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NB: Members are referred to the separate document, Notes and background information, appearing at qls.com.au > Knowledge Centre > Newsletters & Magazines > Legislation Update for general information.

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Primary legislation (Acts of Parliament)

Parliamentary sitting days: 29 November-1 December 2016

Government Bills introduced

A. The following Bills were introduced into the Legislative Assembly on 29 November 2016

1. Land and Other Legislation Amendment Bill 2016

As listed in its explanatory notes, this Bill, which was described in those notes as being “miscellaneous in nature” and consisting of “minor amendments”:

- allows for the establishment of reserves on non-tidal boundary watercourses or non-tidal boundary lakes owned by the state only with the consent of an adjacent owner and the chief executive of the *Water Act 2000*, which measure improves the ability of the state to authorise local governments to manage use of functioning non-tidal watercourse or non-tidal lake land
- provides the Governor in Council with the power to grant a deed and the Minister to grant a lease to the Commonwealth
- removes the requirement for ministerial consent to transfer a road licence when the road licence is tied by covenant to freehold land, and both the road licence and freehold land are being transferred to the same person
- amends the provisions of a rolling-term lease for a significant tourism development on a regulated island to include adjacent leases seaward of the tidal boundary, for example, jetty or marina, which support the operation, thereby enabling the adjacent lease to be approved as a rolling-term lease to align with and be tied to the existing rolling-term lease so that they can be managed together
- clarifies when a rolling-term lease can be renewed and the term for which renewal may be sought
- allows for the continuation of a public utility easement after a state lease over a reserve expires
- clarifies that covenants granted by the state are applicable over non-freehold land under the *Land Act 1994* (Land Act), other than for a road for which a person does not hold a road licence, but including reserves, unallocated state land and occupation licences
- removes the need for ministerial approval under the Land Act for subdivisions of Indigenous deeds of grant in trust (DOGITs) land under the *Aboriginal Land Act 1991* (Aboriginal Land Act) or the *Torres Strait Islander Land Act 1991* (Torres Strait Islander Land Act) so that the subdivision of indigenous DOGIT land occurs only under the Aboriginal Land Act or Torres Strait Islander Land Act
- prescribes terms under which the Minister may accept the resignation of a trustee to ensure the smooth transition to an appropriate trustee
- replaces ‘Mandatory Standard Term Documents’ for certain land dealings such as sub-leases with terms prescribed in a regulation, which measure will increase accessibility to prescribed terms, streamline administration and improve transparency of those dealings
- allows the Registrar of Titles to register a person appointed by court order as trustee for the sale of land or an interest in the land, without the need to obtain a vesting order, thus removing expense and delay as an additional court order will no longer be required
- enables the recognition of a beneficiary of a will, in situations where the deceased person’s estate has been granted probate elsewhere in Australia, the United Kingdom or New Zealand, so saving time and costs and reducing time and expense and the stress on the deceased person’s family
- provides the Registrar of Titles with the power to withdraw instruments that cannot be given legal effect under Queensland law, thereby preventing certain documents being used as a ‘pseudo-legal technique’ to avoid a person meeting legal obligations
- clarifies that any compensation arising from the improper use of a caveat is to be paid by the person claiming an interest in the land, and not a legal practitioner lodging the caveat on that person’s behalf, in order to ensure that the appropriate person is liable for compensation
- ensures that caveats are used appropriately when lodged by a registered owner in dispute with a mortgagee so that the mortgagee is not hindered in undertaking legitimate activities
- replaces the current settlement notice mechanism with a nationally consistent priority notice which can be lodged through the eConveyancing platform. (In addition, the Bill extends the use of priority notices to other dealings such as leases and allows a 30-day extension of the notice’s effect.)
- dispenses with the need for a paper certificate of title to be produced if the Registrar of Titles is satisfied it is held by a legal practitioner.

In addition to the Land Act, this Bill also amends the following Acts:

- *Land Title Act 1994*
- *Planning (Consequential) and Other Legislation Amendment Act 2016*.

2. Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2016

As stated in its explanatory notes, this Bill amends the *Child Protection (Offender Reporting) Act 2004* [CP(OR) Act] and the *Police Powers and Responsibilities Act 2000* (PPR Act) to give effect to the recommendations made by the Crime and Corruption Commission (CCC) through its review of the *Child Protection (Offender Prohibition Order) Act 2008* [CP(OPO) Act] and streamlining the administration of the offender-reporting legislation to provide a cohesive and holistic response to the management of reportable offenders in the community. Other amendments contained in the Bill “streamline the administration of the offender reporting legislation and enhance the current protections for children”.

As a starting point, it might be noted that this Bill relocates the provisions of the CP(OPO) Act into a newly created Part 3A of the CP(OR) Act “to remove the inconsistencies which have occurred as a consequence of separate regulatory regimes”. Then, the CP(OPO) Act will be repealed upon the commencement of the amalgamated legislation. [The provisions of the CP(OPO) Act are re-numbered under the CP(OR) Act.]

The explanatory notes for the Bill outline the contents of the amendments to the CP(OR) Act under the following headings; the section numbers refer to provisions in the CP(OR) Act:

- Making an initial report – s4
- Offences which contain a reportable offence as a factual element – s5
- Reportable contact outside of Queensland – s9A
- Reporting a cessation of personal particulars – s19A
- Reporting travel into and outside of Queensland – ss19A, 20 and 23
- Receipt of information to be acknowledged – s28
- Power to take fingerprints – s30
- Power to take photographs – s31
- Notices given to reportable offender – ss54 and 56
- Suspension of reporting obligations for significant mental illness – ss67A, 67C, 67E, 67F and schedule 5
- Information held on the child protection register – s68
- Reportable offender’s rights in relation to register and review an entry on register – ss73 and 74
- Prohibit a self-represented offender from cross-examining (in person) a child witness in any proceeding – new s77B (Recommendation 17 – CCC Report).

