

Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016

Amendments during consideration in detail to be moved by
The Honourable the Deputy Premier, Minister for Transport and Minister
for Infrastructure and Planning

1 **Clause 8 (Amendment of s 83 (General restrictions on granting building development approval))**

Page 11, after line 3—

insert—

Example—

A building development application is made for a development permit for building work that must be assessed against the building assessment provisions and a code in the local government's planning scheme. The code is not a building assessment provision and is not, under the Planning Act, within the jurisdiction of a referral agency. A private certifier is engaged to assess and decide the application. The private certifier must not grant the development permit until a preliminary approval given by the local government is in effect for the part of the building work that must be assessed against the code.

2 **After clause 8**

Page 11, after line 29—

insert—

8A Amendment of s 88 (Giving approval documents to applicant)

(1) Section 88—

insert—

(2A) Subsection (2B) applies if the application is for building work that is—

(a) the demolition of a building used only or mainly for residential purposes; and

(b) assessable development under a local planning instrument.

(2B) The private certifier must not give the applicant any approval documents for the application before the end of 5 business days after the day the private certifier has complied with all requirements under section 86(1).

Maximum penalty—165 penalty units.

(2) Section 88(4) and note—

omit, insert—

(4) The private certifier must give the approval documents to the applicant—

(a) if the application is mentioned in subsection (2A) and the private certifier receives the acknowledgement before the end of the period mentioned in subsection (2B)—within 5 business days after the end of that period; or

(b) otherwise—within 5 business days after receiving the acknowledgement.

Note—

See also section 132.

8B Insertion of new ch 11, pt 18A

Chapter 11—

insert—

Part 18A

Transitional provision for Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Act 2016

344 Building development application approved before commencement

- (1) This section applies to a building development application approved by a private certifier before the commencement.
- (2) Former section 88 continues to apply in relation to the building development application as if the amending Act had not been enacted.
- (3) In this section—

amending Act means the *Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Act 2016*.

former section 88 means section 88 as in force immediately before the commencement.

3 Clause 16 (Amendment of s 117 (Gifts to candidates))

Page 15, line 21, ‘This section’—

omit, insert—

Subsection (2)

4 Clause 17 (Amendment of s 118 (Gifts to groups of candidates))

Page 17, line 12, ‘This section’—

omit, insert—

Subsection (2)

5 Clause 17 (Amendment of s 118 (Gifts to groups of candidates))

Page 18, lines 1 and 8, after ‘group’—

insert—

, or a person acting on behalf of the group,

6 Clause 25 (Amendment of s 126 (Requirement for candidate to operate dedicated account))

Page 25, line 19, ‘omit,’—

omit.

7 Clause 26 (Amendment of s 127 (Requirement for group of candidates to operate dedicated account))

Page 26, line 16, ‘omit,’—

omit.

8 After clause 32

Page 30, after line 9—

insert—

32A Amendment of s 30 (When this division applies)

Section 30(4)—

insert—

- (g) is made under section 276(1)(c) to identify all or part of a local government area as a party house restriction area.

32B Amendment of s 36 (Criteria for making or amending designations)

Section 36(7)—

insert—

- (ca) if the premises are in a priority development area under the *Economic Development Act 2012*—any development scheme for the priority development area under that Act; and

9 Clause 33 (Amendment of s 48 (Who is the *assessment manager*))

Page 30, lines 10 to 19—

omit, insert—

33 Amendment of s 48 (Who is the *assessment manager*)

(1) Section 48—

insert—

- (2A) Without limiting subsection (2), a regulation may prescribe that a person is the assessment manager for a development application that is for part of a particular type of development.

Example—

For building work that must be assessed against the building assessment provisions and is assessable development under a local government's planning scheme, a regulation may prescribe that—

- (a) a private certifier is the assessment manager for a development application for the part of

- the building work that must be assessed against the building assessment provisions; and
 - (b) the local government is the assessment manager for a development application for the part of the building work that is assessable development under the planning scheme.
- (2B) Subsection (3) applies to a development application that—
 - (a) is for development that requires code assessment only; and
 - (b) does not include a variation request.
- (2) Section 48(3), ‘However, if—’—
omit, insert—
If—
- (3) Section 48(3)(a), from ‘a development application’—
omit, insert—
the development application; and
- (4) Section 48(3)(b), from ‘a particular type’—
omit, insert—
the development the subject of the application; and
- (5) Section 48(3)(e)—
omit, insert—
 - (e) a person on the entity’s list enters into an agreement with another person to accept the development application;
- (6) Section 48(6), from ‘may’—
omit, insert—
may—
 - (a) decide who is the assessment manager; or

- (b) require the application to be split into 2 or more applications.

