

Queensland



STATE DEVELOPMENT AND PUBLIC WORKS ORGANISATION ACT 1971

**Reprinted as in force on 11 February 2000
(includes amendments up to Act No. 69 of 1999)**

Reprint No. 2A

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 11 February 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



**STATE DEVELOPMENT AND PUBLIC
WORKS ORGANISATION ACT 1971**

TABLE OF PROVISIONS

| Section | | Page |
|----------------------------------------------------------------------|---------------------------------------------------------|------|
| PART 1—PRELIMINARY | | |
| 1 | Short title | 9 |
| 4 | Repeals and savings | 9 |
| 5 | Definitions | 10 |
| PART 2—ADMINISTRATION | | |
| <i>Division 1—Coordinator-General and Deputy Coordinator-General</i> | | |
| 6 | Administration of Act | 13 |
| 7 | Appointment of Coordinator-General | 13 |
| 8 | Appointment of Deputy Coordinator-General | 13 |
| 9 | Tenure of appointment under ss 7 and 8 | 13 |
| 10 | Termination of appointment under ss 7 and 8 | 13 |
| <i>Division 2—Incorporation of Coordinator-General and functions</i> | | |
| 11 | Incorporation of Coordinator-General | 15 |
| 12 | Coordinator-General represents Crown | 15 |
| 13 | Functions and duties of Coordinator-General | 16 |
| 14 | Power of delegation | 16 |
| 15 | Power to hold inquiry | 17 |
| 16 | Cooperation with Coordinator-General | 17 |
| 17 | Appointment of persons to aid Coordinator-General | 19 |
| <i>Division 3—Officers and workers of Coordinator-General</i> | | |
| 19 | Appointment of workers | 19 |
| 20 | Services of technical advisers | 19 |

*State Development and Public Works
Organisation Act 1971*

PART 3—PROGRAM OF WORKS

| | | |
|----|--------------------------------------------------------------------------------------|----|
| 22 | Program of works | 20 |
| 23 | Selection of works for program of works and their performance | 20 |
| 24 | Submission of program of works to Governor in Council | 21 |
| 25 | Alterations to approved program of works | 21 |
| 26 | Implementation of program of works as approved | 22 |
| 27 | Local body's application for assistance examined by Coordinator-General | 22 |
| 28 | Objectives of comprehensive program of works | 22 |

PART 4—ENVIRONMENTAL COORDINATION

Division 1—Preliminary

| | | |
|-----|--------------------------------------|----|
| 29 | Definitions for pt 4 | 24 |
| 29A | Supervision of environment | 25 |

Division 2—Significant project

| | | |
|-----|---------------------------------------------------------------------------|----|
| 29B | Declaration of significant project | 25 |
| 29C | Matters Coordinator-General considers before making declaration | 26 |
| 29D | Application of divs 3–6 | 27 |

Division 3—EIS process

| | | |
|-----|-------------------------------------------------------------------------------------------------|----|
| 29E | Notice of requirement for EIS and of draft terms of reference | 27 |
| 29F | Finalising terms of reference | 27 |
| 29G | Coordinator-General may seek information to assist preparation of EIS . . . | 27 |
| 29H | Preparation of EIS | 28 |
| 29I | Public notification of EIS | 28 |
| 29J | Making submissions on EIS | 28 |
| 29K | Coordinator-General evaluates EIS, submissions, other material and prepares report | 29 |

Division 4—Relationship with Integrated Planning Act 1997

| | | |
|-----|----------------------------------------------------------------------------|----|
| 29L | Application of div 4 | 29 |
| 29M | Applications for material change of use or requiring impact assessment . . | 29 |
| 29N | When the decision stage for the project starts under IDAS | 30 |
| 29O | Application of Coordinator-General's report to IDAS | 30 |
| 29P | Assessment manager to be given copy of Coordinator-General's report . . . | 31 |

*State Development and Public Works
Organisation Act 1971*

Division 5—Relationship with Mineral Resources Act 1989

| | | |
|-----|----------------------------------------------------------------------------------|----|
| 29Q | Definitions for div 5 | 31 |
| 29R | Process if certificate of application has not been issued | 31 |
| 29S | Process if certificate of application has been issued | 32 |
| 29T | Application of Coordinator-General’s report to issue of mining lease | 32 |
| 29U | Minister to be given copy of Coordinator-General’s report | 33 |
| 29V | Coordinator-General’s report is a result of Minister’s study for s 268 | 33 |

Division 6—Relationship with other legislation

| | | |
|------|----------------------------------------------------------------------------------------|----|
| 29W | Application of div 6 | 33 |
| 29X | EIS under this part is EIS for other Act | 33 |
| 29Y | Application of Coordinator-General’s report to other approval process | 33 |
| 29Z | Person approving project to be given copy of Coordinator-General’s report | 34 |
| 29ZA | Coordinator-General’s report must be taken into consideration | 34 |

PART 5—PRESCRIBED DEVELOPMENT

Division 1—Declaration of prescribed development

| | | |
|----|---------------------------------------------------------------|----|
| 30 | Investigation of developments of State significance | 34 |
| 31 | Effect of investigation on local bodies | 35 |
| 32 | Declaration of prescribed developments | 35 |
| 33 | Notification of decision | 36 |

Division 2—Infrastructure coordination plans

| | | |
|----|-------------------------------------------------------------|----|
| 34 | Preparation of plans | 36 |
| 35 | Approval of infrastructure coordination plan | 37 |
| 36 | Variation of approved plan | 37 |
| 37 | Effect of approved plan | 38 |
| 38 | Local bodies may make and perform agreements etc. | 38 |
| 39 | Agreements to be furnished to Coordinator-General | 39 |
| 40 | Approval of agreements | 39 |
| 41 | Variation of approved agreement | 40 |

Division 3—Applications relating to prescribed development

| | | |
|----|-------------------------------------|----|
| 42 | Referral of applications | 40 |
| 43 | Remission of applications | 41 |

*State Development and Public Works
Organisation Act 1971*

| | | |
|----------------------------------------------------------------------|----------------------------------------------------------------------------------------|----|
| 44 | Applications remaining with Coordinator-General | 41 |
| 45 | Advertisement calling for submissions | 42 |
| 46 | Determination of application | 43 |
| 47 | Effect of determination | 43 |
| 47A | Effect of reference on time limitations | 44 |
| 47B | Prescribed development to await approval | 45 |
| 47C | Withdrawal of applications | 45 |
| <i>Division 4—Information concerning development</i> | | |
| 47D | Coordinator-General may obtain information | 45 |
| PART 6—PLANNED DEVELOPMENT | | |
| <i>Division 1—State development areas</i> | | |
| 48 | Declaration of State development areas, variation and termination thereof | 46 |
| 49 | Procedure in relation to State development areas | 47 |
| 50 | Development scheme | 47 |
| 51 | Approval, implementation, and variation of development scheme | 47 |
| 52 | Abrogation of development scheme | 48 |
| 53 | Acquisition of land in State development area | 48 |
| 54 | Disposal of land in State development area | 49 |
| 55 | Use of land under approved development scheme | 50 |
| 55A | Continued existing lawful use not an offence | 51 |
| <i>Division 1A—Compensation</i> | | |
| <i>Subdivision 1—Preliminary</i> | | |
| 55B | Definition for div 1A | 52 |
| <i>Subdivision 2—Entitlement to compensation</i> | | |
| 55C | Compensation | 52 |
| 55D | Limitations on compensation under s 55C | 53 |
| <i>Subdivision 3—Claims for, and payment of, compensation</i> | | |
| 55E | Time limit for claiming compensation | 53 |
| 55F | Deciding claims for compensation | 53 |
| 55G | Notification of decision | 53 |
| 55H | Calculating reasonable compensation involving changes | 54 |

*State Development and Public Works
Organisation Act 1971*

| | | |
|-------------------------------------------------------------------------------|------------------------------------------------------------|----|
| 55I | When compensation is payable | 55 |
| 55J | Payment of compensation to be recorded on title | 55 |
| <i>Subdivision 4—Appeals</i> | | |
| 55K | Appeals against decisions on compensation claims | 56 |
| 55L | How appeals are started | 56 |
| 55M | Hearing procedures | 56 |
| 55N | Appeal decision | 56 |
| <i>Division 2—Undertaking of works by or on behalf of local bodies</i> | | |
| 56 | Recommendation of certain works | 57 |
| 57 | Approval of certain works | 57 |
| 58 | Time limited for works | 58 |
| 59 | Orders to be complied with | 58 |
| 60 | Borrowing of money for works | 58 |
| 61 | Procedure on local body's default | 58 |
| 62 | Borrowing to facilitate remedy of default | 59 |
| 63 | Liability for costs of work to remedy default | 60 |
| 64 | Power to order postponement of works | 61 |
| <i>Division 3—Undertaking of works by Coordinator-General</i> | | |
| 65 | Recommendation of certain works | 61 |
| 66 | Approval of certain works | 61 |
| 67 | Coordinator-General to undertake approved works | 62 |
| 68 | Delegation of authority of Coordinator-General | 62 |
| 69 | Borrowing of money for works | 63 |
| <i>Division 4—Project boards</i> | | |
| 70 | Project boards | 63 |
| 70A | Chairperson and deputy chairperson | 64 |
| 71 | Term of appointment of member of board | 64 |
| 72 | Termination of membership of board | 64 |
| 73 | Casual vacancies | 65 |
| 74 | Meetings of boards | 66 |
| 74A | Disclosure of interests | 66 |

*State Development and Public Works
Organisation Act 1971*

| | | |
|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|----|
| 75 | Fees of members of boards | 67 |
| 76 | Assistance by Coordinator-General to boards | 67 |
| 77 | Status, powers etc. of project board | 68 |
| 77A | Audit of project board's accounts | 69 |
| <i>Division 5—Special powers incidental to planned development</i> | | |
| 78 | Power of Coordinator-General to take land | 69 |
| 78A | Ensuring reasonable steps are taken to acquire land by agreement | 73 |
| 78B | Relationship with native title legislation | 73 |
| 79 | Vesting of land taken | 74 |
| 79A | Power to use, lease or dispose of land | 74 |
| 80 | Payment of costs of taking land and compensation | 75 |
| 81 | Power of Governor in Council to alienate land to Coordinator-General . . . | 75 |
| 82 | Disposal of land not required for purpose of acquisition | 75 |
| 83 | Proof of requirement of land | 76 |
| 84 | Power of Coordinator-General to negotiate transfer of works undertaken by the Coordinator-General | 76 |
| 85 | Authorised works that are road traffic facilities | 77 |
| 86 | Undertaking private works | 78 |
| 87 | Powers in respect of land for purposes of works | 78 |
| 88 | Offences of interference and wilful obstruction | 80 |
| 89 | Powers in respect of water for purposes of works | 80 |
| 90 | Compensation for exercise of power under ss 87 and 89 | 80 |
| 91 | Powers in respect of works on foreshore and under waters | 82 |
| <i>Division 6—Investigating potential infrastructure facility</i> | | |
| 91A | Purpose of div 6 | 83 |
| 91B | Definitions for div 6 | 83 |
| 91C | How to apply for investigator's authority | 84 |
| 91D | Additional information about application | 85 |
| 91E | Granting authority | 85 |
| 91F | Investigator's authority | 85 |
| 91G | What investigator must do before land is entered for the first time | 87 |
| 91H | Investigator to issue associated person with identification | 87 |

*State Development and Public Works
Organisation Act 1971*

| | | |
|-----|---------------------------------------------------------------|----|
| 91I | Pretending to be an investigator etc. | 89 |
| 91J | Investigator to take care in acting under authority | 89 |
| 91K | Rectification of damage by investigator | 89 |
| 91L | Compensation payable by investigator | 90 |
| 91M | Release of bond or security deposit | 90 |

PART 7—FINANCE PROVISIONS

| | | |
|------|---------------------------------------------------------------------------|----|
| 92 | Expenses of works | 91 |
| 93 | Expenditure generally on work by Coordinator-General | 92 |
| 94 | Subsidies or Treasury loans for works | 92 |
| 95 | Borrowings etc. by Coordinator-General | 92 |
| 96 | Application of moneys | 93 |
| 97 | Debentures, bonds and stock | 94 |
| 98 | Entitlement of holder of debenture etc. | 95 |
| 99 | Status of debenture, bond or stock as investment and a security | 96 |
| 100 | Brokerage | 96 |
| 101 | Moneys recoverable as a debt | 97 |
| 101A | Regulations relating to loans etc. | 97 |

PART 8—MISCELLANEOUS PROVISIONS

Division 1—Specific powers and duties of Coordinator-General

| | | |
|-----|------------------------------------------------------------------------|-----|
| 102 | Power to contract | 98 |
| 103 | Power to compound | 98 |
| 104 | Power to obtain material from watercourse | 99 |
| 105 | Power as to roads | 99 |
| 106 | Power to exclude or divert traffic | 100 |
| 107 | Power to manage reserves and other lands | 100 |
| 108 | Power to encroach upon roads and lands for purposes of works | 101 |
| 109 | Duty to take care at work-sites and power to prevent traffic | 101 |