Next, the explanatory notes for the Bill outline the amendments to the content of the current CP(OPO) Act under the following headings; the section numbers refer to provisions in the CP(OPO) Act and the recommendations drawn from the CCC report:

- Relocate the provisions of the CP(OPO) Act into the CP(OR) Act and repeal the CP(OPO) Act (Recommendation 1)
- Clarify the definition of concerning conduct – s6 (Recommendation 2)
- Remove ‘recent’ as it applies to concerning conduct – ss6 and 9
- Application of unacceptable risk
- Clarify the ambiguities about OPOs (Offender Prohibition Orders) made by consent – s21 (Recommendation 16)
- Align the offence provision with the penalty for failing to comply with CP(OR) Act reporting obligations – s38 (Recommendation 14)
- Improve information sharing between Queensland Police Service (QPS) and relevant agencies, and between the QPS and members of the public – ss41-44, 47 and 48 (Recommendation 11)
- Clarify the civil application process, standard of proof and rules of evidence, and allow concurrent hearings – ss39, 40 and 50 (Recommendation 15)
- Prohibiting the cross-examination of child witnesses by unrepresented respondents – new s77B (Recommendation 17).

In addition, the Bill amends the PPR Act in relation to the following matters in the specified provisions:

- Power to inspect in s21B
- Assumed identities in ss284 and 285.

Finally, the Bill makes consequential amendments to the following Acts:

- *Adoption Act 2009*
- *Births, Deaths and Marriages Registration Act 2003*
- *Child Protection Act 1999*
- *Disability Services Act 2006*
- *Education (Queensland College of Teachers) Act 2005*
- *Mental Health Act 2000*
- *Right to Information Act 2009*
- *Working with Children (Risk Management and Screening) Act 2000*.

Pursuant to cl.2 (Commencement), it is proposed that this Act commences on 1 July 2017.

B. The following Bills were introduced into the Legislative Assembly on 30 November 2016

1. Criminal Law Amendment Bill 2016

Firstly, this Bill amends s304 (Killing on provocation) of the Criminal Code to exclude an unwanted sexual advance, other than in circumstances of an exceptional character, from the ambit of the 'partial defence', which initiative is based on the recommendation made by the chair of the Jerrard Committee, following its establishment in November 2011. (The defence of partial defence of provocation, if successfully raised, reduces the criminal responsibility of the accused from murder to manslaughter.)

The Bill also makes the following "miscellaneous criminal law-related amendments", arising from the lapsed Justice and Other Legislation Amendment Bill 2014 and from stakeholder consultation, as summarised in its explanatory notes:

- *Bail Act 1980*:
 - to encourage police to exercise their discretion with regard to bail when a person cannot be taken promptly before a court
 - to clarify the process on forfeiture of cash bail to ensure consistency in approach
- Criminal Code:
 - to create an exception to s89 (Public officers interested in contracts) for public officers who acquire or hold a private interest made on account of their employment, having first disclosed to, and obtained the authorisation of, the chief executive of the relevant department, thus addressing ambiguity as to whether s89, in its current form, prevents departments from authorising public service officers to provide services in their private capacity, which authorisation is often necessary in rural and remote areas
 - to increase the penalty for the offence of misconduct with regard to corpses [in s236(b)] from two years' imprisonment to five years' imprisonment.
- *Criminal Proceeds Confiscation Act 2002*:
 - to ensure all contraventions of restraining orders and forfeiture orders made under the *Criminal Proceeds Confiscation Act 2002* "are prohibited and appropriately sanctioned"
 - to allow voluntary provision of information by financial institutions to the Crime and Corruption Commission with respect to the Serious Drug Offender Confiscation Order Scheme
 - to clarify the original intention with respect to s93ZZB (Making of serious drug offender confiscation order)
 - to amend the definition of 'applicant'
- *Director of Public Prosecutions Act 1984*:
 - to enable the Director of Public Prosecutions to delegate their functions and powers to an appropriately qualified person
- *Drugs Misuse Act 1986*:
 - to update the evidentiary provision providing for a drug analyst's certificate, to reflect current scientific and operational practices of analysis and remove any uncertainty about the admissibility of certificates issued under the relevant provision

- *Evidence Act 1977*:
 - to ensure that in proceedings other than committal hearings, unless a court otherwise orders, a party intending to rely on a properly disclosed DNA evidentiary certificate is required only to call the analyst who signed it if another party gives the requisite notice
 - to permit a court to order that the usable soundtrack of a videorecording ('pre-recorded evidence') may be played at a proceeding in certain circumstances
 - to exclude the public from a courtroom while the pre-recorded evidence of an affected child witness or special witness is being played
 - to allow for the destruction of certain recordings held by courts in accordance with relevant practice directions
 - to make technical amendments to provisions relating to the pre-recording of evidence to reflect contemporary court practices
- *Jury Act 1995*:
 - to "modernise a court's ability to use technology in jury selection processes"
- *Justices Act 1886*:
 - to insert an authority to allow a magistrate to order the joinder of trials
 - to allow for admissions of fact in summary trials for simple offences or breaches of duty
 - to allow for registry committals for legally represented defendants who are remanded in custody
 - to enable a defendant to enter a 'plea in bulk' in a Magistrates Court (which also involves an amendment to the Criminal Code)
- *Penalties and Sentences Act 1992*:
 - to add the offence in s236(b) (Misconduct with regard to corpses) of the Criminal Code to the serious violent offences schedule
 - to allow the Police Commissioner to issue a pre-sentence custody certificate in certain circumstances
 - to provide a mechanism to return offenders sentenced to a recognisance order who fail to properly enter into the recognisance back to the court, and allow for their resentencing in the court's discretion
- *Recording of Evidence Act 1962*:
 - to permit the destruction of recordings of Magistrates Court proceedings that are authorised by the archivist.

The Bill also makes a number of "minor and technical or consequential amendments", including amendments to the following Acts:

- *Telecommunications Interception Act 2009*
- *Evidence Act 1977*
- *Penalties and Sentences Act 1992*
- *Youth Justice Act 1992*.