- (7) Section 48(9), after ‘that is’—
insert—
prescribed

10 Clause 35 (Amendment of s 64 (Deemed approval of applications))

Page 31, lines 4 to 8—

omit, insert—

- (2) Section 64—
insert—

- (9) Before making or amending the instrument mentioned in subsection (8)(c), the Minister must consult with the persons the Minister considers appropriate.

- (10) The Minister must notify the making or amendment of the instrument mentioned in subsection (8)(c) in the gazette.

11 After clause 40

Page 33, after line 23—

insert—

40A Amendment of s 78 (Making change application)

- (1) Section 78(3)—
insert—

- (ba) for a change application to change a condition imposed by the Minister under section 95—the Minister; or

- (bb) for a change application to change a development approval given by the

Minister under part 6, division 3—the
Minister; or

(2) Section 78—

insert—

- (5) If a change application is made to the Minister and the Minister is satisfied the change does not affect a State interest, the Minister may refer the change application to the assessment manager.
- (6) If the Minister refers the change application to the assessment manager, the assessment manager is taken to be the responsible entity for the change application.

12 After clause 41

Page 33, after line 28—

insert—

**41A Amendment of s 80 (Notifying affected entities
of minor change application)**

Section 80(2)(c), after ‘the P&E Court’—

insert—

or the Minister

**13 Clause 42 (Amendment of s 81 (Assessing and deciding
application for minor changes))**

Page 34, lines 1 to 8—

omit, insert—

**42 Amendment of s 81 (Assessing and deciding
application for minor changes)**

- (1) Section 81(2)(b)—

omit, insert—

(b) if the responsible entity is the assessment manager—any properly made submissions about the development application or another change application that was approved; and

(2) Section 81(2)(d)—

omit, insert—

(d) if the responsible entity is, under section 78(3)(ba) or (bb), the Minister—all matters the Minister would or may assess against or have regard to, if the change application were a development application called in by the Minister; and

(da) if paragraph (d) does not apply—all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and

(3) Section 81(3), ‘subsection (2)(d)’—

omit, insert—

subsection (2)(d) and (da)

14 Clause 43 (Amendment of s 82 (Assessing and deciding application for other changes))

Page 34, line 11—

omit, insert—

(1) Section 82(3)—

insert—

(c) if the responsible entity is, under section 78(3)(ba) or (bb), the Minister—

- (i) part 2, division 2 and part 3, other than sections 51, 63 and 64(8)(c), and the development assessment rules apply to the change application only if, and to the extent, those provisions would apply to a development application called in by the Minister; and
- (ii) section 105(5) and (6) applies for assessing and deciding the change application.

(2) Section 82—

15 Clause 48 (Amendment of s 112 (Regulation prescribing charges))

Page 36, lines 6 to 13—

omit, insert—

48 Amendment of s 112 (Regulation prescribing charges)

Section 112(2)—

omit, insert—

- (2) A ***maximum adopted charge***, for a financial year, for trunk infrastructure, is—
 - (a) for the 2017–2018 financial year—the prescribed amount for an adopted charge for the infrastructure; or
 - (b) otherwise—the sum of—
 - (i) the prescribed amount for an adopted charge for the infrastructure in force at the start of the financial year; and
 - (ii) an amount equal to the amount mentioned in subparagraph (i) multiplied by the sum of the

percentage increases for each financial quarter since the amount was last prescribed or amended.

16 After clause 49

Page 36, after line 19—

insert—

49A Amendment of s 139 (Application to convert infrastructure to trunk infrastructure)

(1) Section 139(1), after ‘may apply’—

insert—

(a *conversion application*)

(2) Section 139(2)—

omit, insert—

(2) The application must be made—

(a) to the local government in writing; and

(b) within 1 year after the development approval starts to have effect.

17 After clause 52

Page 37, after line 11—

insert—

52A Amendment of s 277 (Assessment and decision rules for particular State heritage places)

Section 277(3) and (4), ‘prudent or’—

omit, insert—

prudent and

18 Clause 56 (Insertion of new s 307A)

Page 38, lines 24 to 29—

omit, insert—

- (1) This section applies in relation to a development approval that is in force when the old Act is repealed.
- (2) Section 139(2)(b) does not apply to a conversion application made by the applicant for the development approval.

19 After clause 56

Page 38, after line 29—

insert—

56A Amendment of s 319 (Compliance assessment of documents or works)

Section 319(1)(b), ‘works.’—

omit, insert—

works, other than a subdivision plan.