*Division 2—Provisions concerning legal liability of
Coordinator-General*

| | | |
|-----|-------------------------------------------------------------------------------------|-----|
| 111 | Service on Coordinator-General | 102 |
| 112 | Limited liability of Coordinator-General for injury to person or property | 102 |
| 114 | Personal injury action adjudicated by judge alone | 103 |

*State Development and Public Works
Organisation Act 1971*

| | | |
|-----|------------------------------------------------------|-----|
| 115 | Officers and workers not personally liable | 104 |
|-----|------------------------------------------------------|-----|

Division 3—Facilitation of execution of Act

| | | |
|------|----------------------------------------------------|-----|
| 116 | Offences | 104 |
| 117 | Mode of prosecution | 105 |
| 119 | Publication of orders in council | 105 |
| 120 | Mode of service | 105 |
| 121 | Regulations | 105 |
| 121A | Coordinator-General must make guidelines | 106 |
| 122 | Annual report | 108 |

**PART 9—TRANSITIONAL PROVISIONS FOR THE STATE
DEVELOPMENT AND PUBLIC WORKS ORGANISATION
AMENDMENT ACT 1999**

| | | |
|-----|---------------------------------------------------------------------|-----|
| 123 | Studies being prepared are taken to be EISs for this part | 108 |
| | SCHEDULE | 110 |

ENDNOTES

| | | |
|---|-------------------------------------------------|-----|
| 1 | Index to endnotes | 111 |
| 2 | Date to which amendments incorporated | 111 |
| 3 | Key | 112 |
| 4 | Table of earlier reprints | 112 |
| 5 | Tables in earlier reprints | 113 |
| 6 | List of legislation | 113 |
| 7 | List of annotations | 114 |

*State Development and Public Works
Organisation Act 1971*

STATE DEVELOPMENT AND PUBLIC WORKS ORGANISATION ACT 1971

[as amended by all amendments that commenced on or before 11 February 2000]

An Act to provide for State planning and development through a coordinated system of public works organisation, for environmental coordination, and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *State Development and Public Works Organisation Act 1971*.

Repeals and savings

4.(1) Subject to this section the Acts specified in the schedule to this Act are repealed and in this Act are referred to as the repealed Acts.

(2A) A person who immediately before the date of commencement of this Act holds an office provided for in the repealed Acts and provided for in this Act shall continue to hold, subject to the terms of the person's appointment, that office for the purposes of this Act.

(3) A board, council, committee or other body established under or for the purposes of the repealed Acts and subsisting immediately before the date of commencement of this Act shall continue in existence and be deemed to have been established under or, as the case may be, for the purposes of this Act.

(4) The provisions of the repealed Acts shall be deemed to continue in force and to apply for the purpose of—

*State Development and Public Works
Organisation Act 1971*

- (a) the effectual operation of every order in council, regulation, order, notification, or delegation made or given thereunder and subsisting at the date of commencement of this Act, the purpose and effect whereof is not exhausted at such date;
- (b) the carrying out and completion of works undertaken for the purposes of the repealed Acts before the date of commencement of this Act, and the payment of costs, charges and expenses incurred therein;
- (c) the completion of any resumption of land or other proceeding commenced before the date of commencement of this Act, and the payment of compensation, costs, charges and expenses payable or incurred in respect thereof.

Definitions

5. In this Act—

“application” means, in part 5, an application for approval to rezoning of land or for consent to use land or use or erect any building or other structure for any purpose so as to establish the legal right to use land for a prescribed development.

“approved development scheme” means a development scheme relating to land situated in a State development area and approved by the Governor in Council under this Act.

“approved plan” means an infrastructure coordination plan approved by the Governor in Council.

“authorised works” means works authorised under this Act to be undertaken by the Coordinator-General.

“body of water” means water contained in a river, creek, stream, watercourse, lake, lagoon, swamp, marsh or subterranean deposit.

“Coordinator-General” means the corporation sole constituted under section 8A of the *State Development and Public Works Organisation Act 1938* and preserved, continued in existence and constituted under section 11 of this Act.

“development” means the use of land or water within the State or over

*State Development and Public Works
Organisation Act 1971*

which the State claims jurisdiction and includes the construction, undertaking, carrying out, establishment, maintenance, operation, management and control of any works or private works on or in land or water.

“environment” includes—

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- (d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c).

“environmental effects” means the effects of development on the environment, whether beneficial or detrimental.

“foreshore” means the part of the bed, shore or banks of the sea or of any harbour, including any tidal navigable river, that is ordinarily covered and uncovered by the flow and ebb of the tide at spring tides.

“infrastructure” means those facilities, services and utilities that, in the opinion of the Coordinator-General, are required by or associated with a development or works and includes training schemes relevant to, and accommodation required for a work force related to a development or works and facilities, services and utilities required by or associated with such training schemes or accommodation.

“infrastructure coordination plan” means a plan identifying the infrastructure requirements in respect of a prescribed development.

“land” includes any estate or interest in land, and any easement, right, power or privilege in, over, or in connection with land, and any wharf.

“local body” means a local government, a person or body appointed or constituted under any Act and charged with the collection or administration of money or the performance of a function, in either case for a purpose of local public concern, and a local body within the

*State Development and Public Works
Organisation Act 1971*

meaning of the *Local Bodies Loans Guarantee Act 1923*¹ and, when used in relation to a particular area or subject matter, means the local body that has jurisdiction within that area or in connection with that subject matter.

“prescribed development” means a proposed development, processing or handling of major economic significance to the State declared by the Governor in Council to be a prescribed development.

“private works” means the whole and every part of any work, project, service, utility, undertaking or function that a person is required or permitted to undertake pursuant to an agreement between the person and the Government and, in particular, includes the provision of housing, water, drainage, sewerage, roads, power and other facilities pursuant to such an agreement in connection with the establishment of a town or other community.

“State development area” means a part of the State or of an area over which the State claims jurisdiction, delineated on a plan, and declared under this Act to be a State development area.

“undertake” includes to investigate, plan, construct, provide, effect, establish, carry out, maintain, manage and control.

“works” means the whole and every part of any work, project, service, utility, undertaking or function—

- (a) that the Crown, the Coordinator-General or other person or body who represents the Crown, or any local body is or may be authorised under any Act to undertake; or
- (b) that is or has been (before or after the date of commencement of this Act) undertaken by the Crown, the Coordinator-General or other person or body who represents the Crown, or any local body under any Act; or
- (c) that is included or is proposed to be included by the Coordinator-General as works in a program of works, or that is classified by the holder of the office of Coordinator-General as works.

¹ Now see *Statutory Bodies Financial Arrangements Act 1982*.

*State Development and Public Works
Organisation Act 1971*

PART 2—ADMINISTRATION

Division 1—Coordinator-General and Deputy Coordinator-General

Administration of Act

6. This Act shall be administered by the Minister and, subject to the Minister, by the Coordinator-General.

Appointment of Coordinator-General

7.(1) The Governor in Council, may, by commission under his or her hand and the Public Seal, appoint a person to hold the office of Coordinator-General.

(2) The appointee shall be paid, during his or her tenure of office, a salary at such rate as the Governor in Council determines from time to time.

Appointment of Deputy Coordinator-General

8.(1) The Governor in Council may, by commission under his or her hand and the Public Seal, appoint a person to hold the office of Deputy Coordinator-General.

(2) The appointee shall be paid, during his or her tenure of office, a salary at such rate as the Governor in Council determines from time to time.

Tenure of appointment under ss 7 and 8

9. Subject to this section, the appointee to the office referred to in section 7 or 8 shall hold office for the period fixed by the Governor in Council and specified in the instrument whereby the appointee is appointed but shall be eligible for reappointment thereto unless the appointee has become debarred under any Act from holding or continuing in such office.

Termination of appointment under ss 7 and 8

10.(1) A person appointed to an office referred to in section 7 or 8 shall

*State Development and Public Works
Organisation Act 1971*

be deemed to have vacated his or her office—

- (a) if the person engages in remunerative employment save the duties of the office to which the person is so appointed or of any office which the person holds by reason of his or her holding that appointment;
- (b) if the person engages in any trade or business save as a member of a body corporate that consists of more than 20 persons;
- (c) if the person becomes bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (d) if the person absents himself or herself from duty for 14 consecutive working days or for a total of 28 days in any calendar year save on account of illness or pursuant to leave approved by the Minister who is hereby empowered so to do;
- (e) if the person is convicted in the State of an indictable offence for which the person is liable to be imprisoned for 12 months at the least or is convicted elsewhere of an offence that, if committed by the person in the State would constitute an indictable offence upon conviction whereof the person would be so liable;
- (f) if the person is a patient within the meaning of the *Mental Health Act 1974* or dies;
- (g) if the person is concerned in any agreement made for the purposes of this Act save in the person's capacity as Coordinator-General or, as the case may be, Deputy Coordinator-General or, save as aforesaid, if the person participates in or claims to be entitled to participate in the profits arising from such an agreement;
- (h) if the person resigns by signed written notice addressed to the Governor in Council and furnished to the Minister.

(2) A person appointed to an office referred to in section 7 or 8 may be removed from office by the Governor in Council on account of misbehaviour, incapacity, or being unfit, in the opinion of the Governor in Council, to hold the office.

*State Development and Public Works
Organisation Act 1971*

Division 2—Incorporation of Coordinator-General and functions

Incorporation of Coordinator-General

11.(1) The corporation sole constituted under section 8A of the *State Development and Public Works Organisation Act 1938* is hereby preserved, continued in existence and constituted under this Act under the name and style The Coordinator-General.

(2) The corporation sole is constituted by the person who at the material time holds the office of Coordinator-General pursuant to section 7 or, in his or her absence from duty or during any vacancy in that office, by the person who at the material time holds the office of Deputy Coordinator-General pursuant to section 8.

(3) The corporation sole under the name and style assigned to it by this section shall have perpetual succession and an official seal and shall be capable in law of suing and being sued and, subject to this Act, may take, acquire by grant, purchase, take on lease, sell, exchange, lease, assign, transfer, surrender to the Crown and hold property real and personal and may do and suffer all such acts and things as are necessary for the proper exercise and performance of the powers, functions and duties of the Coordinator-General to the same extent as a natural person might do or suffer.

(4) All courts, judges, justices and persons acting in a judicial capacity shall take judicial notice of the appointment of the Coordinator-General and of the Deputy Coordinator-General and of their respective signatures and of the official seal of the Coordinator-General affixed to any document, and, in the absence of proof to the contrary, shall presume that such signature or seal was duly affixed.

Coordinator-General represents Crown

12. For the purposes of this Act the Coordinator-General represents the Crown and has and may exercise all the powers, privileges, rights and remedies of the Crown.

*State Development and Public Works
Organisation Act 1971*

Functions and duties of Coordinator-General

13.(1) The Coordinator-General shall have such functions and shall perform such duties as are assigned to the Coordinator-General by this Act or by order in council made under this Act or by or under any other Act.

(2) The Coordinator-General shall, of his or her own motion or at the direction of the Minister, undertake and commission such investigations, prepare such plans, devise such ways and means, give such directions, and take such steps and measures, as the Coordinator-General thinks necessary or desirable to secure the proper planning, preparation, execution, coordination, control and enforcement of a program of works, planned developments, and environmental coordination for the State and for areas over which the State claims jurisdiction.

(3) The Coordinator-General shall furnish to the Minister such recommendations as the Coordinator-General thinks fit to make concerning any matter that arises out of or is connected with the performance by the Coordinator-General of his or her functions and duties assigned to the Coordinator-General by or under this Act or that may assist in the proper administration of this Act.

Power of delegation

14.(1) Subject to section 68, the Coordinator-General, with the approval of the Minister, may either generally or otherwise as provided by the instrument of delegation, by writing under the Coordinator-General's seal, delegate to any person or body of persons all or any of the Coordinator-General's powers, functions and duties except this power of delegation.

(2) A power, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation may be limited to any part or parts of the State and may be made subject to such terms as the Coordinator-General thinks fit including a requirement that the delegate shall report to the Coordinator-General upon the delegate's exercise or performance of the delegated power, function or duty.

*State Development and Public Works
Organisation Act 1971*

(4) Where pursuant to this Act or to any other Act the exercise or performance of any power, function or duty, the subject of a delegation, is made to depend upon the opinion or belief of the Coordinator-General in relation to any matter, that power, function or duty may be exercised or performed upon the opinion or belief of the delegate who is considering the exercise or performance of that power, function or duty.

(5) The Coordinator-General may make such and so many delegations of the same power, function or duty and to such number of persons or bodies of persons as the Coordinator-General considers necessary or desirable.

(6) A delegation is revocable at the will of the Coordinator-General and does not prevent the exercise of a power or the performance of a function or duty by the Coordinator-General.

