subdivision in the

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proposed sequence;

- (c) the number of the proposed allotments intended to be created in each stage and the total number proposed for the whole of the subject land.

Application for amalgamation of land

12.(1) The prescribed information to be contained in an application to a local government to amalgamate separate adjoining parcels of land into 1 undivided parcel pursuant to section 5.11 of the Act is—

- (a) the postal address and property description of the subject land; and
- (b) the full name and postal address of the applicant; and
- (c) the use being made of the subject land (including the use of any building or structure on the land at the time of lodgment of the application); and
- (d) the area of the existing and proposed allotments; and
- (e) details of the existing means of access to the subject land and the proposed means of access to the allotment created after amalgamation; and
- (f) details of the number and type of any buildings or structures erected on each of the allotments constituting the subject land; and
- (g) a statement as to whether it is intended to subdivide the allotment proposed to be created, pursuant to the *Building Units and Group Titles Act 1980*; and
- (h) a proposal plan; and
- (i) such other information as may be required by the Act or by the local government pursuant to its planning scheme.

(2) The proposal plan required by subsection (1)(h) is to be drawn to scale and indicate—

- (a) the boundaries and property description of each of the allotments constituting the subject land and the boundaries of the allotment proposed to be created after amalgamation; and

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- (b) the location of any existing or proposed easements or reserves affecting the subject land; and
- (c) the boundaries and names of any existing roads which adjoin the subject land; and
- (d) the location and size of any building or structure erected on each of the allotments constituting the subject land; and
- (e) the dimensions of the allotment proposed to be created after amalgamation.

Application for access easement

13.(1) The prescribed information to be contained in an application to a local government to establish an access easement to a road pursuant to section 5.12 of the Act is—

- (a) the postal address, property description and area of the subject land; and
- (b) the full name and postal address of the applicant; and
- (c) details of the number of allotments (and the property description of the allotments) to which the proposed easement will give access and whether those allotments have existing access to a road; and
- (d) the use being made of the subject land and the land to which the proposed easement will give access at the time of lodgment of the application; and
- (e) details of the number and type of any buildings or structures erected on the subject land; and
- (f) the name of the road to which the proposed easement will give access; and
- (g) a proposal plan; and
- (h) such other information as may be required by the Act or by the local government pursuant to its planning scheme.

(2) The proposal plan required by subsection (1)(g) is to be drawn to scale and indicate—

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- (a) the boundaries and property description of—
 - (i) the subject land; and
 - (ii) the allotment to which the proposed easement will give access; and
- (b) the location of any existing easements or reserves affecting the subject land; and
- (c) the boundaries and names of any existing roads which adjoin the subject land; and
- (d) the location and size of any building or structure on the subject land; and
- (e) the dimensions of the proposed access easement.

Appeals to the court

13A. For the purposes of section 7.1(2B) of the Act, if an appeal is instituted under the *Local Government Court Rules 1966*, additional details in the prescribed form must be included with the document filed to initiate the appeal.

Posting of notices on land

14.(1) The following requirements apply to a notice which is required by the Act to be posted on land—

- (a) the notice is to be in the appropriate prescribed form;
- (b) the notice is to be of weatherproof material;
- (c) the minimum dimensions of the notice are to be 1 200 mm x 900 mm;
- (d) lettering on the notice is to be—
 - (i) at least 15 mm in height; and
 - (ii) of regular weight; and
 - (iii) in upper and lower case; and
 - (iv) in the case of the heading (as indicated on the form)—at least

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50 mm in height and of a bold style;

- (e) each sentence in the notice is to commence on a new line;
- (f) the notice is to be—
 - (i) located on, or within 1.5 m of, the road frontage of the land to which it relates; and
 - (ii) mounted at least 300 mm above ground level; and
 - (iii) so positioned that it is visible from the road;
- (g) if the land to which the notice relates has no road frontage—the notice is to be located in accordance with this regulation as close as practicable to the nearest road frontage;
- (h) if the land to which the notice relates has more than 1 road frontage—a notice is to be located in accordance with this regulation in relation to each road frontage;
- (i) the applicant or proponent, as the case may be, is to be responsible for maintaining the notice from the date of its erection until the date nominated as the last day for the receipt of objections or submissions, as the case may be.