2. Mental Health Amendment Bill 2016

Firstly, as referred to in its explanatory notes, this Bill amends the *Mental Health Act 2016* (Mental Health Act) to:

- provide a framework for people undergoing mental health assessments and examinations to do so without risk of self-incrimination [principally by replacing the present s180 (Admissibility of examination report) with three new sections, namely:
 - s180 (Admissibility of examination report at trial)
 - s180A (Particular statements not admissible)
 - s180B (Other use of examination report and particular statements)]
- make "other clarifying and technical amendments to improve the intended operation of the Mental Health Act upon its commencement on 5 March 2017".

The Bill also:

- makes "clarifying and technical amendments" to the *Public Health Act 2005* to ensure the provisions of that Act inserted by the Mental Health Act operate as intended
- "consequentially" amends the *Coroners Act 2003*.

The explanatory notes for the Bill provide detailed information as to the manner in which the amendments will be applied in practice.

3. Water Legislation (Dam Safety) Amendment Bill 2016

The explanatory notes for this Bill state that its policy objectives are to amend the *Water Act 2000* and the *Water Supply (Safety and Reliability) Act 2008* in order to (listing under each objective the headings in the explanatory notes where each is discussed):

- improve the integration of dam safety and disaster management:
 - Notification and warnings
 - Emergency action plan, purpose and approval
- improve the way dam owners manage dam safety:
 - Full supply level
 - Warning signs on public land
- simplify process and reduce regulatory burden:
 - Temporary full supply level for flood mitigation dam
 - Reduce overlap with work health and safety regulation
 - Streamlined failure impact assessment process for certain dams.

C. The following Bills were introduced into the Legislative Assembly on 1 December 2016

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

As summarised in its explanatory notes, this Bill amends the following Acts for the specified purposes:

- *Associations Incorporation Act 1981* to clarify that incorporated associations cannot be used to receive or hold electoral campaign funds which are intended to be applied for the benefit of a member of the association, either directly or indirectly
- *Local Government Electoral Act 2011* to:
 - ensure consistency between the disclosure requirements of candidates and councillors
 - facilitate real-time online electoral donation disclosures for local government elections, consistent with state election requirements
 - require candidates and groups of candidates to account for unspent donations
 - clarify that the Electoral Commission of Queensland may continue to recover direct and indirect costs associated with the conduct of local government elections
- *Planning Act 2016* to make several technical amendments and to clarify which building work requires a separate approval from a local government as well as an approval from a private certifier
- *Planning and Environment Court Act 2016* to omit a redundant provision
- *Building Act 1975* and the *Planning (Consequential) and Other Legislation Amendment Act 2016* to clarify the concept of a building development application and amend the requirements for private certifiers to await particular development approvals, consistent with changes to the planning legislation in response to recent court decisions
- *Sustainable Planning Act 2009* to clarify which building work requires a separate approval from a local government as well as an approval from a private certifier, to provide for email service of originating applications to the court, and to “bring forward”:
 - an increase in penalties for development offences from 1665 penalty units to 4500 penalty units
 - limited retrospective commencement for some temporary local planning instruments (TLPs)
 - new arrangements for the Planning and Environment Court to award costs.

2. Victims of Crime Assistance and Other Legislation Amendment Bill 2016

The policy objectives of this Bill, as outlined in its explanatory notes, are to:

- implement the recommendations of the *Final Report of the Review of the Victims of Crime Assistance Act 2009* and to ensure the *Victims of Crime Assistance Act 2009* continues to provide an effective response to assist victims of crime
- introduce a sexual assault counselling privilege
- give victims of a sexual offence who are to give evidence in a criminal proceeding against the accused automatic status as a special witness.

For these purposes, this Bill amends the following legislation:

- Criminal Code
- *Evidence Act 1977*
- *Penalties and Sentences Act 1992*
- *Victims of Crime Assistance Act 2009*
- *Youth Justice Act 1992*.

The explanatory notes contain comprehensive and extensive details about the contents of this Bill.

This Bill also makes “other” amendments to the following legislation:

- *Bail Act 1980*
- *Corrective Services Act 2006*
- *Criminal Code*
- *Domestic and Family Violence Protection Act 2012*
- *Evidence Act 1977*
- *Justices Act 1886*
- *Penalties and Sentences Act 1992*
- *Recording of Evidence Regulation 2008*
- *Victims of Crime Assistance Act 2009*
- *Youth Justice Act 1992*.

Government Bills passed

A. The following Bill was passed by the Legislative Assembly on 29 November 2016

1. Serious and Organised Crime Legislation Amendment Bill 2016

This Bill was originally introduced into the Legislative Assembly on 13 September 2016. A synopsis of the contents of the Bill as introduced was contained in *Legislation Update* No.37 of 2016, dated 21 September 2016, at pages 3-5.

The Bill passed its second reading with the support of the two KAP members and the independent Member for Cook. (The independent Member for Cairns did not vote.)

During its passage through the Legislative Assembly, the following provisions of the original Bill as introduced were amended (with the explanation for each amendment as given by the Attorney-General during the parliamentary debate):