Power to hold inquiry

15.(1) The Coordinator-General may, of his or her own motion, and shall, at the direction of the Minister, institute and conduct an inquiry into any matter that, in the opinion of the Coordinator-General or of the Minister, is one with which the Coordinator-General should be concerned in the proper performance of the Coordinator-General's functions under any Act or that would further the purposes of this Act.

(2) The Governor in Council may, in relation to a particular inquiry to be conducted under this Act, upon the recommendation of the Minister, declare by order in council that the inquiry therein specified shall be conducted as a commission of inquiry under the *Commissions of Inquiry Act 1950* whereupon the Coordinator-General or, as the case may be, the Coordinator-General's delegate who conducts the inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under that Act and of a chairperson of such a commission except such as are by that Act confined to a chairperson who is a judge of the Supreme Court and the provisions of that Act shall apply accordingly.

Cooperation with Coordinator-General

16.(1) Subject to this section, it is the duty of—

- (a) a local body and, where it is a corporation, of every person who

*State Development and Public Works
Organisation Act 1971*

comprises it;

- (b) the chief executive of a department of the Government;
- (c) a corporation constituted for the purposes of any Act or that, being incorporated by the law of the State, is an instrumentality or agency of the Crown, and of every person who comprises it;
- (d) the holder of any office provided for by any Act;
- (e) a person in the employ of a local body, or in the employ of such corporation or holder for the purposes of the material Act, or employed in such a department;

to cooperate with the Coordinator-General in the performance by him or her of the functions and duties of the Coordinator-General.

(2) Without limit to the duty imposed by subsection (1) a person subject thereto—

- (a) shall consult with and make his or her services available to the Coordinator-General in connection with works, whether constructed, in course of construction, or to be constructed and in connection with any other matter that concerns the Coordinator-General;
- (b) shall confer, as requested by the Coordinator-General, on any matter that concerns development, planning, or environmental effects within the State or within any area over which the State claims jurisdiction and on any other matter that concerns the Coordinator-General;
- (c) shall, as required by the Coordinator-General, furnish to the Coordinator-General accurate information in the possession of or available to that person in the capacity whereby he or she is subject to this section concerning such matters as in the Coordinator-General's opinion would assist the Coordinator-General in the discharge of his or her functions or duties.

(3) This section shall be construed to apply—

- (a) save where the Minister directs to the contrary in a particular case, proof whereof shall lie upon the person who alleges it;

*State Development and Public Works
Organisation Act 1971*

- (b) in relation to the furnishing of information, subject to the provisions of any Act that expressly require a person employed under that Act to preserve and aid in preserving secrecy with regard to all matters that may come to the person's knowledge in the person's official capacity.

Appointment of persons to aid Coordinator-General

17. The Governor in Council may, by order in council made on the recommendation of the Minister, appoint any person to act in aid of the Coordinator-General in respect of particular works or other matter that concerns the Coordinator-General and the appointee, while the appointee so acts, shall be paid a salary at a rate determined from time to time by the Governor in Council.

Division 3—Officers and workers of Coordinator-General

Appointment of workers

19.(1) The Coordinator-General may employ such workers as the Coordinator-General considers necessary for the proper performance by the Coordinator-General of his or her functions and duties and the proper exercise by the Coordinator-General of his or her powers.

(2) The wages payable to a worker so employed and the conditions of his or her employment shall comply with the requirements of any material award of an industrial tribunal or of any material industrial agreement and, subject thereto or where there is no such award or agreement, shall be as determined from time to time by the Coordinator-General.

Services of technical advisers

20.(1) The Coordinator-General may obtain or retain the advice or services of such technical advisers as the Coordinator-General considers necessary for the proper performance by the Coordinator-General of his or her functions and duties and the proper exercise by the Coordinator-General of his or her powers.

*State Development and Public Works
Organisation Act 1971*

(2) Remuneration in respect of such advice or services shall be such as is approved by the Minister.

PART 3—PROGRAM OF WORKS

Program of works

22.(1) The Coordinator-General may, of his or her own motion, and shall, at the direction of the Minister, plan in respect of a particular period—

- (a) a program of works for the State or for any part of the State or for any area over which the State claims jurisdiction;
- (b) the orderly carrying out over that period or during any portion or portions of that period of the whole or any part of the works included in the program.

(2) For the purpose of planning a program of works the Coordinator-General may require any person who is required by this Act to cooperate with the Coordinator-General to furnish to him or her—

- (a) particulars of all works proposed to be carried out by or under the authority or supervision of that person during the period in question;
- (b) such information as the Coordinator-General considers necessary to enable the Coordinator-General to have proper regard to the matters prescribed by section 28 as matters to be regarded in relation to a program of works.

(3) Particulars and information furnished to the Coordinator-General pursuant to the Coordinator-General's requisition shall be verified in manner directed by the Coordinator-General, including (should the Coordinator-General so direct) by way of statutory declaration.

Selection of works for program of works and their performance

23.(1) Works to be included in a program of works shall be at the discretion of the Coordinator-General.

*State Development and Public Works
Organisation Act 1971*

(2) A program of works may include works that have been submitted to the Coordinator-General by a local body or other person for inclusion in a program of works or that are included therein on the initiative of the Coordinator-General in addition to or in lieu of works so submitted.

(3) The Coordinator-General may plan that works included in a program of works shall be undertaken by the Coordinator-General or by his or her agent, or by any local body or person who is required or permitted under or pursuant to any Act so to do.

Submission of program of works to Governor in Council

24.(1) The Coordinator-General shall furnish his or her plan for a program of works to the Minister who, if the Minister approves of it, shall submit the same to the Governor in Council for approval.

(2) If the Governor in Council approves of the program submitted the Governor in Council may, having regard to the need for Parliamentary appropriation to the material purposes, make an order in council that evidences the Governor in Council's approval and authorises the program to be implemented.

(2A) Upon publication of the order in council in the gazette the program (as altered from time to time by the Coordinator-General in accordance with this Act) shall be the program of works for the State and shall be binding on the Coordinator-General and on all other persons concerned in that program.

(3) If the Governor in Council does not approve of the program submitted, the Governor in Council shall cause the Minister to return the program together with the Governor in Council's objections thereto and comments thereon to the Coordinator-General who, upon consideration thereof, shall make to the program such alterations as the Coordinator-General considers warranted in the circumstances.

(4) The program as so altered shall be again furnished to the Minister and submitted to the Governor in Council as prescribed by subsection (1).

Alterations to approved program of works

25.(1) The Coordinator-General may make such alterations to a program of works approved by the Governor in Council as the Coordinator-General

*State Development and Public Works
Organisation Act 1971*

considers warranted in the circumstances.

(2) The Coordinator-General shall not exercise the power conferred on him or her by this section except with the consent of the Minister first had and obtained save where the alteration will not result in additional expenditure in a sum exceeding \$50 000 or such other amount as is prescribed by the Governor in Council by order in council.

Implementation of program of works as approved

26. In giving effect to a program of works approved by the Governor in Council no modification or addition shall be made to any of the works included therein save with the consent of the Coordinator-General first had and obtained.

Local body's application for assistance examined by Coordinator-General

27.(1) Every application that moneys be paid from the Treasury in respect of works or proposed works of a local body or that the Treasurer, on behalf of the Government, guarantee the amount or any part of the amount of a loan made or to be made in respect of works or proposed works of a local body shall be submitted to the Coordinator-General together with such particulars relevant thereto as the Coordinator-General considers necessary.

(2) The Coordinator-General, having regard to the importance and merit of the works for which the moneys or guarantee is sought relative to any program of works planned or being planned by the Coordinator-General at the time of the submission of the application to the Coordinator-General, shall make to the Treasurer such recommendations with respect thereto as the Coordinator-General thinks fit.

(3) In determining how an application referred to in subsection (1) should be disposed of due weight shall be given to the recommendations made by the Coordinator-General with respect to the application.

Objectives of comprehensive program of works

28. With a view to the coordination, regulation and control of a

*State Development and Public Works
Organisation Act 1971*

comprehensive program of works for the development of the State regard shall be had by the Coordinator-General and all other persons concerned to the following considerations—

- (a) the orderly arrangement and revision of a general program of works for the State;
- (b) the creation of additional means and methods of development and of employment;
- (c) the maintaining of continuity of work in the various parts of the State on a basis of reasonable uniformity;
- (d) the provision of ways and means whereby finance in respect of works and the creation of works may be spread over the State in equitable proportions;
- (e) the allocation, on terms advantageous to the welfare of the State generally, of finance by way of loans and otherwise amongst the departments of the Government and local bodies;
- (f) the examination and review of larger developmental works generally with a view to a selection by the Governor in Council of works that, while conferring a greater amount of aid to the general employment position of the State, also offer greater possibilities as productive works;
- (g) the establishment of a policy of coordinated relationship among departments of the Government and local bodies with a view to—
 - (i) securing coordination and cooperation in activities connected with works and construction;
 - (ii) evolving schemes for providing employment and for improving the general economic development and the public amenity of the State;
 - (iii) avoiding or minimising duplication and overlapping in the services and activities of departments of the Government and of local bodies generally;
- (h) the securing of cooperation and assistance of persons engaged in industry otherwise than within departments of the Government or

*State Development and Public Works
Organisation Act 1971*

within local bodies with a view to aiding the general employment position in the State.

PART 4—ENVIRONMENTAL COORDINATION

Division 1—Preliminary

Definitions for pt 4

29. In this part—

“**assessment manager**”, for an application, means the assessment manager under the *Integrated Planning Act 1997*.

“**development approval**” means a development approval under the *Integrated Planning Act 1997*.

“**EIS**” means an environmental impact statement.

“**IDAS**” see *Integrated Planning Act 1997*, schedule 10.

“**properly made submission**”, for an EIS, means a submission that—

- (a) is made to the Coordinator-General in writing; and
- (b) is received on or before the last day of the submission period; and
- (c) is signed by each person who made the submission; and
- (d) states the name and address of each person who made the submission; and
- (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

“**proponent**” means the person who proposes a significant project.

“**significant project**” means a project declared under section 29B to be a significant project.

“**submission period**”, for a submission about an EIS, see section 29I(1)(d).

*State Development and Public Works
Organisation Act 1971*

Supervision of environment

29A.(1) The Coordinator-General shall, of the Coordinator-General's own motion or at the direction of the Minister, coordinate departments of the Government and local bodies throughout the State in activities directed towards ensuring that in any development proper account is taken of the environmental effects.

(2) In considering an application made to it for the granting of approval for a development or in considering the undertaking of works, it is the responsibility of—

- (a) any department of the Government;
- (b) any Crown corporation or instrumentality or other person or body representing the Crown;
- (c) any local body;
- (d) any board, body, authority or corporation constituted or incorporated by or under any statute and authorised by statute to perform public functions or carry on a public undertaking;

when it appears that the undertaking of such development or works is likely to have major environmental effects, to take such environmental effects into account, and in doing so to have due regard to such policies or administrative arrangements as may be approved from time to time by the Minister to the extent that the same are compatible with legislation for the time being in force in the State.

(3) Subsection (2) does not apply to a significant project.

(4) Subsections (2) and (3) and this subsection expire when the *Integrated Planning Act 1997*, section 6.1.40 expires.²

Division 2—Significant project

Declaration of significant project

29B.(1) The Coordinator-General may declare a project to be a significant

² The *Integrated Planning Act 1997*, section 6.1.40 expires on 30 March 2000.

*State Development and Public Works
Organisation Act 1971*

project for which an EIS is required.

(2) The declaration must be made by gazette notice.

(3) If the project involves development that requires an application for a development approval, the Coordinator-General must give a copy of the gazette notice to the person who is, or would be, the assessment manager for the application.

(4) If the project involves mining, the Coordinator-General must give a copy of the gazette notice to the Minister administering the *Mineral Resources Act 1989*.

Matters Coordinator-General considers before making declaration

29C. In considering whether the project should be declared a significant project, the Coordinator-General must have regard to 1 or more of the following—

- (a) detailed information about the project given by the proponent in an initial advice statement;
- (b) relevant planning schemes or policy frameworks, including those of a relevant local government or of the State or the Commonwealth;
- (c) the project's potential effect on relevant infrastructure;
- (d) the employment opportunities that will be provided by the project;
- (e) the potential environmental effects of the project;
- (f) the complexity of local, State and Commonwealth requirements for the project;
- (g) the level of investment necessary for the proponent to carry out the project;
- (h) the strategic significance of the project to the locality, region or the State.

*State Development and Public Works
Organisation Act 1971*

Application of divs 3–6

29D. Divisions 3 to 6 apply only if the project is declared, under section 29B, to be a significant project.

Division 3—EIS process

Notice of requirement for EIS and of draft terms of reference

29E. The Coordinator-General must—

- (a) advise the proponent that an EIS is required for the project; and
- (b) publicly notify—
 - (i) that an EIS is required for the project; and
 - (ii) where copies of the draft terms of reference may be obtained; and
 - (iii) that comments on the draft terms of reference are invited.