(2) In this section—

“road frontage” means a road boundary or access easement boundary with a road or access easement which, at the time notice is given, is capable of providing access to the relevant land.

Service of notices

15.(1) If, pursuant to the Act, a notice is required to be served on the owner of any land (other than land owned by a local government), it is sufficient compliance for such notice to be served on the person shown in the rate book of the local government as the owner of that land.

(2) If, pursuant to the Act, a notice is required to be served on an elected representative, it is sufficient compliance for such notice to be served on the person at the address provided by the local government for such purposes.

(3) Service under this regulation may be effected by personal service or by post.

Environmental impact—designated developments

16. The following types of proposals (other than proposals which the local government regards as of a minor or ancillary nature) are prescribed for the purposes of section 8.2 of the Act—

- (a) a proposal relating to a development referred to in schedule 1 or which, when combined with an existing development on the premises, constitutes a development referred to in schedule 1;
- (b) a proposal relating to a development (other than a dwelling house, outbuilding or farm building) on land located in, or having a common boundary with, an area referred to in schedule 2.

Environmental impact

17. A request to the chief executive under section 8.2(1) of the Act to be told—

- (a) if an environmental impact statement is necessary; and
- (b) the terms of reference of the environmental impact statement if one is necessary;

must be made in the prescribed form.

Assessment of sites for contamination

18.(1) Land within planning scheme areas is prescribed for the purposes of section 8.3A of the Act if—

- (a) the existing use of the land is, or, if the land is vacant land with no existing use, the most recent use of the land was, for 1 or more of the following purposes—
 - (i) a purpose mentioned in the *Contaminated Land Regulation 1991*, schedule 1;
 - (ii) commercial, industrial or municipal refuse disposal;
 - (iii) electrical transformer manufacturing;
 - (iv) livestock dipping or spraying;
 - (v) mechanical repair shop, including automotive servicing;

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- (vi) power station; or
- (b) in the opinion of the local government, the existing use of the land or, in the case of vacant land, an immediate preceding use of the land, is or was for an industrial purpose and the proposed use of the land is for residential, recreational, educational or similar purposes; or
- (c) the local government or the Director of the Chemical Hazards and Emergency Management Unit claim to have evidence that any previous use of the land may have caused contamination.

(2) In dealing with land mentioned in subsection (1), the local government is to adopt such procedures as may be specified from time to time by the Director of the Chemical Hazards and Emergency Management Unit.

Meaning of “major shopping development”

19.(1) “Major shopping development” means a development for the purpose of retailing to the public—

- (a) situated on land greater than 2.5 ha in area; or
- (b) consisting of a building or structure greater than 6 000 m² in gross floor area.

(2) A “major shopping development” includes—

- (a) the extension of an existing major shopping development; and
- (b) the extension of an existing development if, because of the extension, the development is to become a major shopping development.

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Transitional provision for National Parks

20.(1) A reference in item 7 of Schedule 2 to a protected area under the Nature Conservation Act 1992 includes a National Park under the Natural Parks and Wildlife Act 1975.

(2) This section expires on the commencement of section 158 of the Nature Conservation Act 1992.¹

¹ This provision has expired and is included in this reprint for informational purposes only. It will be omitted in the next reprint.

SCHEDULE 1

DEVELOPMENTS

section 16(a)

1. Abattoir for killing more than 50 animals a week.
2. Aerodrome for the use of persons not normally living at the premises.
3. Aquaculture facility for the commercial production of aquatic organisms.
4. Bitumen or asphalt works, other than temporary works for, and located on or adjacent to, a construction site.
5. Bottling works (including works for cleaning recycled bottles) with a floor space of more than 2 000 m².
6. Brewery, unless the products are for consumption only at the brewery.
7. Brickworks.
8. Cannery, with a floor space of more than 2 000 m².
9. Cement works.
10. Ceramic works for producing more than 200 t of 1 or more of the following a year—
 - (a) pipes;
 - (b) pottery;
 - (c) refractories;
 - (d) tiles.