- Clause 4 [Amendment of s6 (Definitions)], to make consequential amendments arising out of the omission of cl.6 – see below.
- Clause 50 [Amendment of s205 (Legal assistance for crime investigations)], to clarify the heading to s205 of the *Crime and Corruption Act 2001*, which amendment, as explained by the Attorney-General during the parliamentary debate, “will accurately reflect the effect of the other amendments made to section 205 of the Bill which provide that all people appearing before a Crime and Corruption Commission coercive hearing will be able to apply for financial assistance towards legal representation”.
- Clause 182 (Replacement of ss47B and 47C), by inserting a new sub-clause (5) which provides that “(i)n this section, *information* does not include information given to the police commissioner or commissioner, or to which the police commissioner or commissioner has access, under the *Crime and Corruption Act 2001*”, which insertion is intended “to ensure that the new exchange of information provision under the *Liquor Act 1992* does not allow the sharing of information given to or accessed by the Police Commissioner or Commissioner for Liquor and Gaming under the *Crime and Corruption Act 2001*”.
- Clause 205 [Amendment of s142ZO (Police commissioner’s information report)], to make a minor amendment to cl.205(2) of the Bill to renumber a provision to ensure consistency with numbering conventions under the *Liquor Act 1992*.
- Clause 251 (Insertion of new ss230A and 230B), by inserting the statement that “information does not include information given to the chief executive or a relevant agency, or to which the chief executive or relevant agency has access, under the *Crime and Corruption Act 2001*”, which amendment is intended to “ensure that the new exchange of information provision under the Motor Dealers and Chattel Auctioneers Act does not allow the sharing of information given to or accessed by the chief executive or relevant agency under the *Crime and Corruption Act 2001*”. (The Attorney-General stated that similar amendments applied in relation to the amendments to cc.348, 373, 391, 440 and 464 – see below.)
- Clause 267 [Replacement of pt4 (Miscellaneous provisions)], by, in four places, omitting the words ‘The senior police officer’ and replacing them with ‘A police officer’, which amendments relate to the new public safety protection order scheme inserted by the Bill under the *Peace and Good Behaviour Act 1982* and are intended “to allow a police officer, as opposed to a senior police officer, to serve applications and orders for variation and revocation of a public safety order or a fortification removal order, consistent with the approach taken elsewhere under the new public safety protection order regime, and overcomes the unintended operational impact on the Queensland Police Service resulting from the current drafting”.
- Clause 269 (Insertion of new s11A), by omitting Unit 5/37-31 Pound Street, Kingaroy from the prescribed list of premises that will be automatically deemed to be restricted premises under the *Peace and Good Behaviour Act 1982*, on the advice the Queensland Police Service that the property is no longer linked with any declared criminal organisation. [A corresponding amendment to the *Criminal Code (Criminal Organisations) Regulation 2013* has been made so the property has similarly been removed from the list of prescribed premises in the 2013 regulation.]

- Clause 348 (Insertion of new s98A)
- Clause 373 (Insertion of new ss111 and 112)
- Clause 391 [Replacement of s48 (Confidentiality of information)]
- Clause 440 (Replacement of ss61 and 62)
- Clause 464 [Replacement of s36B (Chief executive may enter into arrangement about giving and receiving information with police commissioner)]
- Clause 488 [Amendment of sch2 (Dictionary)], to “remove the terms ‘criminal organisation’ and ‘identified participant’ from the dictionary contained in schedule 2 of the *Weapons Act 1990* and to correct an oversight during the drafting of the bill with respect to the definition of ‘criminal intelligence’ in the *Weapons Act*”.

In addition, as mentioned above, cl.6 was omitted from the Bill as the effect of the omission will be to retain the existing s15A of the *Bail Act 1980*, which will “facilitate the efficient administration of the Magistrates Court jurisdiction and ensure flexibility to allow bail hearings to proceed before a magistrate sitting at a location outside of the original jurisdiction of the charge thereby avoiding delays, for example, over holiday and court closure periods and in relation to regional and remote courts where there are limited resources to hear applications”.

B. The following Bills were passed by the Legislative Assembly on 30 November 2016

1. Industrial Relations Bill 2016

This Bill was originally introduced into the Legislative Assembly on 1 September 2016. A synopsis of the contents of the Bill as introduced was contained in *Legislation Update* No.35 of 2016, dated 7 September 2016, at pages 4-6.

During its passage through the Legislative Assembly, the following provisions of the original Bill as introduced were amended:

- Clause 31 (Entitlement)
- Clause 52 (Entitlement to domestic and family violence leave), in order to “clarify transitional provisions for bargaining matters”
- Clause 141 (General requirements for commission exercising powers), a technical amendment which includes an amendment to the *Public Service Act 2008* to provide fair treatment appeal rights and a review of temporary employment in the public sector
- Clause 168 (Definitions for chapter)
- Clause 177 (Referral to arbitration by conciliating member)
- Clause 183 (Operation of arbitration determinations)
- Clause 233 (When industrial action is protected industrial action)
- Clause 235 (Approval to engage in industrial action)
- Clause 281 (Action to which this part does not apply)
- Clause 447 (Commission’s functions)
- Clause 457 (Associates)
- Clause 481 (Limitations on when order may be made)
- Clause 486 (Referring matter to full bench)
- Clause 530 (Legal representation)
- Clause 536 (Interlocutory proceedings)
- Clause 554 (Appeal from court or commission in certain circumstances)
- Clause 557 (Appeal from commission)
- Clause 558 (What court may do)
- Clause 559 (President must hear and decide appeal from commission)
- Clause 563 (Definition for div 5)
- Clause 564 (Time limit for appeal)
- Clause 702 (Definitions for part)
- Clause 765 (Reporting guidelines)
- Clause 780 (When copy of full report or concise report must otherwise be given)
- Clause 782 (Obligation to present to general or committee meeting)
- Clause 784 (Reports etc. to be lodged with registrar)
- Clause 810 (References to audit report for pt11, div5, sdiv5)
- Clause 843 (Holding office after amalgamation)
- Clause 857 (Registration of property transferred under pt15)
- Clause 1000 (Existing applications for certification)

- Clause 1006 (Conditions of employment for continuing employees)
- Clause 1007 (Continuation of working time provision for an employee under old s9 or 9A)
The heading to Division 6 (Protected industrial action) of Part 2 of Chapter 18, so that it reads: 'Existing collective bargaining processes'
- Clause 1021 (Protected industrial action under repealed Act)
- Clause 1027 (Authorised industrial officers taken to be authorised under this Act)
- Clause 1037 [Provision for old s428 (Organisation must have complying rules)]
- Clause 1099 [Replacement of ch7, pt2, div1A (Tribunal's functions)]
- Clause 1119 (Insertion of new s49A)
- Clause 1128 Amendment of s195 (Decisions against which appeals can not be made)]
- Clause 1135 [Amendment of s200 (Appeals officer may decline to hear particular appeals)]
- Clause 1144 [Amendment of s208 (Decision on appeal)]
- Clause 1152 (Insertion of new ch9, pt12)
- Clause 1153 [Amendment of sch4 (Dictionary)]
- Schedule 5 (Dictionary).