Finalising terms of reference

29F. When finalising the terms of reference for the EIS, the Coordinator-General must have regard to comments received.

Coordinator-General may seek information to assist preparation of EIS

29G.(1) The Coordinator-General may refer details of the project, the initial advice statement and the terms of reference, to any entity the Coordinator-General considers may be able to give the Coordinator-General comment and information that will help in preparing the EIS.

(2) If the entity wants the proponent to consider its response when preparing the EIS, the entity must give its response to the Coordinator-General within the reasonable time stated by the Coordinator-General for giving the response (the “**response time**”).

(3) If the entity does not give its response within the response time, the

*State Development and Public Works
Organisation Act 1971*

proponent may prepare the EIS as if the entity had no comment on the project.

Preparation of EIS

29H. The EIS prepared by the proponent must address the terms of reference to the satisfaction of the Coordinator-General.

Public notification of EIS

29I.(1) After the proponent has prepared the EIS to the satisfaction of the Coordinator-General, the proponent must publicly notify the following—

- (a) where a copy of the EIS is available for inspection;
- (b) where a copy of the EIS may be obtained at a stated reasonable cost;
- (c) that submissions may be made to the Coordinator-General about the EIS;
- (d) the period (the “**submission period**”), set by the Coordinator-General, during which a submission may be made.

(2) For subsection (1)(b), the stated reasonable cost must not be more than the actual cost of producing the copy.

Making submissions on EIS

29J.(1) During the submission period, any person may make a submission to the Coordinator-General about the EIS.

(2) The Coordinator-General must accept properly made submissions.

(3) However, the Coordinator-General may accept a written submission even if the submission is not a properly made submission.

(4) If the Coordinator-General has accepted a submission, the person who made the submission may, by written notice given to the Coordinator-General—

- (a) during the submission period—amend the submission; or

*State Development and Public Works
Organisation Act 1971*

- (b) at any time before a decision about the EIS is made—withdraw the submission.

Coordinator-General evaluates EIS, submissions, other material and prepares report

29K.(1) The Coordinator-General must, after the end of the submission period, consider the EIS, all properly made submissions and other submissions accepted by the Coordinator-General about the EIS and any other material the Coordinator-General considers is relevant to the project.

(2) The Coordinator-General may ask the proponent for additional information or comment about the EIS and the project.

(3) The Coordinator-General must prepare a report evaluating the EIS.

(4) After completing the report, the Coordinator-General must give a copy of the report to the proponent.

Division 4—Relationship with Integrated Planning Act 1997

Application of div 4

29L. This division applies if the project involves development requiring an application for a development approval.

Applications for material change of use or requiring impact assessment

29M.(1) To the extent the application is for a material change of use, or requires impact assessment, under the *Integrated Planning Act 1997*, or both—

- (a) the information and referral stage and the notification stage of IDAS do not apply to the application; and
- (b) there are no referral agencies, under the *Integrated Planning Act 1997*, for the application; and
- (c) a properly made submission about the EIS is taken to be a

*State Development and Public Works
Organisation Act 1971*

properly made submission about the application under IDAS; and

- (d) despite paragraph (b), the Coordinator-General's report is taken to be a concurrence agency's response for the application under IDAS.

(2) Subsection (1)(c) does not apply if the application involves only a material change of use requiring code assessment under the *Integrated Planning Act 1997*.

When the decision stage for the project starts under IDAS

29N. Despite the *Integrated Planning Act 1997*, section 3.5.1, the decision stage of IDAS for the application does not start until—

- (a) if the Coordinator-General is not the assessment manager for the application—the Coordinator-General gives the assessment manager a copy of the Coordinator-General's report; or
- (b) if the Coordinator-General is the assessment manager for the application—the Coordinator-General gives the proponent a copy of the report.

Application of Coordinator-General's report to IDAS

29O.(1) The Coordinator-General's report may state for the assessment manager 1 or more of the following—

- (a) the conditions that must attach to any development approval;
- (b) that any development approval must be for part only of the development;
- (c) that any approval must be a preliminary approval only.

(2) Alternatively, the report must state for the assessment manager—

- (a) that there are no conditions or requirements for the project; or
- (b) that the application for a development approval must be refused.

(3) The report may only state the application must be refused if the Coordinator-General is satisfied there are environmental effects in relation to the development that can not be addressed adequately.

*State Development and Public Works
Organisation Act 1971*

(4) The report must give reasons for the statements mentioned in subsections (1) and (2).

Assessment manager to be given copy of Coordinator-General's report

29P. If the Coordinator-General is not the assessment manager for the application, the Coordinator-General must give a copy of the report to the assessment manager for the application.

Division 5—Relationship with Mineral Resources Act 1989

Definitions for div 5

29Q. In this division—

“**application**” means the application made under the *Mineral Resources Act 1989*, section 245, for the grant of a mining lease for the project.

“**certificate of application**” means the certificate of application that has, or could be issued, for the application under the *Mineral Resources Act 1989*, section 252.

“**environmental management overview strategy**”, for the application for the project, means an environmental management overview strategy mentioned in the *Mineral Resources Act 1989*, section 245(1)(p), that is prepared for the project as part of an EIS under this Act.

“**Minister**” means the Minister administering the *Mineral Resources Act 1989*.

“**statement of proposals**”, for the application for the project, means a statement mentioned in the *Mineral Resources Act 1989*, section 245(1)(o)(iii)(B), that is prepared for the project as part of an EIS under this Act.

Process if certificate of application has not been issued

29R.(1) This section applies if a certificate of application has not been issued at the time the project is declared to be a significant project.

*State Development and Public Works
Organisation Act 1971*

(2) Despite the *Mineral Resources Act 1989*, section 245, the mining registrar must accept a statement of proposals or environmental management overview strategy if the Coordinator-General gives the registrar written notice stating that the statement or strategy is sufficient for the application under that section.

(3) Despite the *Mineral Resources Act 1989*, section 252(2)(c), the last objection day for the application for the project is the day publicly notified by the Coordinator-General.

(4) The day publicly notified under subsection (3) must be a day at least 28 days after the issue of the certificate of application.

Process if certificate of application has been issued

29S.(1) This section applies if a certificate of application has been issued before the project is declared to be a significant project.

(2) Despite the issue of the certificate stating the last objection day for the application as the day endorsed by the mining registrar on the certificate, the last objection day is the day the Coordinator-General publicly notifies as the last objection day.

(3) For subsection (2), the Coordinator-General must publicly notify a day at least 28 days after the issue of the certificate as the last objection day.

Application of Coordinator-General's report to issue of mining lease

29T.(1) The Coordinator-General's report may recommend to the Minister the conditions that must be attached to any mining lease issued under the *Mineral Resources Act 1989* for the project.

(2) Alternatively, the report must recommend that there are no conditions to be attached to any mining lease issued under the *Mineral Resources Act 1989* for the project.

(3) The report must give reasons for the Coordinator-General's recommendations.

Minister to be given copy of Coordinator-General's report

29U. The Coordinator-General must give a copy of the Coordinator-General's report to the Minister.

Coordinator-General's report is a result of Minister's study for s 268

29V. For the *Mineral Resources Act 1989*, section 268(9), the Coordinator-General's report is taken to be the result of a study requested by the Minister into the environmental impact of granting the application.

Division 6—Relationship with other legislation

Application of div 6

29W. This division applies if an Act other than the *Integrated Planning Act 1997* or the *Mineral Resources Act 1989* requires the preparation of an EIS, or a similar statement to address environmental effects, for the project.

EIS under this part is EIS for other Act

29X. The EIS prepared under this part for the project is taken to be a statement that satisfies the requirement of the other Act.

Application of Coordinator-General's report to other approval process

29Y.(1) The Coordinator-General's report may recommend to the person who would give approval to the project under the other Act the conditions that must be attached to any approval given under the other Act.

(2) Alternatively, the report must recommend that there are no conditions to be attached to any approval given under the other Act.

(3) The report must give reasons for the Coordinator-General's recommendations.

Person approving project to be given copy of Coordinator-General's report

29Z. The Coordinator-General must give a copy of the Coordinator-General's report to the person required under the other Act to approve of the project.

Coordinator-General's report must be taken into consideration

29ZA. The Coordinator-General's report must be taken into consideration by the person required under the other Act to approve of the project.

PART 5—PRESCRIBED DEVELOPMENT

Division 1—Declaration of prescribed development

Investigation of developments of State significance

30. If it appears to the Governor in Council in respect of a proposal for the development of the mineral or energy resources of the State or a proposal for the processing or handling of such resources that—

- (a) such development, processing or handling will be of major economic significance to the State; or
- (b) the provision of infrastructure for or in relation to such development, processing or handling—
 - (i) would place an excessive financial burden on the resources of the State or on the residents of the State or of any part thereof; or
 - (ii) would significantly affect the priorities as existing at the material time for the provision of services and facilities by the Crown or any local body;

the Governor in Council may, on the recommendation of the Minister,

*State Development and Public Works
Organisation Act 1971*

approve that an investigation of the proposal be undertaken by the Coordinator-General with a view to establishing whether the proposed development, processing or handling should be declared to be a prescribed development.

Effect of investigation on local bodies

31. Upon the Coordinator-General notifying a local body that the Coordinator-General has commenced to undertake an investigation of any proposal pursuant to the Governor in Council's approval under section 30—

- (a) the jurisdiction of the local body to deal with any application that has been made or is subsequently made to it and relates to that proposal shall be suspended until it is further notified by the Coordinator-General that its jurisdiction in respect of such application is restored in accordance with this part, the provision of any law to the contrary notwithstanding; and
- (b) where the local body would but for this section be required to decide within a limited time the matter of any application in respect of which its jurisdiction is suspended by paragraph (a), time shall be taken not to have commenced to run against the local body in relation to such application until its jurisdiction in respect of such application is duly restored.

Declaration of prescribed developments

32.(1) The Coordinator-General shall submit the findings of an investigation undertaken by the Coordinator-General under this part to the Minister.

(2) The Governor in Council may on the recommendation of the Minister, by order in council, declare the proposed development, processing or handling, the subject of the Coordinator-General's investigation, to be a prescribed development or may refuse to so declare.

(3) The Governor in Council may on the recommendation of the Minister, by order in council, revoke a declaration of a prescribed development, if it appears to the Governor in Council to be expedient to do so, whereupon the proposed development, processing or handling to which

*State Development and Public Works
Organisation Act 1971*

the declaration related shall cease to be a prescribed development and every application referred to the Coordinator-General under section 42 shall be remitted by the Coordinator-General to the local body from which it was referred to be dealt with by that local body according to law.

Notification of decision

33.(1) The Coordinator-General shall, in writing, notify that decision to all local bodies and other persons who in the Coordinator-General's opinion are materially concerned with a decision of the Governor in Council under section 32.

(2) Where—

- (a) the Governor in Council has refused to declare a proposed development, processing or handling to be a prescribed development; and
- (b) the jurisdiction of a local body in respect of any application relating to such proposed development, processing or handling is for the time being suspended pursuant to section 31;

the Coordinator-General shall, by notification given to that local body under subsection (1), notify that local body that such jurisdiction is thereby restored to it.

Division 2—Infrastructure coordination plans

Preparation of plans

34.(1) In respect of each prescribed development the Coordinator-General shall prepare an infrastructure coordination plan.

(2) A plan required by subsection (1)—

- (a) shall be prepared in such form and shall contain such matters as the Coordinator-General thinks appropriate; and
- (b) shall be prepared in consultation with the appropriate officers of Queensland Treasury and with local bodies that in the Coordinator-General's opinion are concerned with the prescribed

*State Development and Public Works
Organisation Act 1971*

development and with such other bodies and persons as the Coordinator-General thinks fit; and

- (c) may identify means for financing and coordinating the provision of infrastructure for the prescribed development; and
- (d) may include infrastructure requirements that are submitted to the Coordinator-General by a local body or other body or person for inclusion therein or that are included therein by the Coordinator-General of his or her own motion in addition to or in lieu of infrastructure requirements so submitted.

Approval of infrastructure coordination plan

35.(1) Every plan prepared under section 34 shall, after consideration by the Treasurer, be submitted to the Minister who, if the Minister approves thereof, shall submit the plan to the Governor in Council.

(2) The Governor in Council may, on the recommendation of the Minister, approve of the plan and thereupon every local body and other person specified in the approved plan shall comply with the requirements of the plan (so far as those requirements are the concern of that local body or other person) in respect of the prescribed development to which the plan relates.

(3) A local body or other person may be specified in an approved plan by name or by reason that it, he or she is one of a class or description of person specified in the plan.

Variation of approved plan

36.(1) The Coordinator-General may prepare in consultation with the appropriate officers of Treasury variations of an approved plan but every such variation shall, after consideration by the Treasurer, be submitted to the Minister and to the Governor in Council for the Governor in Council's approval.

(2) Upon the Governor in Council approving a variation of an approved plan the plan as so varied shall become and be the approved plan in respect of the prescribed development concerned.