Example—

A ceramic works for producing 150 t of tiles and 60 t of pipes is a development.

11. Chemical storage facility for storing more than 100 m³ of chemicals that are dangerous goods under the Australian Code for the Transport of Dangerous Goods by Road and Rail.

SCHEDULE 1 (continued)

- 12.** Chemical production works, including, for example, works for producing corrosive substances, detergents, explosives, flammable products (excluding petroleum products), gases, oxidising agents (including chlorine), paint, poisons and soaps.
- 13.** Coal handling or storage facility—
- (a) for handling more than 100 t of any material a day; or
 - (b) for storing more than 5 000 t of any material.

Example—

A coal handling facility for handling 30 t of coal a day and 80 t of non-carbonaceous material a day is a development.

- 14.** Concrete batching plant (other than a plant of a temporary nature associated with a construction site and located on or adjacent to the construction site) for manufacturing more than 20 000 t of concrete or concrete products a year.
- 15.** Concrete products works for producing more than 1 000 t of product a year.
- 16.** Crushing, grinding or milling works for processing more than 200 t of 1 or more of the following a year—
- (a) chemicals;
 - (b) minerals;
 - (c) natural grain products;
 - (d) ore;
 - (e) rocks.
- 17.** Ethanol production plant.
- 18.** Extractive industry facility (if the facility is for the commercial winning of materials (other than minerals within the meaning of the *Mineral Resources Act 1989*))—
- (a) using more than 2 ha of land for 1 or more of the following—
 - (i) excavation;

SCHEDULE 1 (continued)

- (ii) processing;
 - (iii) storage;
 - (iv) activities associated with excavation, processing or storage;
or
 - (b) for extracting more than 10 000 m³ of materials a year.
- 19.** Fertiliser manufacturing plant for producing more than 200 t of product a year.
- 20.** Glass manufacturing (including glass recycling) works for producing more than 200 t of product a year.
- 21.** Helicopter landing facility for commercial purposes, other than a helicopter landing facility at an aerodrome mentioned in item 2.
- 22.** Large outdoor sport and recreation development including, for example, a golf course, a major sporting venue and a racing circuit, but not including a golf course of 30 ha or less or a golf driving range.
- 23.** Lime works for producing more than 200 t of product a year.
- 24.** Major shopping development.
- 25.** Marina with—
- (a) more than 30 moorings; or
 - (b) at least 1 refuelling facility.
- 26.** Metallurgical works (other than engineering, fabricating or assembly works) for processing more than 100 t of metals or ore or metals and ore a year.
- 27.** Oil refinery.
- 28.** Petroleum product storage or storage and processing works—
- (a) for storing flammable liquids or liquefied gases that are dangerous goods under the Australian Code for the Transport of Dangerous Goods by Road and Rail; and
 - (b) with a storage capacity of more than—
 - (i) 100 kL above ground; or

SCHEDULE 1 (continued)

(ii) 1 000 kL below ground.

29. Piggery for accommodating more than 1 000 pigs in pens.
30. Refuse transfer station, sewage treatment plant, waste disposal facility, waste landfill or waste treatment plant for burying, crushing, disposing of, incinerating, processing, recovering, storing, or transferring hospital wastes or chemical, liquid, oil, petroleum or solid wastes.
31. Rubber or plastic works, including a shredding facility, for producing (other than by fabricating) more than 200 t of product a year.
32. Sawmill, joinery works, or combined sawmill and joinery works, for dealing with more than 4 000 m³ of timber a year in 1 or more of the following ways—
 - (a) machining;
 - (b) milling;
 - (c) sawing.
33. Scrap metal or drum reconditioning works, whether or not for performing—
 - (a) metal finishing; or
 - (b) extending, forging or rolling for plate, rod or wire manufacture.
34. Sugar mill or refinery.
35. Tannery, fellmongering works or hide curing works.
36. Timber preservation works.
37. Tourist resort development—
 - (a) with accommodation for more than 1 000 people (including staff); or
 - (b) on an offshore island.
38. Tyre manufacturing works or a tyre processing, shredding or storage facility.
39. Woodchip mill, or paper pulp works, for producing more than 2 000 t of either paper or pulp or paper and pulp a year.