The Minister for Employment and Industrial Relations stated during the parliamentary debate that the above amendments are mainly "technical amendments" and, in some cases, "technical and minor", although they also included an amendment to cl.530 "to clarify the legal representation arrangements by leave of the commission in full bench matters other than for arbitration".

In addition, the following new clauses were inserted at the places indicated:

- After cl.1021:
 - Clause 1021A (Continuation of bargaining under this Act)
 - Clause 1021B (Taking of protected industrial action under this Act)
 - Clause 1021C (Continuation of protected action ballot process under repealed Act)
 - Clause 1021D (Continuation of conciliation etc.)
- After cl.1125: cl.1125A [Amendment of s149 (Review of status of temporary employee)]
- After cl.1127: cl.1127A [Amendment of s194 (Decisions against which appeals may be made)]
- After cl.1128: cl.1128A [Amendment of s196 (Who may appeal)]
- After cl.1151: cl.1151A [Amendment of s218A (Commission chief executive may make directive about dealing with complaints by officers and employees)]

In all, there were 86 Government amendments made to this Bill during the parliamentary debate. (The Opposition spokesperson also moved five amendments but none of these were adopted.)

2. Revenue and Other Legislation Amendment Bill 2016

This Bill was originally introduced into the Legislative Assembly on 16 June 2016. A synopsis of the contents of the Bill as introduced was contained in *Legislation Update* No.24 of 2016, dated 22 June 2016, at pages 5-6.

During its passage through the Legislative Assembly, the following provisions of the original Bill as introduced were amended:

- Clause 68 (Insertion of new s28A), which amendments relate to the decision-maker for the adjustment of multiples under new s28A. (As explained by the Treasurer during the parliamentary debate, the new decision-maker will be a government superannuation officer appointed under s15I in place of the Treasurer.)
- Clause 71 [Replacement of pt6 (Transitional provisions)], which, inter alia, inserts a new provision, namely, s34A (Membership by particular employees of existing GOCs).

In addition, a new provision, namely, cl.62A [Amendment of s15J (Functions)] was inserted after cl.62, which new clause, as explained by the Treasurer during the parliamentary debate, amends s15J of the *Superannuation (State Public Sector) Act 1990* by inserting a new sub-section (2) into that provision, in order to make arranging a review of the default fund arrangements applying to QSuper and LGIASuper a function of the government's superannuation officer.

C. The following Bills were passed by the Legislative Assembly on 1 December 2016

1. Heavy Vehicle National Law and Other Legislation Amendment Bill 2016

This Bill was introduced into the Legislative Assembly on 3 November 2016. A synopsis of the contents of the Bill as introduced was contained in *Legislation Update* No.44 of 2016, dated 9 November 2016, at page 5. (An earlier version of this Bill had been introduced into the Legislative Assembly on 13 September 2016 but was withdrawn for constitutional reasons and replaced with this version of the Bill. A synopsis of the contents of the previous version of this Bill as introduced was contained in *Legislation Update* No.37 of 2016, dated 21 September 2016, at pages 5-6.)

During its passage through the Legislative Assembly, cl.141 (Insertion of new s155A) of the original Bill as introduced was amended. This amendment was moved by the Minister for Transport and the Commonwealth Games who stated that its purpose was “to allow a regulation to provide for a scheme for the payment of financial assistance to certain persons who have been or are accredited operators of a taxi service, a service for the administration of taxi services or a limousine service other than a limousine service provided under a special purpose limousine service licence”.

In addition, on the face of the *Hansard* record, it appears that a further amendment was made to the original Bill by the insertion of a new provision. The proof *Hansard* for 1 December 2016, at pages 4908-4910, shows that the Opposition spokesperson, Andrew Powell MP, the Member for Glass House and the Shadow Minister for Transport and Main Roads and Shadow Minister for Local Government, moved that a new provision, namely, cl.141A (Insertion of new ch12, pt4), be inserted in the Bill after cl.141. Mr Powell described that amendment as requiring that, “within three months of the commencement of the legislation we are debating this evening, the Minister must table in this House a document containing a draft Bill or proposed subordinate legislation that puts in place those recommendations (*that is, recommendations made by the Parliament’s Transportation and Utilities Committee*). We are then calling for the passing of that legislation within six months of the commencement of this legislation”. The Minister for Transport and the Commonwealth Games, who was the Minister responsible for the Bill, stated in relation to the proposed amendment that the “government will be opposing the amendment from the opposition. The amendment is unworkable, it is poorly drafted and it is ill conceived ... This amendment is a joke ...” and that the timeframe imposed by the amendment “in itself is a nonsense”. However, there was no division on the amendment motion and *Hansard* immediately continues on to record: “Non-government amendment (Mr Powell) agreed to.” The report in *The Courier-Mail* of 3 December 2016 accepts that the amendment motion was adopted. The final version of this edition of *Hansard* was not available prior to the deadline for this *Update*. It is hoped to clarify this matter in the next *Update*.]

2. Cross River Rail Delivery Authority Bill 2016

This Bill was originally introduced into the Legislative Assembly on 11 October 2016. A synopsis of the contents of the Bill as introduced was contained in *Legislation Update* No.41 of 2016, dated 19 October 2016, at page 3.

During its passage through the Legislative Assembly, cl.33 (Membership of board) of the original Bill as introduced was amended, to make a technical amendment in relation to the citation of the *Transport (Rail Safety) Act 2010* and to provide that a senior executive nominated by a chief executive is a board member, as explained during the parliamentary debate by the Deputy Premier, Minister for Infrastructure, Local Government and Planning and Minister for Trade and Investment.