*State Development and Public Works
Organisation Act 1971*

Effect of approved plan

37. Where pursuant to any Act an approval is given or a grant is made for the purpose of doing anything that then is or subsequently becomes related to a prescribed development and the person to whom or for whose benefit such approval is given or such grant is made then is or subsequently becomes a person specified in an approved plan relating to that prescribed development such approval or grant shall be deemed to contain and be subject to a condition that such person shall comply in all respects with the requirements of the approved plan (so far as those requirements are the concern of that person) and every instrument conferring title to or rights in land made to give effect to such approval or grant shall be deemed to contain and be subject to the like condition.

Local bodies may make and perform agreements etc.

38.(1) For the purpose of financing and providing infrastructure for a prescribed development in accordance with an approved plan a local body may, in addition to all other powers had by it, negotiate, enter into and perform such agreements and do all other acts and things as are necessary to enable it to comply with the requirements of that plan.

(2) The provisions of any other Act that—

- (a) restrict the power of a local body to negotiate, enter into or perform agreements; or
- (b) make unlawful the doing by local bodies of acts therein specified in connection with rezoning of land, use of land or the approval, consent or permission to use land or to use or erect any building or other structure;

shall not be construed to affect the power conferred on local bodies by subsection (1).

(3) An agreement negotiated for the purpose referred to in subsection (1) whether by a local body or any other person—

- (a) shall conform to the requirements of the approved plan for the purposes of which it is negotiated so far as those requirements concern the subject matter of the agreement; and

*State Development and Public Works
Organisation Act 1971*

- (b) shall not be entered into and, if entered into in breach of this provision, shall be of no effect in law unless it has been approved by the Governor in Council.

Agreements to be furnished to Coordinator-General

39.(1) Every local body or other person that negotiates an agreement for the purpose of financing and providing infrastructure for a prescribed development in accordance with an approved plan shall furnish a copy of the proposed agreement to the Coordinator-General who shall examine the terms thereof in consultation with the appropriate officers of Treasury and with such local bodies or other persons as the Coordinator-General thinks fit.

(2) If pursuant to subsection (1) 2 or more persons are required to furnish a copy of an agreement it shall be sufficient compliance with that subsection if 1 of such persons furnishes the copy as prescribed.

(3) If in the opinion of the Coordinator-General a proposed agreement furnished to the Coordinator-General under subsection (1) is deficient in any respect the Coordinator-General shall refer the matter to the local body or other person that furnished the proposed agreement to him or her with a view to its alteration in a manner acceptable to the Coordinator-General.

(4) When, in the opinion of the Coordinator-General, a proposed agreement furnished to the Coordinator-General under subsection (1) is satisfactory the Coordinator-General shall after consideration of the agreement by the Treasurer submit the matter of the agreement to the Minister with the Coordinator-General's recommendation that the proposed agreement should be approved.

Approval of agreements

40.(1) The Governor in Council may, on the recommendation of the Minister, approve of a proposed agreement referred to in section 38 and furnished to the Coordinator-General under section 39.

(2) Upon the Governor in Council approving a proposed agreement the Coordinator-General shall cause notification of such approval to be given to the local body or other person that furnished a copy of the proposed

*State Development and Public Works
Organisation Act 1971*

agreement to the Coordinator-General.

(3) Where the Governor in Council has approved an agreement with respect to any subject matter proposed to be entered into for the purposes of a prescribed development any agreement made with respect to the same subject matter, or so as to include the same subject matter, for the purposes of the same development shall be on the same terms and conditions, so far as they relate to that subject matter, as have been so approved.

(4) If in any case subsection (3) is not complied with the agreement made shall be of no effect in law.

Variation of approved agreement

41.(1) If at any time it becomes necessary or desirable to vary an agreement made in accordance with section 40 the local body or other person being party to that agreement may negotiate and enter into a variation agreement but every such variation agreement negotiated shall be submitted and dealt with as prescribed by section 39 and that section and section 40 shall apply in relation to such variation agreement.

(2) Upon the Governor in Council approving of a proposed variation agreement and such agreement being entered into, the original agreement as so varied shall become and be the approved agreement with respect to the subject matter concerned.

Division 3—Applications relating to prescribed development

Referral of applications

42.(1) Where a proposed development, processing or handling has been declared to be a prescribed development every application relating to the proposed development, processing or handling that—

- (a) has been made to a local body at the time such declaration is made; or
- (b) at any time after the making of such declaration is made to a local body;

*State Development and Public Works
Organisation Act 1971*

shall be referred by the local body to the Coordinator-General and the local body shall have no jurisdiction to deal with any such application otherwise than is prescribed by this division unless it is remitted by the Coordinator-General to the local body as hereinafter prescribed.

(2) Reference by a local body to the Coordinator-General of an application shall be made—

- (a) in the case of an application that has been made to the local body at the time the relevant proposed development is declared to be a prescribed development—forthwith upon the local body being notified under section 33 of the declaration; and
- (b) in the case of an application that is made at any time after the relevant proposed development is declared to be a prescribed development—as soon as is practicable after the application is received by the local body.

(3) An application required by law to be made to a local body shall be made to that local body notwithstanding that it relates to a prescribed development.

Remission of applications

43.(1) In respect of every application referred to the Coordinator-General that relates to a prescribed development the Governor in Council shall, on the recommendation of the Minister, determine whether the application referred should remain with the Coordinator-General or be remitted to the local body to which it was made.

(2) If, pursuant to the determination of the Governor in Council, an application is remitted to the local body to which it was made, it shall be dealt with by that body according to law as if the proposed development to which it relates had not been declared to be a prescribed development but subject to the local body and all other persons concerned complying with the approved plan relating to that development.

Applications remaining with Coordinator-General

44.(1) If pursuant to a determination of the Governor in Council under section 43(1) an application is to remain with the Coordinator-General, the

*State Development and Public Works
Organisation Act 1971*

law under which the application was made to the local body shall be construed in relation to that application as if a reference therein to the local body were a reference to the Coordinator-General.

(2) For the purpose of dealing with and determining an application that pursuant to the determination of the Governor in Council is to remain with the Coordinator-General the provisions of law and the constraints that would have affected the dealing with and determination of the application by the local body shall be deemed not to exist.

(3) The Coordinator-General shall deal with an application that pursuant to the determination of the Governor in Council is to remain with the Coordinator-General in accordance with this Act and the Coordinator-General shall submit the matter of the application, the Coordinator-General's recommendations with respect thereto and any submissions received by the Coordinator-General with respect thereto to the Minister.

Advertisement calling for submissions

45.(1) In respect of an application relating to a prescribed development that is not remitted to a local body—

- (a) the Coordinator-General shall by advertisement in some newspaper or newspapers circulating throughout the area or areas of the State for which the development is proposed give public notice—
 - (i) that the application is before the Coordinator-General; and
 - (ii) that a copy of the application is available for public inspection at the address or addresses specified in the advertisement; and
 - (iii) that submissions with respect to the application including objections thereto may be lodged with the Coordinator-General at the address and on or before the date specified in that behalf in the advertisement;

and shall therein give particulars sufficient in the Coordinator-General's opinion to indicate the general nature of the application;

*State Development and Public Works
Organisation Act 1971*

- (b) the Coordinator-General shall invite the local body to which the application was made to lodge with the Coordinator-General on or before the date specified in the advertisement its representations with respect to the application together with its comments on the circumstances and matters that have influenced its representations.

(2) The Coordinator-General shall cause to be kept available for public inspection a copy of an application to which an advertisement under subsection (1) relates at the address or addresses specified for that purpose in the advertisement at all times when that address is or those addresses are open for the conduct of public business.

(3) Every submission to the Coordinator-General with respect to an application relating to a prescribed development shall be in writing, shall state the grounds on which it is made and shall particularise the circumstances and matters relied on in support of those grounds.

Determination of application

46.(1) The Governor in Council, having due regard to the application, any submissions made with respect thereto and any other matters submitted to the Minister by the Coordinator-General, shall, by order in council, determine whether the Governor in Council—

- (a) approves the application unconditionally; or
- (b) approves the application subject to conditions; or
- (c) refuses the application.

(2) If the Governor in Council approves an application subject to conditions the Governor in Council shall at the same time determine and specify what those conditions are.

Effect of determination

47.(1) The determination by the Governor in Council of an application relating to a prescribed development—

- (a) shall be final and binding on the applicant, the local body to whom it was made, and all other persons concerned, notwithstanding the provisions of any other law applicable in

*State Development and Public Works
Organisation Act 1971*

relation to that application; and

- (b) where the Governor in Council approves of that application—shall have effect in law according to its tenor to the intent that the use of land approved by the determination may be undertaken and carried out thereon without challenge or hindrance by a local body or any other person on the ground that such use is contrary to any planning scheme or any local law relating to the use or development of land.

(2) Where an application made to a local body under any law is determined by the Governor in Council under this Act as an application relating to a prescribed development—

- (a) the local body and any other person charged with keeping the appropriate maps shall cause the effect of the determination to be noted on any planning scheme maps (whether coming into force before or after the making of the determination) for the local government area or part of such area in which is situated the land to which the determination relates; and
- (b) the local body is hereby authorised to take all steps that appear to it to be necessary to secure compliance with the determination, including taking proceedings before a court of competent jurisdiction; and
- (c) for the purpose of the local body exercising its authority under paragraph (b), the determination shall be deemed to be a decision of the local body lawfully made in relation to the application pursuant to the law under which the application was made to the local body.

Effect of reference on time limitations

47A. Where an application has been referred to the Coordinator-General under section 42—

- (a) the Governor in Council is not bound by any provision of law that limits the time within which a determination of the application would be required to be made had the application remained with a local body; and

*State Development and Public Works
Organisation Act 1971*

- (b) for the purpose of any provision of law such as is referred to in paragraph (a) time shall be taken not to have commenced to run against the local body concerned in relation to the application until the application has been remitted by the Coordinator-General to the local body to be dealt with by it.

Prescribed development to await approval

47B. Where it is determined that an application referred to the Coordinator-General under section 42 should remain with the Coordinator-General, neither the applicant nor any other person shall perform any work or carry out any undertaking as part of the development, processing or handling to which the application relates unless—

- (a) the application has been approved by the Governor in Council and the approval remains in force; and
- (b) if the approval of the application by the Governor in Council is subject to conditions, the work is performed or the undertaking is carried out in accordance in all respects with those conditions.

Withdrawal of applications

47C. An application relating to a prescribed development may be withdrawn at any time prior to its determination by the Governor in Council by notice in writing to that effect signed by the applicant and served on the Coordinator-General.

Division 4—Information concerning development

Coordinator-General may obtain information

47D.(1) With a view to discharging the Coordinator-General's functions under this part the Coordinator-General may require any local body or other person to furnish to him or her—

- (a) particulars of all works and undertakings proposed to be carried out by or on behalf of or under the authority or supervision of that body or person in connection with any proposed development,

*State Development and Public Works
Organisation Act 1971*

processing or handling; and

- (b) such information as in the Coordinator-General's opinion would assist the Coordinator-General in the proper discharge of his or her functions.

(2) Particulars and information furnished to the Coordinator-General pursuant to the Coordinator-General's requisition shall be verified in a manner directed by the Coordinator-General, including (should he or she so direct) by way of statutory declaration.

(3) This section shall be construed to apply—

- (a) except where the Minister directs to the contrary in a particular case, proof whereof shall lie upon him or her who alleges such direction to the contrary; and
- (b) subject to the provisions of any Act that expressly requires a person employed for the purposes of that Act to preserve and aid in preserving secrecy with respect to all matters that may come to the person's knowledge in the person's official capacity.

PART 6—PLANNED DEVELOPMENT

Division 1—State development areas

Declaration of State development areas, variation and termination thereof

48.(1) The Governor in Council may, by order in council made on the recommendation of the Minister, declare any part of the State or of any area over which the State claims jurisdiction to be a State development area, if the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the State requires it, and may, in like manner—

- (a) vary a State development area by excluding therefrom any part thereof or by including therein any part of the State or any part of

*State Development and Public Works
Organisation Act 1971*

any area over which the State claims jurisdiction;

- (b) revoke any order in council or orders in council whereby a State development area is defined.

(2) Where—

- (a) any order in council or orders in council whereby a State development area is defined is or are revoked the area shall thereupon cease to exist;
- (b) any part of a State development area is excluded therefrom it shall cease to be comprised in that area.

Procedure in relation to State development areas

49.(1) Every State development area and every variation of an area shall be delineated on a plan held available for inspection by the public at the office of the Coordinator-General and at such other places, in such manner, and at such times as are prescribed.

(2) If the regulations prescribe a procedure by or pursuant to which the declaration or variation or termination of a State development area is to be made, the declaration, variation or termination, as the case may be, of any area shall be made as prescribed.

Development scheme

50. As soon as practicable after the declaration of a State development area the Coordinator-General shall prepare in relation to that area a development scheme and shall furnish it to the Minister who, if the Minister approves of it, shall submit the same to the Governor in Council for the Governor in Council's approval.