SCHEDULE 1 (continued)

- 40.** Works for creating or extending bodies of water with a maximum surface area of water of more than 5 000 m².

SCHEDULE 2

AREAS

section 16(b)

1. Area below the flood line adopted by the local government, if development involves filling an area of more than 5 000 m².
2. Area that, under a conservation plan under the *Nature Conservation Act 1992* (unless exempted under the plan), is identified as—
 - (a) a critical habitat for native wildlife; or
 - (b) an area of major interest.
3. Catchment area under the *Water Resources Act 1989*.
4. Coastal management control district under the *Beach Protection Act 1968*.
5. Designated landscape area under the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*.
6. Protected area, registered place or restricted zone under the *Queensland Heritage Act 1992*.
7. Protected area under the *Nature Conservation Act 1992*, unless exempted under a conservation plan under that Act for the area.
8. Reserve, sanctuary and grounds, including fish habitat reserve, fish sanctuary, oyster grounds, public oyster reserve or wetland reserve set apart and declared under the *Fisheries Act 1994*.
9. The Wet Tropics Area under the *Wet Tropics World Heritage Protection and Management Act 1993*, unless exempted—
 - (a) under a management plan under that Act; or
 - (b) by the Wet Tropics Management Authority.

SCHEDULE 2 (continued)

- 10.** Wetland, whether fresh, brackish or marine, including coral reefs, mangrove areas, mudflats, sand flats, sandy beaches, seagrass beds, and tidal marshes.

SCHEDULE 3

INTERIM DEVELOPMENT CONTROL REGULATION

section 6

Interpretation

1. In this regulation—

“agriculture” means—

- (a) horticulture; and
- (b) the growing of fruit, vegetables, timber and the like; and
- (c) husbandry; and
- (d) the keeping or breeding of livestock;

and includes the erection and use of buildings associated with any such activity but does not include aquaculture, kennels, lot feeding, a piggery or poultry farm.

“aquaculture” means the commercial production of aquatic organisms.

“dwelling house” means any premises used or intended for use as self-contained accommodation for the exclusive use of 1 family and includes outbuildings which are incidental to and necessarily associated with such premises.

“home occupation” means an occupation or profession—

- (a) which is carried on, in or under a dwelling house or within the curtilage of a dwelling house site, by a resident of the dwelling house; and
- (b) in the carrying on of which—
 - (i) no source of power is used, other than a single-phase electric motor or motors of not more than 400 w; and

SCHEDULE 3 (continued)

- (ii) the area used (whether temporarily or permanently) does not exceed 30 m², except with and in accordance with the conditions of an express permission of the local government; and
 - (iii) no load is imposed on any public utility greater than that which is normally required for the normal development of the locality in which the dwelling house is situated; and
 - (iv) no sign is displayed, other than a sign not exceeding one-half m² in area, and bearing only the name of the occupier and of the occupation; and
- (c) which does not cause injury to or have a prejudicial effect on the amenity of the locality in which it is carried on due to the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste products or other thing whatsoever.

“kennel” means premises used for the keeping, boarding or breeding of more than 4 dogs or cats, otherwise than in conjunction with agriculture.

“lot feeding of stock” means the use of any premises for the feeding of stock in stalls, compounds or stockyards (as distinct from range feeding) but does not include a piggery.

“piggery” means any premises used or intended for use for the keeping, depasturing or watering of pigs.

“poultry farm” means any premises used or intended for use for—

- (a) the keeping or breeding of more than 100 birds at any one time, whether kept or bred for sale, slaughter or egg production; or
- (b) the slaughtering or dressing of not more than 50 birds per week.

“public utility” means—

- (a) a railway, tramway, road or any transport, wharf, harbour or river undertaking; or
- (b) an undertaking for—

SCHEDULE 3 (continued)

- (i) the supply of water, hydraulic power, electricity or gas; or
- (ii) the provision of sewerage or drainage services; or
- (iii) the provision of radio, television or telephone services.