Bills assented to

According to the parliamentary website, none of the five Bills listed above as having been passed by the Legislative Assembly during this parliamentary sitting week had been assented to, as at 5pm on Friday 2 December 2016.

Subordinate legislation

A. Subordinate legislation notified on the Queensland Legislation website on 2 December 2016

1. SL No.216 of 2016: *Water Regulation 2016*

This regulation replaces and remakes the *Water Regulation 2002* which was due to expire under the *Statutory Instruments Act 1992*. As stated in its explanatory notes, this regulation retains, “to a large extent”, the content of the *Water Regulation 2002*.

In addition to continuing existing provisions, the *Water Regulation 2016* makes the following changes “to improve the operation and usability of the provisions”. In particular, it:

- structures the provisions in a more logical manner, aligning where possible with revised structure of the *Water Act 2000* following amendments by the *Water Reform and Other Legislation Amendment Act 2014*
- incorporates uncommenced amendments from the *Water and Other Legislation Amendment Regulation (No.1) 2014*
- “contemporises” the existing provisions while maintaining the existing policy intent
- makes “operational amendments relating to prescribe new metered entitlement areas, extend the meter revalidation dates for certain metered entitlement areas and update water bore drillers licencing requirements to more closely reflect the National Uniform Drillers’ Licensing System”
- corrects errors and makes other minor improvements.

In addition, this regulation carries over amendments to the *State Penalties Enforcement Regulation 2014* from the *Water and Other Legislation Amendment Regulation (No.1) 2014* that remain uncommenced.

It also makes consequential amendments to the *Sustainable Planning Regulation 2009*, 21 water plans and two water resource plans made under the *Water Act 2000* “to implement the *Water Reform and Other Legislation Amendment Act 2014* and the *Water Regulation 2016*”.

Pursuant to s2 (Commencement), this regulation commences on the commencement of s68 of the *Water Reform and Other Legislation Amendment Act 2014*.

2. SL No.217 of 2016: Local Government Legislation (Significant Business Activity Thresholds and Another Matter) Amendment Regulation 2016

The objectives of this regulation, as discussed in its explanatory notes, are to:

- amend the *City of Brisbane Regulation 2012* and the *Local Government Regulation 2012* (the LG Regulation) to increase National Competition Policy business activity thresholds by the consumer price index from the 2017-18 financial year
- amend the LG Regulation to extend the timeframe for a local government to adopt a lesser amount of remuneration payable to its councillors, in particular, to amend s247 to:
- remove the requirement for local governments to decide within 90 days of the tribunal’s annual decision being gazetted, that the maximum amount of remuneration is not payable
- instead, require a local government to decide under one resolution, before 1 July (for remuneration payable from 1 July of that year), that the maximum amount of remuneration is not payable to its councillors and the amount of councillor remuneration that is payable.

3. SL No.218 of 2016: Economy Development (Vegetation Management) (Prescribed PDAs) Amendment By-law 2016

As stated in its explanatory notes, this by-law amends *Economic Development (Vegetation Management) By-law 2013* (the VMB) to automatically apply the VMB to all existing prescribed priority development areas (PDAs) in the local government area of Brisbane, namely, Bowen Hills, Fitzgibbon, Northshore Hamilton, Woolloongabba, Queen’s Wharf Brisbane and Herston Quarter, in addition to any PDAs in the City of Brisbane that may be declared in the future.

Previously, the VMB prescribed three PDAs in the City of Brisbane to which the VMB applied, namely, Bowen Hills, Fitzgibbon and Northshore Hamilton. The remaining three PDAs in the City of Brisbane, Woolloongabba, Queen’s Wharf Brisbane and Herston Quarter, were not prescribed PDAs under the VMB and consequently fell under the ambit of Brisbane City Council’s *Natural Assets Local Law 2003*.

4. SL No.219 of 2016: Liquor (Local Board for Brisbane CBD Safe Night Precinct) Amendment Regulation 2016

This regulation amends Schedule 17 (Local boards) of the *Liquor Regulation 2002* to prescribe “Brisbane CBD Safe Night Precinct Board Inc.” as the local board for the Brisbane CBD safe night precinct.

5. SL No.220 of 2016: Public Records Amendment Regulation (No.2) 2016

This regulation amends s3 (Responsible public authority—Act, s15) of the *Public Records Regulation 2014* by inserting new provisions, namely, sub-sections (4) and (5), which provide as follows:

“(4) For section 15(d) of the Act, the department in which the *Sugar Industry Act 1999* is administered is prescribed as the responsible public authority for a public record of the Bureau of Sugar Experiment Stations that has ceased to exist.

“(5) For section 15(d) of the Act, the department in which the *Transport Infrastructure Act 1994* is administered is prescribed as the responsible public authority for a public record of the Port of Brisbane Corporation Limited ACN 124 048 522 that has ceased to exist.”

Corresponding insertions are also made to Schedule 1 (Relevant public authorities).

6. SL No.221 of 2016: Building Fire Safety (Domestic Smoke Alarms) Legislation Amendment Regulation 2016

The objectives of this regulation, as summarised in its explanatory notes, are to:

- mandate the use of photoelectric smoke alarms
- require the interconnection of photoelectric smoke alarms
- ensure the positioning of photoelectric smoke alarms is in compliance with Australian Standard 1670.6 – 1997
- require photoelectric smoke alarms to have an enduring power source
- clarify requirements for photoelectric smoke alarms in newly constructed dwellings
- provide flexibility to allow for the easy adoption of future technology.

To effect these objectives, this regulation amends the following regulations:

- *Building Fire Safety Regulation 2008*
- *Building Regulation 2006*.

Pursuant to s2 (Commencement), this regulation commences on 1 January 2017.

7. SL No.222 of 2016: Queensland Building and Construction Commission (Calculation of Insurable Value) Amendment Regulation 2016

As discussed in its explanatory notes, this regulation, by way of amendments to the *Queensland Building and Construction Commission Regulation 2003* (the QBCC Regulation), introduces the definitions 'primary building work' and 'relevant work' which are based on the previous s11 of the QBCC Regulation. Broadly, this has the effect of setting out what was 'primary building work' covered by the scheme prior to 28 October 2016.