Approval, implementation, and variation of development scheme

51.(1) If the Governor in Council approves a development scheme submitted to the Governor in Council—

- (a) notification of the approval shall be published in the gazette and in a newspaper that circulates within the locality of the State

*State Development and Public Works
Organisation Act 1971*

development area to which the scheme relates;

- (b) a copy of the scheme shall be held available for inspection by the public at the office of the Coordinator-General and elsewhere as the Coordinator-General directs;
- (c) the Coordinator-General shall, as soon as practicable, take all steps necessary to secure the implementation of the scheme.

(2) The Coordinator-General may vary a development scheme approved by the Governor in Council but if the Coordinator-General does so the scheme as so varied shall again be furnished to the Minister and submitted to the Governor in Council as prescribed by section 50.

(3) If the Governor in Council approves a development scheme as so varied the provisions of subsection (1) shall apply in respect thereof and the scheme as so varied shall be the approved development scheme for the State development area to which it relates in lieu of the development scheme theretofore approved.

Abrogation of development scheme

52.(1) If a development scheme approved by the Governor in Council proves to be impracticable to implement or undesirable for the State development area to which it relates the Governor in Council may, on the recommendation of the Minister, abrogate the scheme.

(2) Notification of such abrogation shall be published in the gazette and in a newspaper that circulates within the locality of the State development area to which the abrogated scheme related.

Acquisition of land in State development area

53.(1) The Coordinator-General may take or otherwise acquire land situated in a State development area for the purpose of—

- (a) dealing satisfactorily with conditions of natural disaster or hazard, of act of war or civil strife, of bad layout or obsolete development;
- (b) providing for the establishment or relocation of population, industry or essential services, or for the replacement of open space in the course of the development of any other part of the

*State Development and Public Works
Organisation Act 1971*

State.

(2) The power conferred by subsection (1) may be exercised notwithstanding that at the time of the taking or acquisition the development of the land taken or acquired is not provided for in an approved development scheme.

(3) A taking or acquisition of land situated in a State development area or a disposal of such land shall not be called in question in any proceeding—

- (a) on account of the taking or acquisition of the land from one person and its disposal to another (whether or not development of the land has taken place between the time of its taking or acquisition and the time of its disposal) where the taking or acquisition and the disposal are for the purpose of securing implementation of an approved development scheme that relates to the land; or
- (b) on account of the fact that the Coordinator-General will not control the development of the land but will secure such development by way of contract with other persons.

Disposal of land in State development area

54.(1) For as long as an approved development scheme subsists in relation to land situated in a State development area—

- (a) any grant of, demise of, or other dealing with that land made by the Governor in Council shall be subject to such reservations and conditions as are calculated to secure the implementation of that scheme;
- (b) it is not competent to the Coordinator-General to sell, lease, or otherwise dispose of such of that land as is held by the Coordinator-General unless the sale, lease, or disposal is authorised by subsection (2).

(2) The Coordinator-General may sell, lease or otherwise dispose of land held by the Coordinator-General in a development area—

- (a) for the purpose of implementing a development scheme that relates to that development area; and

*State Development and Public Works
Organisation Act 1971*

(b) with the approval of the Governor in Council first had and obtained.

(3) A sale, lease, or other disposal by the Coordinator-General of land held by the Coordinator-General in a development area may be on such terms and conditions as the Coordinator-General thinks fit, including the condition that the purchaser, lessee or disponee of the land shall enter into such covenants (whether positive, restrictive or both) as the Coordinator-General requires touching and concerning the use to be made of the land and the right to sell, lease or dispose of it and such terms, conditions and covenants may be varied from time to time in such manner as is agreed by the parties concerned.

(4) For so long as land is comprised in a development area a person shall not breach or attempt to breach a covenant that binds the land or that binds the person in respect of the use to be made of the land or of the right to sell, lease or dispose of it.

Use of land under approved development scheme

55.(1) Notwithstanding the provisions of any other Act or law that are directed towards the control of use of land or the provisions of any town plan or other regulatory scheme that is directed towards that control a use of land situated in a State development area in accordance with a provision of an approved development scheme that relates to the land in question or in accordance with a reservation, condition, or covenant made to secure implementation of an approved development scheme that relates to the land in question is a lawful use of the land, and, should the case require it, it shall be deemed that the material local government or other authority concerned with the control of use of the land has duly permitted such use.

(2) If an approved development scheme states a particular use for a particular parcel of land in a State development area, a person must not use the land for another use.

Maximum penalty—1 665 penalty units.

(3) An approved development scheme may impose conditions on a particular use for a particular parcel of land in a State development area.

(4) If an approved development scheme does not state a particular use for

*State Development and Public Works
Organisation Act 1971*

a particular parcel of land in a State development area, a person must not use the land for a use unless—

- (a) the use is one contemplated by the approved development scheme; and
- (b) the Coordinator-General gives written approval for the use.

Maximum penalty—1 665 penalty units.

(5) The Coordinator-General may impose conditions on a use approved under subsection (4).

(6) A condition imposed under subsection (3) or (5) must—

- (a) be relevant to, but not an unreasonable imposition on, the use of the land; or
- (b) be reasonably required for the use of the land.

(7) A person using land in a State development area must comply with any condition imposed under subsection (3) or (5) on the use of the land.

Maximum penalty for subsection (7)—1 665 penalty units.

Continued existing lawful use not an offence

55A.(1) This section applies if—

- (a) immediately before an approved development scheme applies to land, the land is being lawfully used by a person; and
- (b) after the approved development scheme applies to the land, the person continues the use.

(2) Section 55(2) and (4) does not apply to the continuation of the use of the land by the person or the person's successors in title to the land.

*State Development and Public Works
Organisation Act 1971*

Division 1A—Compensation

Subdivision 1—Preliminary

Definition for div 1A

55B. In this division—

“**owner**”, of an interest in land, means the owner of the interest at the time an approved development scheme first applied to the land.

Subdivision 2—Entitlement to compensation

Compensation

55C.(1) An owner of an interest in land is entitled to be paid reasonable compensation by the Coordinator-General if—

- (a) immediately before an approved development scheme started applying to the land there was an authorised use, alternative lawful use or approved use for the land; and
- (b) after the approved development scheme started applying to the land, using the land for the authorised use, alternative lawful use or approved use would be an offence under section 55; and
- (c) the application of the approved development scheme to the land reduces the value of the interest; and
- (d) the owner has asked the Coordinator-General to approve of the authorised use, alternative lawful use or approved use and the Coordinator-General refuses the request.

(2) In this section—

“**authorised use**”, for land, means a use of the land authorised under a development approval, or an instrument taken to be a development approval under the *Integrated Planning Act 1997*.

“**alternative lawful use**”, for land, means a lawful as of right use for which the owner of the land can use the land.

“**approved use**”, for land, means a use of the land approved under section 55(4).

Limitations on compensation under s 55C

55D. Despite section 55C, compensation is not payable—

- (a) for a matter under this division if compensation has already been paid for the matter to a previous owner of the interest in land; or
- (b) for anything done in contravention of this Act.

Subdivision 3—Claims for, and payment of, compensation

Time limit for claiming compensation

55E. A claim for compensation under section 55C must be made to the Coordinator-General within 3 years after the day the approved development scheme came into effect.

Deciding claims for compensation

55F.(1) The Coordinator-General must decide the claim for compensation within 60 business days after the day the claim is made.

(2) In deciding the claim for compensation, the Coordinator-General must—

- (a) grant all of the claim; or
- (b) grant part of the claim and reject the rest of the claim; or
- (c) refuse all of the claim.

(3) However, the Coordinator-General may decide the claim by giving a notice of intention to resume the interest in the land under section 53.

Notification of decision

55G.(1) The Coordinator-General must, within 10 business days after the day the claim is decided, give the claimant written notice of the decision.

*State Development and Public Works
Organisation Act 1971*

(2) The notice must state the following—

- (a) the decision, and the reasons for it;
- (b) if the decision is to pay compensation, the amount of compensation to be paid;
- (c) the claimant may appeal against the decision to the Planning and Environment Court;
- (d) how to appeal.

Calculating reasonable compensation involving changes

55H.(1) For section 55C, reasonable compensation is the difference between the market values, appropriately adjusted having regard to the following matters, to the extent they are relevant—

- (a) any limitations or conditions that may reasonably have applied to the use of the land immediately before the approved development scheme applied to the land;
- (b) any benefit accruing to the land from the approved development scheme coming into effect, including but not limited to the likelihood of improved amenity in the locality of the land;
- (c) if the owner owns land adjacent to the interest in land, any benefit accruing to the adjacent land because of—
 - (i) the coming into effect of the approved development scheme; or
 - (ii) the construction of, or improvement to, infrastructure on the adjacent land under the approved development scheme (other than infrastructure funded by the owner) before the claim for compensation was made;
- (d) the effect of any other changes to the approved development scheme made since the approved development scheme applied to the land;
- (e) if the Coordinator-General's approval, under section 55(4)(b), to use the land is subject to conditions, the effect of the conditions on the use.

*State Development and Public Works
Organisation Act 1971*

(2) Despite subsection (1), if land for which compensation is claimed has, since the day the approved development scheme came into effect, become or ceased to be separate from other land, the amount of reasonable compensation must not be increased because the land has become, or ceased to be, separate from other land.

(3) In this section—

“difference between the market values” means the difference between the market value of the interest in land immediately before the approved development scheme came into effect and the market value of the interest immediately after the approved development scheme came into effect.

When compensation is payable

55I. If compensation is payable under section 55C, the compensation must be paid within 30 business days after—

- (a) the last day an appeal could be made against the Coordinator-General’s decision about the payment of compensation; or
- (b) if an appeal is made, the day the appeal is decided.

Payment of compensation to be recorded on title

55J.(1) The Coordinator-General must give the registrar of titles written notice of the payment of compensation under section 55I.

(2) The notice must be in the form approved by the registrar.

(3) The registrar must keep the information stated in the notice as information under the *Land Title Act 1994*, section 34.³

³ *Land Title Act 1994*, section 34 (Other information not part of the freehold land register)

Subdivision 4—Appeals

Appeals against decisions on compensation claims

55K.(1) A person who is dissatisfied with the Coordinator-General's decision on a claim for compensation may appeal against the decision to the Planning and Environment Court.

(2) An appeal must be started within 20 business days after the day notice of the decision is given to the person.

How appeals are started

55L.(1) An appeal is started by lodging written notice of appeal with the registrar of the court.

(2) The notice of appeal must state the grounds of the appeal.

(3) The person starting the appeal must also comply with the rules of the court applying to the appeal.

(4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

Hearing procedures

55M.(1) The procedure for hearing an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with the judge constituting the court.

(2) An appeal is by way of rehearing, unaffected by the decision appealed against.

Appeal decision

55N.(1) In deciding an appeal the court may—

- (a) confirm the decision appealed against; or
- (b) change the decision appealed against; or
- (c) set aside the decision appealed against and make a decision

*State Development and Public Works
Organisation Act 1971*

replacing the decision set aside.

(2) If the court acts under subsection (1)(b) or (c), the court's decision is taken, for this Act (other than this decision) to be the decision of the Coordinator-General.

Division 2—Undertaking of works by or on behalf of local bodies

Recommendation of certain works

56. If the Coordinator-General recommends to the Minister that particular works should be undertaken by any local body or local bodies, the Minister, if the Minister approves of the recommendation, shall submit the same to the Governor in Council for the Governor in Council's approval.

Approval of certain works

57.(1) If the Governor in Council is satisfied the works recommended should be undertaken by the local body or local bodies concerned the Governor in Council may, having regard to representations (if any) made in respect thereof by any local body concerned, by order in council approve of the Coordinator-General's recommendation and, if the Governor in Council does so, may order the local body or local bodies specified in the recommendation to undertake the works recommended.

(2) If the undertaking of the works concerns more than 1 local body, the Governor in Council may, by the Governor in Council's initial order or by any subsequent order direct—

- (a) that each local body undertake the part of the works directed by the Governor in Council; or
- (b) that the local body specified by the Governor in Council undertake the works and that the costs thereof be apportioned among all the local bodies concerned in such shares as the Governor in Council thinks just.

*State Development and Public Works
Organisation Act 1971*

Time limited for works

58. By order directed to and served on a local body that is required to undertake works by an order made under section 57 the Minister may specify a time within which the works or any part thereof shall be commenced or completed and may, in like manner, extend the time so specified.

Orders to be complied with

59. A local body to whom is directed an order made under section 57 shall comply in every respect with the order and—

- (a) where a time is specified in an order made under section 57 for the doing of any act—shall do that act within that time;
- (b) where a time is not so specified—shall take all steps necessary to comply with the order as soon as practicable;

and in every case shall therein consult and cooperate with the Coordinator-General and all other local bodies concerned.