“rural activity” means—

- (a) the storage of hay, stockfodder, farm machinery or harnessware; or
- (b) the storage, processing or packing of produce incidental to or associated with agriculture or animal husbandry carried on at the same premises; or
- (c) the installation and use of any dam, pump, tank, channel, pipe or other installation for supply and use of water for rural purposes.

“rural use” means—

- (a) an activity which—
 - (i) is a rural activity or an activity which, in the opinion of the local government, is consistent with the concept of a rural use; and
 - (ii) is carried on at premises having an area of not less than 20 ha; and
 - (iii) does not create hazards likely in the opinion of the local government to cause undue disturbance or annoyance to persons or affect property not connected with the use; or
- (b) the use of any building or other structure erected in connection with an activity referred to in paragraph (a) which is located not closer than 60 m from a road or from land in separate ownership.

Permitted uses

2. The use of land and the use or erection of a building or other structure for any of the following purposes does not require the consent of the local government—

- (a) agriculture;

SCHEDULE 3 (continued)

- (c) a dwelling house (provided that no other dwelling house is erected on the premises);
- (d) a home occupation carried on outside of an existing township;
- (e) kennels;
- (f) lot feeding of stock;
- (g) a piggery for accommodating not more than 1 000 pigs in pens;
- (h) a poultry farm;
- (i) a public utility;
- (j) a rural use.

Consent required

3. An application for the consent of the local government is required for the use of land or for the erection or use of a building or other structure for a purpose which is not specified in section 2.

Existing lawful uses

4. A lawful use made of land, a building or other structure in existence prior to the day upon which the relevant part of this regulation was approved by the Governor in Council as interim development control provisions in the area of the local government concerned, is an existing lawful use and does not require an application to be made for the consent of the local government to allow such use to lawfully continue.

Application for consent

5.(1) An application for the consent of the local government under these provisions is to be made and dealt with in accordance with the *Local Government (Planning and Environment) Act 1990*, sections 4.12 and 4.13.

(2) The appeal rights conferred upon an applicant and objector pursuant to the *Local Government (Planning and Environment) Act 1990*,

SCHEDULE 3 (continued)

section 4.13 apply with respect to an application made under these provisions.

(3) In considering an application for consent under these provisions, the local government is to take into consideration—

- (a) the character of the proposed development in relation to the character of the development of adjoining land and other land in the locality; and
- (b) the size and shape of the parcel of land to which the application relates, the siting of the proposed development and the area to be occupied by the development in relation to the size and shape of adjoining land and the development on the adjoining land; and
- (c) any representation made by any statutory authority in relation to the application or the development of the area and the rights and powers of the statutory authority; and
- (d) any advisory development plans adopted by resolution of the local government for the orderly development of the locality in which the land to which the application relates is situated and prepared in accordance with subsection 7; and
- (e) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading and parking of vehicles on the site; and
- (f) whether adequate provision has been made for the movement of pedestrians and whether the proposal would, if permitted, create, or be likely to create, a traffic hazard or increase an existing traffic hazard; and
- (g) whether adequate provision has been made for landscaping of the site; and
- (h) whether the roads giving access to the site, in the opinion of the local government, are constructed to a standard sufficient to carry traffic of the nature and volume likely to be generated by the proposed use; and
- (i) whether the land the subject of the application is low-lying or

SCHEDULE 3 (continued)

subject to flooding and whether draining or filling is necessary to create a satisfactory site for the proposed development and, if draining or filling is necessary, the local government may consent to the application after the necessary draining or filling or both has or have been carried out to its satisfaction; and

- (j) the availability of essential public utilities in the locality; and
- (k) whether any environmental impact will be caused by the proposed development and, if so, whether adequate safeguards have been or will be taken to prevent pollution and to protect the environment of the locality; and
- (l) the contents of any environmental impact statement prepared in connection with the proposal; and
- (m) whether the proposed development would be likely to detrimentally affect the existing or future amenity of the locality; and
- (n) all objections which have been duly lodged with the local government; and
- (o) any matters considered by the local government to be relevant in respect of the particular application.