However, the new definitions:

- make reference to a multiple dwelling or duplex, rather than a residence or related roofed building
- include only work that is primary insurable work but specifically exclude painting [see previous s11(3)(c) of the QBCC Regulation]
- are limited to work within the building envelope, or for the renovation, alteration, extension, improvement or repair of the building envelope or for roof guttering work, for the multiple dwelling or duplex.

Sub-section 1 of s26HA (Reference to particular work only includes primary building work), which is inserted by this regulation, has the effect that the notional pricing provisions that relate to common property will apply only to 'primary building work'. This means that work for common property in or on the building envelope that was newly covered by the 28 October 2016 amendments will no longer be subject to notional pricing.

For the purposes of calculating the threshold amounts of \$5000 and \$20,000 referred to in the notional pricing provisions, s26HA(2) requires that work that is not primary building work be included.

8. SL No.223 of 2016: Retail Shop Leases Regulation 2016

As referred to in its explanatory notes, this regulation will replace and remake the *Retail Shop Leases Regulation 2006* "in substantially the same form", subject to technical amendments designed to implement the consultation outcomes of the statutory review process which culminated in the *Retail Shop Leases Amendment Act 2016* (the Amendment Act), which technical amendments:

- implement consensus recommendations of the reference group report for the assignor disclosure statement and the legal advice report
- make provision in the legal advice report (consequential to the Amendment Act) for advice on waiver of the lessor disclosure period
- otherwise update, clarify and streamline the existing content requirements for the 'Part 5 disclosure statements'.

9. SL No.224 of 2016: Retail Shop Leases (Transitional) Regulation 2016

The objective of this regulation, as outlined in its explanatory notes, is to provide transitional arrangements for certain categories of retail shop lease entered into before the commencement of the *Retail Shop Leases Amendment Act 2016* (the Amendment Act). In particular, it "clarifies" that, notwithstanding s5A of *Retail Shop Leases Act 1994* (which was inserted by the Amendment Act), the *Retail Shop Leases Act 1994* will continue to apply to the following categories of lease entered into before the commencement of the Amending Act:

- leases of a retail shop with a floor area of more than 1000m²
- leases of premises used wholly or predominantly for the carrying on of a business by a lessee for a lessor as the lessor's employee or agent.

Pursuant to s2 (Commencement), this regulation is taken to have commenced on 25 November 2016.

This regulation, as a transitional regulation, will expire one year after its commencement.

Local laws

No local laws were notified during the period covered by this *Update*.

Approved forms/guidelines

A. “Extraordinary” edition of the *Queensland Government Gazette* of 2 December 2016

(This edition of the *Gazette* will be published in the weekly consolidated edition of the *Gazette* of 9 December 2016. It was not included in the weekly consolidated edition of the *Gazette* of 2 December 2016.)

Notification of the approval of, and the withdrawal of approval for, forms for use under the following Act:

1. *Retail Shop Leases Act 1994*

- The following forms were approved:
 - Form No.7 (Version 4): Lessor disclosure statement
 - Form No.8 (Version 2): Lessee disclosure statement
 - Form No.9 (Version 2): Assignor disclosure statement
 - Form No.11 (Version 2): Financial advice report
 - Form No.12 (Version 2): Legal advice report
 - Form No.13 (Version 2): Annual estimate of outgoings
 - Form No.14 (Version 2): Audited statement of outgoings
 - Form No.15 (Version 1): Assignee disclosure statement to Assignor
 - Form No.16 (Version 1): Assignee disclosure statement to Lessor
- Approval for the following forms was withdrawn:
 - Form 7 (Version 3): Lessor disclosure statement
 - Form 8 (Version 1): Lessee disclosure statement
 - Form 9 (Version 1): Assignor disclosure statement
 - Form 10 (Version 1): Assignee disclosure statement
 - Form 11 (Version 1): Financial advice report
 - Form 12 (Version 1): Legal advice report
 - Form 13 (Version 1): Annual estimate of outgoings
 - Form 14 (Version 1): Audited statement of outgoings.

Other statutory instruments/statutory notices

A. “Extraordinary” edition of the *Queensland Government Gazette* of 30 November 2016

1. *Superannuation (State Public Sector) Act 1990/Superannuation (State Public Sector) Regulation 2006*

Gazettal of the notice that, pursuant to s5 of the *Superannuation (State Public Sector) Act 1990* and ss2B, 2C, 2E and 2K of the *Superannuation (State Public Sector) Regulation 2006*, the Treasurer, Minister for Aboriginal and Torres Strait Islander Partnerships and Minister for Sport appointed:

- the persons listed in the table in the notice as trustees of the board of trustees of the State Public Sector Superannuation Scheme (the board)
- Karl Morris as chairperson of the board
- each person as trustee and chairperson (as applicable) of the board for the term of appointment as stated in the table in the notice.

B. “Extraordinary” editions of the *Queensland Government Gazette* of 1 December 2016

(Note: There were two such editions of the *Gazette* on this date.)

1. *State Development and Public Works Organisation Act 1971*

Gazettal of the declaration made by the Minister for State Development, of the ‘Ravenswood Expansion Project’ as a prescribed project, pursuant to s76E.

2. *Transport Operations (Marine Safety) Act 1994*

Gazettal of the approval given by the acting executive director, Maritime Safety Queensland, pursuant to s206A, for the fixing of the speed limit of six knots (no water-skiing) for all the waters of Tinaroo Dam for all ships, but excluding ships operated by Maritime Safety Queensland, Queensland Police Service, Queensland Boating and Fisheries Patrol and Sunwater Compliance Officers.