Borrowing of money for works

60. For the purpose of enabling a local body to undertake works and to borrow money to comply with an order made under section 57 and directed to it the undertaking of works as directed by the order shall be deemed to be a function of that local body under the Act under which the local body is appointed or constituted and, in the case of a local body that is a local government, shall be deemed to be a function of local government.

Procedure on local body's default

61.(1) If, on the report of the Coordinator-General, the Governor in Council is satisfied that a local body is in default in complying with an order made under section 57 and directed to it the Governor in Council may notify that local body that upon the expiration of the period therein specified (being not less than 21 days from the date of the notification) the Governor in Council will authorise the Coordinator-General or a project board appointed under this Act to commence and complete or, as the case may require,

*State Development and Public Works
Organisation Act 1971*

complete the works or part thereof in respect of which the local body is in default as agent for that local body.

(2) A local body notified pursuant to subsection (1) may make to the Minister written representations against the Governor in Council effecting the Governor in Council's notified intention.

(2A) The Minister shall submit such representations to the Governor in Council who, if the Governor in Council thinks the case warrants it, may direct that the issue be heard by such person or persons as the Governor in Council appoints.

(2B) The hearing shall be deemed to be an inquiry and shall be conducted as a commission of inquiry under the *Commissions of Inquiry Act 1950* and the person or persons conducting the inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under that Act and in addition, where there is 1 such person, that person or, where there are more than 1 such person, the person appointed as chairperson of such inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a chairperson of such a commission except such as are by that Act confined to a chairperson who is a judge of the Supreme Court and the provisions of that Act shall apply accordingly.

(2C) The finding on the hearing shall be made to the Minister for reference to the Governor in Council who shall give thereto such weight as the Governor in Council thinks fit in determining the issue in question.

(3) If, upon the expiration of the period specified in the Governor in Council's notification of intention given to the local body or upon the receipt by the Governor in Council of the finding on the hearing conducted at the Governor in Council's direction (whichever event is the later to occur), the Governor in Council decides to effect the intention so notified the Governor in Council may, by order in council, authorise the Coordinator-General or a project board appointed under this Act to commence and complete or, as the case may be, complete the works or part thereof in respect of which the local body is in default as agent for that local body.

Borrowing to facilitate remedy of default

62. For the purpose of remedying a local body's default pursuant to the authority conferred by an order in council made under section 61(3) the

*State Development and Public Works
Organisation Act 1971*

Coordinator-General may exercise all or any of the powers conferred on the Coordinator-General by this Act with respect to borrowing money and, where a project board is so authorised to remedy the default, the Coordinator-General may exercise those powers for the use and benefit of the board.

Liability for costs of work to remedy default

63.(1) All costs, charges and expenses incurred by the Coordinator-General or a project board in or in connection with remedying a local body's default pursuant to the authority conferred by an order in council made under section 61(3), including all sums borrowed for that purpose together with interest and charges in respect thereof, shall be paid by the local body in default and may be recovered from the local body as prescribed.

(2) All sums payable by a local body pursuant to subsection (1) are payable to the Treasurer and shall be paid to the Treasurer at such times and in such instalments as the Treasurer requires by order in writing given to the local body.

(2A) In addition to any other method prescribed for the recovery of such moneys, there may be filed in the registry of the Supreme Court—

- (a) a certificate by the Treasurer that the amount of costs, charges or expenses claimed in the Treasurer's order given under subsection (2) as payable by the local body specified in the certificate is duly payable by the local body and that the local body has failed to comply with the order in the amount specified in the certificate; and
- (b) a writing purporting to be a copy of an order of the Treasurer given under subsection (2);

whereupon the certificate so filed shall, in the absence of proof to the contrary, be conclusive evidence of the matters contained therein, and such steps and orders may be taken and made to enforce the order of the Treasurer so filed as if it were a judgment of the Supreme Court, duly entered, given against the local body to whom the Treasurer's order is directed that orders the local body to pay to the Treasurer the amount shown

*State Development and Public Works
Organisation Act 1971*

in the said certificate as the amount in which the local body has failed to comply with the Treasurer's order.

Power to order postponement of works

64.(1) The Coordinator-General may, having regard to the matters specified in section 28, recommend to the Minister that works to be undertaken by any local body should be postponed.

(1A) If the Minister approves of the recommendation the Minister shall submit the matter to the Governor in Council who may order that the works specified by the Governor in Council shall be postponed for the period specified by the Governor in Council.

(2) An order made under subsection (1A) shall be directed and served on the local body concerned and shall be given effect to by that local body and all other persons concerned.

Division 3—Undertaking of works by Coordinator-General

Recommendation of certain works

65. If the Coordinator-General recommends to the Minister that particular works should be undertaken by the Coordinator-General, the Minister, if the Minister approves of the recommendation, shall submit the same to the Governor in Council for the Governor in Council's approval.

Approval of certain works

66. Where a recommendation is submitted to the Governor in Council—

- (a) pursuant to section 65; or
- (b) pursuant to section 56 and the Governor in Council is satisfied that the works therein recommended should be undertaken by the Coordinator-General instead of by the local body or local bodies recommended;

the Governor in Council, if the Governor in Council is satisfied the works

*State Development and Public Works
Organisation Act 1971*

recommended should be undertaken, may, by order in council, approve that the Coordinator-General undertake the works recommended.

Coordinator-General to undertake approved works

67.(1) As soon as practicable after approval is granted under section 66 the Coordinator-General shall, subject to and in accordance with the approval, take and cause to be taken all steps necessary to undertake the works to which the approval relates.

(2) Works approved by the Governor in Council to be undertaken by the Coordinator-General shall, for the purposes of the *Land Act 1962*⁴ be deemed to be public purposes within the meaning of that Act.

Delegation of authority of Coordinator-General

68.(1) The provisions of section 14 shall be construed subject to this section.

(2) A power, function, or duty conferred or imposed on the Coordinator-General by reason of an approval of the Governor in Council under section 66—

- (a)** shall not be delegated save with the approval of the Governor in Council first had and obtained in lieu of the approval of the Minister;
- (b)** shall not be delegated to a person other than a local body.

(3) A local body to whom such a power, function or duty is delegated shall, in its performance thereof, be subject to and comply with the directions given in relation thereto by the Coordinator-General.

(4) The Coordinator-General may, at any time, and shall, at the direction of the Governor in Council, revoke a delegation of such a power, function or duty but such revocation shall not affect anything done or anything arising out of anything done under the authority of the delegation prior to its revocation.

⁴ Now see *Land Act 1994*.

*State Development and Public Works
Organisation Act 1971*

Borrowing of money for works

69. For the purpose of enabling a local body to undertake works under the authority of a delegation duly given by the Coordinator-General and subsisting, and to borrow money for that purpose, the undertaking of those works shall be deemed to be a function of that local body under the Act under which the local body is appointed or constituted and, in the case of a local body that is a local government, shall be deemed to be a function of local government.

Division 4—Project boards

Project boards

70.(1) The Governor in Council may, in respect of any works, establish a project board.

(2) A project board shall be taken to be established upon the publication in the gazette of notification of the appointment of its appointed members.

(3) A project board shall consist of the Coordinator-General or the Coordinator-General's delegate and 4 or more other members who shall be appointed by the Governor in Council on the recommendation of the Minister, by notification published in the gazette.

(3A) In making a recommendation to the Governor in Council the Minister shall have regard to the circumstances and requirements of the works in respect of which the board is to be established.

(4) In the notification of the first appointment of members to a project board the Governor in Council shall specify the works in respect of which the board is established.

(5) The Governor in Council may at any time, by notification published in the gazette, declare that the project board specified therein shall cease to exist on and from a date specified therein, which date shall not be earlier than the date of publication of the notification in the gazette.

(6) The board specified in such a notification shall cease to exist on the date so specified and the membership thereof of persons then comprising the board shall terminate on that date.

*State Development and Public Works
Organisation Act 1971*

Chairperson and deputy chairperson

70A.(1) Upon each appointment of the whole number of members of a project board who are appointed by the Governor in Council, the Governor in Council, on the recommendation of the Minister, shall, in the notification of the appointments, nominate a member of the board (whether an appointed member or not) to be chairperson of the board and another member of the board (whether an appointed member or not) to be deputy chairperson during the term of the appointments so notified and the persons so nominated shall be chairperson and deputy chairperson respectively.

(2) In the absence of the chairperson of a project board or if at any time there is no chairperson the deputy chairperson shall have and may exercise the powers and shall perform the duties of the chairperson of the board.

Term of appointment of member of board

71.(1) An appointment to membership of a project board shall be for a term of 3 years or, where a less term is specified in the notification of appointment, for that less term commencing on the date of notification of the member's appointment in the gazette save where the appointment is to a casual vacancy therein.

(2) A member of a project board shall be eligible for reappointment.

Termination of membership of board

72.(1) A member of a project board shall be deemed to have vacated his or her office as a member—

- (a) if, being a member by reason of being the Coordinator-General or the Coordinator-General's delegate, the member ceases to be the Coordinator-General or such delegate;
- (b) if the member becomes bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (c) if the member is convicted in the State of an indictable offence for which the member is liable to be imprisoned for 12 months at the least or is convicted elsewhere of an offence that, if committed by

*State Development and Public Works
Organisation Act 1971*

the member in the State would constitute an indictable offence upon conviction whereof the member would be so liable;

- (d) if the member dies;
- (e) if the member becomes a patient within the meaning of the *Mental Health Act 1974*;
- (f) if the member resigns his or her office by signed written notice addressed to the Governor in Council and furnished to the Minister;
- (g) if the member becomes disqualified from being appointed as a member of the board by reason of section 70(3B).

(2) A member of a project board may be removed from office as such by the Governor in Council on account of misbehaviour, incapacity, or the member being unfit, in the opinion of the Governor in Council, to hold the office.

Casual vacancies

73.(1) When a vacancy occurs in the office of a member of a project board before the expiration of the member's term of appointment the Governor in Council shall, on the recommendation of the Minister, by notification published in the gazette, appoint another person thereto.

(1A) Unless the member sooner vacates or is removed from office as prescribed, a person appointed to fill such a casual vacancy shall hold office until the time when the person's predecessor's term of appointment would have expired.

(2) When a vacancy occurs in the office of chairperson or deputy chairperson of a project board the person appointed in place of the member who held that office shall not, by reason of the appointment alone, be chairperson or, as the case may be, deputy chairperson, but the Governor in Council, on the recommendation of the Minister, shall, in the notification of appointment, nominate who of the members of the board shall be chairperson or, as the case may require, deputy chairperson for the balance of the term of appointment then current of members of the board and the member so nominated shall be chairperson or, as the case may be, deputy chairperson accordingly.

*State Development and Public Works
Organisation Act 1971*

Meetings of boards

74.(1) Meetings of a project board shall be held at such times and its meetings and business shall be conducted in accordance with such procedural rules as are prescribed or, in so far as not prescribed, as the board determines from time to time.

(2) The chairperson of a project board shall preside at each meeting of the board at which the chairperson is present and, in the chairperson's absence, the deputy chairperson, if the deputy chairperson is present, shall preside at the meeting of the board.

(2A) If both the chairperson and the deputy chairperson are absent from a meeting of the board, the members present, if they constitute a quorum, may appoint one of their number to preside at the meeting and, while so presiding, the appointee shall have and may exercise the powers of the chairperson.

(3) A quorum of a project board shall be a majority of the number of members of the board for the time being holding office.

(4) The conduct of any business by a project board shall not be rendered void or otherwise prejudiced or be questioned by reason of any vacancy in the membership of the board or of any defect in the constitution of the board.

Disclosure of interests

74A.(1) A member must disclose to a meeting of a project board any direct or indirect financial interest the member has in a matter being considered, or about to be considered, by the board if the interest could conflict with the proper performance of the member's duties about the consideration of the matter.

(2) The disclosure must be recorded in the board's minutes and the member must not take part in any vote of the board on the matter but may participate in discussion of the matter.

(3) Subsection (1) does not apply to an interest which the member may have in common with the public.

(4) For this section, a member is taken to have an indirect financial

*State Development and Public Works
Organisation Act 1971*

interest in a matter if the member—

- (a) is, personally or through a nominee, a member of a company or other body that has a direct financial interest in the matter; or
- (b) is in partnership with a person who has a direct financial interest in the matter; or
- (c) is employed by a person who has a direct financial interest in the matter unless the employer is a statutory body established for a public purpose; or
- (d) has a spouse, or lives in a de facto relationship with a person, who has a direct financial interest in the matter or an indirect financial interest of the kind described in paragraph (a), (b) or (c); or
- (e) is lineally related to a person, or has a brother or sister, who has a direct financial interest in the matter or an indirect financial interest of the kind described in paragraph (a), (b) or (c).

Fees of members of boards

75.(1) Members of a project board shall be paid fees for attendance at meetings of the board at such rates as are prescribed or, in so far as not prescribed, as the Minister approves.