(4) In addition to the matters referred to in subsection (3), in considering an application for consent under these provisions, the local government may have regard to any provisions contained in a draft planning scheme prepared in respect of the part of the area to which these provisions apply.

Interim development permit register

6.(1) The local government is to keep and maintain an interim development permit register which is to be open to inspection.

(2) The register is to include the following information—

- (a) the date of issue of a permit;
- (b) the date the application was approved by the local government or by the court, as the case may be;

SCHEDULE 3 (continued)

- (c) the property description, area and postal address of the land;
- (d) details of the use consented to;
- (e) any conditions attaching to the permit;
- (f) the decision (if any) of the court in respect of the application;
- (g) details of any modifications granted pursuant to the *Local Government (Planning and Environment) Act 1990*, section 4.15;
- (h) details of any extensions of time granted pursuant to the *Local Government (Planning and Environment) Act 1990*, section 4.13;
- (i) any particulars relevant to revocation procedures if action has been taken in that regard;
- (j) such other information as the local government considers necessary.

Advisory development plans

7.(1) A local government may by resolution decide to prepare a draft advisory development plan or plans for the purpose of guiding development in a manner consistent with the planning objectives of the local government.

(2) After the preparation of a draft plan, the local government is to give public notice of the plan by advertisement at least once in a newspaper circulating in its area.

(3) The advertisement in the newspaper is to—

- (a) set out the general purport of the plan; and
- (b) state that the plan is open to inspection; and
- (c) state that submissions may be lodged with the local government at its office in respect of any matter contained in the plan on or before the specified date, being a date that is at least 30 days after the date of the advertisement.

(4) A person may lodge a submission with the local government at its office on or before the specified date.

SCHEDULE 3 (continued)

(5) A person may request the local government to give to the person, in person or by post, a copy of the particulars of the proposal, which particulars are to be so given at the cost of reproduction.

(6) The local government is to consider each submission lodged in the prescribed manner.

(7) The local government may, subject to the submissions lodged, adopt the plan with or without modifications and a plan so adopted is to have the date of the relevant resolution endorsed on it.

(8) Upon an advisory development plan being adopted by a local government pursuant to subsection (7), the chief executive officer is to forthwith give notice in a newspaper of the adoption of the plan.

(9) The local government may amend an adopted plan subject to compliance with subsections (1) to (8).

(10) The adopted plan and any amendment of the plan, is to be open to inspection.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 7 March 1997. Future amendments of the Local Government (Planning and Environment) Regulation 1991 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

*Local Government (Planning and Environment)
Regulation 1991*

3 Key

Key to abbreviations in list of legislation and annotations

| | | | | | |
|--------|---|------------------------------|--------|---|--------------------------------|
| AIA | = | Acts Interpretation Act 1954 | (prev) | = | previously |
| amd | = | amended | proc | = | proclamation |
| ch | = | chapter | prov | = | provision |
| def | = | definition | pt | = | part |
| div | = | division | pubd | = | published |
| exp | = | expires/expired | R[X] | = | Reprint No.[X] |
| gaz | = | gazette | RA | = | Reprints Act 1992 |
| hdg | = | heading | reloc | = | relocated |
| ins | = | inserted | renum | = | renumbered |
| lap | = | lapsed | rep | = | repealed |
| notfd | = | notified | s | = | section |
| om | = | omitted | sch | = | schedule |
| o in c | = | order in council | sdiv | = | subdivision |
| p | = | page | SIA | = | Statutory Instruments Act 1992 |
| para | = | paragraph | SL | = | subordinate legislation |
| prec | = | preceding | sub | = | substituted |
| pres | = | present | unnum | = | unnumbered |
| prev | = | previous | | | |