20 Clause 57 (Amendment of sch 1 (Appeals))

Page 39, lines 1 to 5—

omit, insert—

57 Amendment of sch 1 (Appeals)

- (1) Schedule 1, section 1(2)(g) and (h)—

omit, insert—

- (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
- (h) a decision to give an enforcement notice—

- (i) in relation to a matter under paragraphs (a) to (g); or
 - (ii) under the Plumbing and Drainage Act; or
- (2) Schedule 1, section 1(2)(i), ‘a decision to give’—
omit.
- (3) Schedule 1, section 1(2)(k)—
omit.
- (4) Schedule 1, section 1—
insert—
- (8) In this section—
storey see the Building Code, part A1.1.
- (5) Schedule 1, table 1, item 1, ‘An appeal’—
omit, insert—
For a development application other than a development application called in by the Minister, an appeal
- (6) Schedule 1, table 1, item 2, from ‘An appeal’ to ‘change application.’—
omit, insert—
For a change application other than a change application made to the P&E Court or called in by the Minister, an appeal may be made against—
 - (a) the responsible entity’s decision on the change application; or
 - (b) a deemed refusal of the change application.
- (7) Schedule 1, table 1, item 3, from ‘An appeal’ to ‘extension application.’—
omit, insert—

For an extension application other than an extension application called in by the Minister, an appeal may be made against—

- (a) the assessment manager's decision on the extension application; or
- (b) a deemed refusal of the extension application.

(8) Schedule 1, table 1, item 4, paragraph (d)—

omit, insert—

- (d) for an appeal to the P&E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.

(9) Schedule 1, table 2, item 2, from 'An appeal' to 'variation request.'—

omit, insert—

For a development application or change application other than an application decided by the P&E Court or called in by the Minister, an appeal may be made against the decision to approve the application, to the extent the decision relates to—

- (a) any part of the development application or change application that required impact assessment; or
- (b) a variation request.

(10) Schedule 1, table 2, item 3, from 'An appeal' to 'variation request.'—

omit, insert—

For a development application or change application other than an application decided by the P&E Court or called in by the Minister, an appeal may be made against a provision of the development approval, or a

failure to include a provision in the development approval, to the extent the matter relates to—

(a) any part of the development application or change application that required impact assessment; or

(b) a variation request.

(11) Schedule 1, table 3, item 3—

omit, insert—

3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against— (a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or (b) a decision under the Plumbing and Drainage Act, part 4 or 5, if an information notice about the decision was given or required to be given under that Act.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, an information notice about the decision	The person who made the decision	—	—

21 Clause 58 (Amendment of sch 2 (Dictionary))

Page 39, lines 7 and 8—

omit, insert—

(1) Schedule 2, definitions *required fee, standard conditions* and *storey*—

22 Clause 58 (Amendment of sch 2 (Dictionary))

Page 39, after line 14—

insert—

Queensland Building and Construction Commission means the Queensland Building and Construction Commission established under the *Queensland Building and Construction Commission Act 1991*, section 5.

23 Clause 58 (Amendment of sch 2 (Dictionary))

Page 40, after line 8—

insert—

- (4) Schedule 2, definition *conversion application*,
'section 139(2)'—

omit, insert—

section 139(1)

24 After clause 64

Page 42, after line 34—

insert—

**64A Amendment of s 64 (Amendment of s 48
(Functions of private certifier (class A)))**

Section 64(1)—

omit, insert—

- (1) Section 48(1)(b)—

omit, insert—

- (b) decide the building development application, and give a decision notice for the application; and

25 Clause 65 (Replacement of s 75 (Amendment of s 83 (General restrictions on granting building development approval)))

Page 43, line 10—

omit, insert—

(2) Section 83(1)(b) and example—

26 Clause 65 (Replacement of s 75 (Amendment of s 83 (General restrictions on granting building development approval)))

Page 43, after line 25—

insert—

Example—

A building development application is made for a development permit for building work that must be assessed against the building assessment provisions and a code in the local government's planning scheme. The code is not a building assessment provision and none of the referral agencies for the application are required, under the Planning Act, to assess the application against, or having regard to, the code. A private certifier is engaged to assess and decide the building development application. The private certifier must not grant the development permit until either of the following is in effect for the part of the building work that must be assessed against the code—

a preliminary approval given by the local government under the repealed *Sustainable Planning Act 2009*; or

a development permit given by the local government.

27 Clause 78 (Amendment of s 578 (Carrying out assessable development without permit))

Page 51, lines 14 to 18—

omit, insert—

78 Amendment of s 578 (Carrying out assessable development without permit)

- (1) Section 578(1), penalty, ‘1665 penalty units’—

omit, insert—

4500 penalty units

- (2) Section 578—

insert—

- (4) Subsection (5) applies to a development permit for assessable development that is building work if, under section 245A(3) or (5), the permit does not authorise the carrying out of a part of the building work.
- (5) For subsection (1), the development permit is not an effective development permit for the part.

© State of Queensland 2017