C. Queensland Government Gazette of 2 December 2016

1. Sustainable Planning Act 2009

- Gazettal of the notice that, on 22 November 2016, the Ipswich City Council decided, under ss105 and 117(3), to adopt *Temporary Local Planning Instrument No.1 (Temporary Accommodation of Employees of the Swickers Kingaroy Bacon Factory at Wulkuraka) 2016* (TLPI 01/2016), the purpose and general effect of which is to provide for the temporary accommodation of employees of the Swickers Kingaroy Bacon Factory at premises described in the notice
- Notification given by the Deputy Premier, Minister for Infrastructure, Local Government and Planning and Minister for Trade and Investment, under s60(1), that the draft *Yeerongpilly Transit Oriented Development State Planning Regulatory Provision 2016* has been released for public consultation, with a deadline for submissions of 5pm on 27 February 2017.

2. Constitution of Queensland 2001

Gazettal of the notices that his Excellency the Governor, acting by and with the advice of the Executive Council, has approved the appointment by commission of the following persons as judges of the District Court of Queensland on and from the specified dates:

- Dennis Raymond Lynch QC on and from 1 December 2016
- Catherine Mary Muir and Nicole Kefford on and from 14 November 2016.

3. Associations Incorporation Act 1981

Gazettal of The Intellectually Handicapped Persons Association, Queensland (Dissolution) Order (No.1) 2016, pursuant to which:

- under s4 of the *Religious, Educational, and Charitable Institutions Act of 1861 Amendment Act of 1895*, as continued by s144 of the *Associations Incorporation Act 1981*, the Letters Patent issued by the Governor in Council under s1 of the *Religious Educational and Charitable Institutions Acts, 1861 to 1967* on 15 January 1976 to incorporate The Intellectually Handicapped Persons Association, Queensland are cancelled and the corporation known as The Intellectually Handicapped Persons Association, Queensland (the corporation) is dissolved
- under s5 of the *Religious, Educational, and Charitable Institutions Act of 1861 Amendment Act of 1895*, it was directed that all property of the corporation shall vest in "S.C.O.P.E. INC".

4. Queensland Heritage Act 1992

Gazettal of the public notice given, under s54, by the Department of Environment and Heritage Protection that decisions have been made by the Queensland Heritage Council on 22 November 2016 not to enter in the Queensland Heritage Register the following as State Heritage Places:

- HRN 650031: English Scottish and Australian Bank Ltd Building and Bank Manager's Residence, 36-38 Main Street, Palmwoods
- HRN 650039: Holy Spirit War Memorial Church, 17 Harriett Street, Auchenflower
- HRN 650040: Mooloolaba Esplanade Beach Holiday Park, Mooloolaba Esplanade, Mooloolaba.

5. Roman Catholic Church (Incorporation of Church Entities) Act 1994

Gazettal of the notice that, under s34(1), Loreto College Coorparoo is dissolved as at 12 midnight on 31 December 2016 and, on dissolution, the assets and liabilities of Loreto College Coorparoo are vested in Loreto Coorparoo Limited.

6. Statutory Bodies Financial Arrangements Act 1982

Gazettal of the notice, pursuant to s60A that the Under Treasurer has granted a 'general approval' under s70 for the Children's Health Queensland Hospital and Health Service to enter into 'type 1 financial arrangements' involving the matters listed in the notice and subject to the conditions specified in the notice.

7. Water Supply (Safety and Reliability) Act 2008

Gazettal of the *Temporary Full Supply Level (North Pine Dam) Declaration Notice (No.02) 2016*, under s395, stating that, in deciding whether to declare a temporary full supply level for North Pine Dam, the Minister had regard to the feasibility advice and the public interest and that notice is given accordingly that the Minister declares a temporary full supply level of E.L.38.6 m A.H.D. for North Pine Dam, which temporary full supply level for North Pine Dam ceases to have effect six months from the day this notice is published in the *Gazette*.

D. “Extraordinary” edition of the *Queensland Government Gazette* of 2 December 2016

(This edition of the *Gazette* will be published in the weekly consolidated edition of the *Gazette* of 9 December 2016. It was not included in the weekly consolidated edition of the *Gazette* of 2 December 2016.)

1. *Sustainable Planning Act 2009*

“Re-gazetta” of the notification given by the Deputy Premier, Minister for Infrastructure, Local Government and Planning and Minister for Trade and Investment, under s60(1), that the draft *Yeerongpilly Transit Oriented Development State Planning Regulatory Provision 2016* (the draft SPRP) has been released for public consultation, with a deadline for submissions of 5pm on 27 February 2017.

This notice was originally published in the *Gazette* of 2 December 2016 – see the second entry under the sub-heading ‘*Sustainable Planning Act 2009*’ and the heading ‘Other statutory instruments/statutory notices’ for the *Queensland Government Gazette* of 2 December 2016 above.

However, as stated in this later notice, the earlier notice failed to state the Minister’s decision under s73 of the *Sustainable Planning Act 2009*. This later *Gazette notice* rectified that omission by stating:

“In accordance with section 73, I the Honourable Jackie Trad MP, Deputy Premier, Minister for Infrastructure, Local Government and Planning and Minister for Trade and Investment, am satisfied that any delay in the commencement of the draft SPRP would increase the risk of (a) serious harm to the environment or serious adverse cultural, economic or social conditions happening in a planning scheme area notify that the draft SPRP has effect as if it were a State Planning Regulatory Provision on the date of this gazetta notice (2 December 2016).”

Miscellaneous

1. Appointment of QCs

In the *Queensland Government Gazette* of 2 December 2016, the following notice was published:

His Excellency the Governor, acting by and with the advice of the Executive Council has approved that the following barristers be appointed by Letters Patent as Queen’s Counsel:

- Vicki Ann Loury
- Bernard Thomas Porter
- Matthew Thomas Brady
- Christopher James Murdoch.

2. Parliamentary sitting dates

As indicated on the parliamentary website, the Queensland Parliament is scheduled to commence sittings in 2017 from Tuesday 14 February to Thursday 16 February 2017. (The complete list of proposed sitting dates for 2017 is available on that site.)