4 List of legislation

Local Government (Planning and Environment) Regulation 1991

pubd gaz 23 March 1991 pp 1683–1714

commenced 15 April 1991 (see s 2 and proc pubd gaz 6 April 1991 p 2009)

as amended by—

**Local Government (Planning and Environment) Amendment Regulation (No. 1)
1992 SL No. 230**

notfd gaz 24 July 1992 pp 2523–4

ss 1–2 commenced on date of notification

remaining provisions commenced 23 July 1992 (see s 2)

**Local Government (Planning and Environment) Amendment Regulation (No. 1)
1994 SL No. 118**

notfd gaz 31 March 1994 pp 1311–12

commenced on date of notification

**Local Government (Planning and Environment) Amendment Regulation (No. 1)
1996 SL No. 424**

notfd gaz 20 December 1996 pp 1588–98

commenced on date of notification

5 List of annotations

Commencement

s 2 om R1 (see RA s 37)

Interpretation

s 3 def “**major shopping development**” ins 1992 SL No. 230 s 4(2)
def “**the Act**” om 1992 SL No. 230 s 4(1)

Forms

s 4 sub 1992 SL No. 230 s 5

Public notice of planning schemes

s4A ins 1992 SL No. 230 s 5

Interim development control

s 6 amd 1992 SL No. 230 s 6

Application for amendments, rezoning in stages and subsequent staged rezoning

s 7 amd 1992 SL No. 230 s 7

Application for town planning consent

s 9 amd 1992 SL No. 230 s 8

Appeals to the court

s 13A ins 1992 SL No. 230 s 9

Environmental impact—designated developments

s 16 amd 1992 SL No. 230 s 10; 1994 SL No. 118 s 3

Environmental impact

s 17 sub 1992 SL No. 230 s 11

Assessment of sites for contamination

s 18 amd 1992 SL No. 230 s 12; 1994 SL No. 118 s 4

Meaning of “major shopping development”

s 19 sub 1992 SL No. 230 s 13
amd 1996 SL No. 424 s 3

Transitional provision for National Parks

s 20 ins 1994 SL No. 118 s 5
exp 19 December 1994 (see s 20(2) and 1994 SL No. 472)

SCHEDULE 1—DEVELOPMENTS

prev sch 1 om 1992 SL No. 230 s 14
pres sch 1 (prev sch 2) amd 1992 SL No. 230 s 15(1)
renum 1992 SL No. 230 s 15(2)
sub 1994 SL No. 118 s 6

SCHEDULE 2—AREAS

pres sch 2 (prev sch 3) renum 1992 SL No. 230 s 16
sub 1994 SL No. 118 s 6

*Local Government (Planning and Environment)
Regulation 1991*

SCHEDULE 3—INTERIM DEVELOPMENT CONTROL REGULATION

pres sch 3 (prev sch 4) renum 1992 SL No. 230 s 17

Permitted uses

s 2 amd 1994 SL No. 118 s 7

6 Table of changed names and titles

TABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

| Old | New | Reference provision |
|---|--|---------------------------------------|
| clerk (of a local authority) | chief executive officer (of a local government) | Local Government Act 1993 s 796(1)(j) |
| Crown land (as defined in the Lands Act 1962) | unallocated State land | Land Act 1994 s 511(c) |
| Land Administration Commission | chief executive (of the department in which the Land Act 1994 is administered) | Land Act 1994 s 511(a) |
| local authority | local government | Local Government Act 1993 s 796(1)(a) |

7 Table of changed citations and remade laws

TABLE OF CHANGED CITATIONS AND REMADE LAWS
under the Reprints Act 1992 ss 21A and 22

| Old | New | Reference provision |
|--------------------|--------------------|--------------------------|
| Fisheries Act 1976 | Fisheries Act 1994 | Fisheries Act 1994 s 225 |

8 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

| | |
|---|---|
| Omitted provision | Provision making omitted provision obsolete/redundant |
| definitions to be read in context | Acts Interpretation Act 1954 s 32A |
| references to provisions of law inclusive | Acts Interpretation Act 1954 s 35D |

9 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS under the Reprints Act 1992 s 44

| Provision | Description |
|-------------|---------------------------------|
| 5(3)(c)(ii) | om 'alientated' ins 'alienated' |