(1A) A member of a project board who for the purposes of attending to the business of the board is required to travel away from the city, town or place where the member usually resides shall be paid travelling and sustenance allowances at such rates as are prescribed or, in so far as not prescribed, as the Minister approves.

(2) A fee shall not be paid to a member of a project board who is an officer of the public service for attendance at any meeting of a board held during the ordinary office working hours of that officer.

Assistance by Coordinator-General to boards

76. The Coordinator-General may provide for each project board such technical, clerical and secretarial assistance as is required for the proper conduct of its affairs.

*State Development and Public Works
Organisation Act 1971*

Status, powers etc. of project board

77.(1) A project board shall be a body corporate under the name and style assigned to it by order in council and shall have perpetual succession and a common seal and shall be capable in law of suing and being sued and of doing and suffering all such acts and things as bodies corporate can in law do and suffer.

(2) All courts, judges, justices and persons acting in a judicial capacity shall take judicial notice of the establishment of a project board and of the common seal of a project board affixed to any document and, in the absence of proof to the contrary, shall presume that such seal was duly affixed.

(3) In addition to the powers conferred on every project board by subsection (1) each project board shall have such powers, functions and duties as are conferred on or assigned to that board by order in council.

(3A) The powers, functions and duties to be conferred on or assigned to a project board shall be such as are, in the opinion of the Governor in Council, directed to enabling or assisting the board to effectively undertake the works in respect of which it is established and shall be in the unfettered discretion of the Governor in Council.

(4) An order in council made in relation to a project board—

- (a) may provide that the board shall be a local body under and within the meaning of the *Local Bodies' Loans Guarantee Act 1923*⁵ whereupon the board shall be such a local body and the provisions of that Act, subject to such modifications as the Governor in Council by such order in council prescribes, shall apply and extend accordingly;
- (b) may empower the board to take land for the purposes of the works in respect of which it is established whereupon the board shall be a constructing authority within the meaning of the *Acquisition of Land Act 1967*;
- (c) may provide for the regulation of the exercise of any power or the performance of any function or duty conferred on or assigned to the board thereby or by another order in council, or for the

⁵ Now see *Statutory Bodies Financial Arrangements Act 1982*.

*State Development and Public Works
Organisation Act 1971*

regulation of the doing of any act incidental to the proper exercise and performance of those powers, functions and duties.

(5) An order in council made for the purposes of subsection (3) shall not be taken to be ineffectual or in any way defective notwithstanding—

- (a) that any provision therein is or is claimed to be inconsistent with any provision of this Act; or
- (b) that this Act or any other Act empowers or requires any person, instrumentality or body to do that which the project board is empowered or required by the order in council to do or to do, whether for the benefit of the project board or not, any act that is incidental to or is apt to assist the effective undertaking of the works in respect of which the board is established; or
- (c) that the works in respect of which the project board is established could be undertaken by any other person, instrumentality or body; or
- (d) that provision for any matter referred to in the order in council might have been made in some other manner prescribed by this Act.

Audit of project board's accounts

77A.(1) At least once in every calendar year the accounts of each project board shall be audited by the auditor-general.

(2) The provisions of the *Financial Administration and Audit Act 1977* shall apply in relation to the accounts of each project board and to the audit thereof.

Division 5—Special powers incidental to planned development

Power of Coordinator-General to take land

78.(1) In addition to the power to take or otherwise acquire land under section 53, the Coordinator-General may take an estate in fee simple in land for any of the following purposes—

*State Development and Public Works
Organisation Act 1971*

- (a) works that the Coordinator-General is authorised by the Governor in Council to undertake;
- (b) works included in a program of works or a development scheme approved under this Act by the Governor in Council that the Coordinator-General is not authorised by the Governor in Council to undertake;
- (c) works undertaken or to be undertaken by a local body or by a department of the Government;
- (d) a purpose specified in schedule 2 to the *Acquisition of Land Act 1967* and approved by the Governor in Council as a purpose for which the Coordinator-General may take land;
- (e) a purpose of rural or urban development recommended by the Coordinator-General and approved by the Governor in Council;
- (f) an infrastructure facility that is—
 - (i) of significance, particularly economically or socially, to Australia, Queensland or the region in which the facility is to be constructed; and
 - (ii) approved by the Governor in Council, by gazette notice, as having that significance.

(1A) In considering whether the infrastructure facility mentioned in subsection (1)(f) would be of economic or social significance, the potential for the facility to contribute to community wellbeing and economic growth or employment levels must be taken into account.

(1B) In assessing the potential mentioned in subsection (1A), the contribution the infrastructure facility makes to agricultural, industrial, resource or technological development in Australia, Queensland or the region is a relevant consideration.

(1C) Subsection (1)(f) applies even if the taking of land by the Coordinator-General is for conferring rights or interests in the land taken on a person other than the State.

(1D) If the proposed taking of land by the Coordinator-General is for conferring rights or interests in the land to be taken on a person other than the State—

*State Development and Public Works
Organisation Act 1971*

- (a) the Coordinator-General must—
 - (i) prepare a statement giving reasons why the infrastructure facility was approved under subsection (1)(f); and
 - (ii) publish a copy of the statement in the gazette; and
- (b) the Minister must table the statement in the Legislative Assembly within 3 sitting days after the gazette notice approving the infrastructure facility is published.

(1E) If the taking of land by the Coordinator-General is for conferring rights or interests in the land taken on a person other than the State—

- (a) the Coordinator-General must prepare a statement giving details of the negotiations by the person with the owners of the land to acquire the land by agreement; and
- (b) the Minister must table the statement in the Legislative Assembly within 3 sitting days after the taking of the land.

(1F) The process stated in the *Acquisition of Land Act 1967* for the taking of land and the payment of compensation for the land taken applies to all land taken under subsection (1) as if the taking were a taking under that Act by a constructing authority.

(1G) The power to take land under this section for a purpose (the “**primary purpose**”) includes power to take at any time land either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.

(2) As well as land granted in fee simple, the Coordinator-General may take land that is held from the Crown for an estate or interest less than fee simple for any of the purposes stated in subsection (1).

(2A) Land referred to in subsection (2) shall, if vested in the Coordinator-General, an instrumentality representing the Crown, a local body, or other person by the proclamation whereby it is taken, be vested in him, her or it for an estate in fee simple.

(2B) The Governor in Council is hereby authorised to grant in fee simple and so vest the land subject to such reservations and conditions as are authorised or required by the *Land Act 1994*.

(2C) The process stated in the *Acquisition of Land Act 1967* for the

*State Development and Public Works
Organisation Act 1971*

taking of land granted in fee simple and the payment of compensation for the land taken applies to all land taken under subsection (2) as if the taking were a taking of land held in fee simple under that Act by a constructing authority.

(3) The *Acquisition of Land Act 1967* shall be read with and subject to all such modifications and adaptations as are necessary to give operation and effect to subsections (1F) to (2C) including by reading a reference therein to the registrar of titles as a reference to the person or authority charged with registering instruments evidencing the title to the estate or interest in the land in question held from the Crown.

(4) To remove any doubt, it is declared that the taking of land under this section is not a taking of land under the *Acquisition of Land Act 1967*, even though the process to be used for the taking of the land and for the payment of compensation for the land taken is the process stated in that Act.

(5) In this section—

“**infrastructure facility**” includes any of the following—

- (a) a road, railway, bridge or other transport facility;
- (b) a jetty or port;
- (c) an airport, landing strip or spaceport;
- (d) an electricity generation, transmission or distribution facility;
- (e) a storage, distribution or gathering or other transmission facility for—
 - (i) oil or gas; or
 - (ii) derivatives of oil or gas;
- (f) a storage or transportation facility for coal, any other mineral or any mineral concentrate;
- (g) a water storage facility, pipeline, channel or other water management, distribution or reticulation facility;
- (h) a cable, antenna, tower or other communication facility;
- (i) infrastructure for health or educational services.

Ensuring reasonable steps are taken to acquire land by agreement

78A.(1) This section applies if a proposed taking of land under section 78 is for conferring rights or interests in the land on a person other than the State.

(2) The Coordinator-General must not take the land unless the Coordinator-General is satisfied—

- (a) reasonable steps have been taken to take the land by agreement; and
- (b) the guidelines made for section 121A have been followed; and
- (c) if the land being taken contains native title—reasonable steps have been taken to enter into an indigenous land use agreement that provides for the non-extinguishment principle to apply to the taking of the land.

(3) In this section—

“indigenous land use agreement” means an indigenous land use agreement under the *Native Title Act 1993* (Cwlth), section 24BA, 24CA or 24DA.

“non-extinguishment principle” has the same meaning as in the *Native Title Act 1993* (Cwlth), section 238.

Relationship with native title legislation

78B.(1) For the taking of land under section 78(2) and the payment of compensation for the land taken—

- (a) the process mentioned in section 78(2C) must be carried out in a way that is consistent with the *Native Title (Queensland) Act 1993* and the *Native Title Act 1993* (Cwlth); and
- (b) if the *Native Title (Queensland) Act 1993* or the *Native Title Act 1993* (Cwlth) states a process in relation to the taking or payment that is in addition to the process stated in the *Acquisition of Land Act 1967*, the additional process also applies to the taking or payment; and
- (c) the Land and Resources Tribunal is the independent body for the

*State Development and Public Works
Organisation Act 1971*

Native Title Act 1993 (Cwlth), section 24MD(6B).

(2) For a proceeding the tribunal must decide under subsection (1)(c), the tribunal is constituted as a standard panel under the *Land and Resources Tribunal Act 1999*, section 39(2)(a).

Vesting of land taken

79.(1) Land taken by the Coordinator-General shall, according as the proclamation whereby it is taken or a later proclamation provides, vest in the Crown, the Coordinator-General, an instrumentality representing the Crown, a local body, or any other person whomsoever.

(2) The Governor in Council may, by order in council made upon the recommendation of the Minister, divest any land from the Coordinator-General and vest the same in the Crown, an instrumentality representing the Crown, a local body, or other person whomsoever.

(3) Land taken by the Coordinator-General and vested in the Crown by the proclamation whereby it is taken shall be and remain Crown land until the same is, according to the works or purposes for which it is taken, dealt with as prescribed.

Power to use, lease or dispose of land

79A. The Coordinator-General may, to give effect to a purpose mentioned in section 78, do any or all of the following—

- (a) lease, or agree to lease, to any person land taken, or proposed to be taken, under section 78;
- (b) sign an agreement with any person to carry out, own, operate and maintain any works or development on land taken, or proposed to be taken, under section 78;
- (c) sign an agreement with any person in relation to works or development for land taken, or proposed to be taken, under section 78;
- (d) sell land taken, or agree to sell land to be taken, under section 78.

Payment of costs of taking land and compensation

80.(1) The Governor in Council may, by the proclamation whereby land is taken by the Coordinator-General or subsequently, by notification published in the gazette, specify by whom the costs of taking the land and the compensation payable therefor are to be paid and thereupon such costs and compensation shall be payable to the Coordinator-General by the person, instrumentality or local body so specified.

(2) An amount payable on account of such costs or compensation that is not paid to the Coordinator-General within 3 months after it becomes payable or after the amount of such costs or compensation is established (whichever last occurs) may be recovered by the Coordinator-General in a court of competent jurisdiction as a debt due and payable to the Coordinator-General by the person, instrumentality or local body by whom it is payable.

Power of Governor in Council to alienate land to Coordinator-General

81. The power conferred on the Governor in Council by the *Land Act 1962*,⁶ in the name of Her Majesty, to grant in fee simple, or demise for a term of years or in perpetuity any Crown land within Queensland includes power to make such a grant or demise to the Coordinator-General of such land pursuant to agreement between the Coordinator-General and the Governor in Council who is hereby there unto authorised.

Disposal of land not required for purpose of acquisition

82. If land taken by the Coordinator-General and held by the Coordinator-General, or any part of it, is not required for or in connection with the purpose for which it was taken the land not required shall be dealt with in manner directed by the Governor in Council by order in council.

⁶ Now see *Land Act 1994*.

*State Development and Public Works
Organisation Act 1971*

Proof of requirement of land

83. A writing purporting to be a certificate of the Coordinator-General that land therein specified and taken or acquired by the Coordinator-General was, at the time of its taking or acquisition, required by the Coordinator-General or by any person, instrumentality, or local body for a purpose therein specified shall be admissible in any proceeding as conclusive evidence of the matters contained therein.

Power of Coordinator-General to negotiate transfer of works undertaken by the Coordinator-General

84.(1) When the Coordinator-General is satisfied that works undertaken by the Coordinator-General as authorised works have been completed in accordance with the plans and specifications therefor, or have attained such a stage as to be available for use for the purpose for which they were undertaken the Coordinator-General may, subject to this section, negotiate and enter into agreement—

- (a) with any person or instrumentality representing the Crown; or
- (b) with any local body;

that is authorised or required to undertake works of a similar nature for the acquisition, management, operation and control of the authorised works by such person, instrumentality, or local body (the “**transferee**”).

(2) The Minister shall submit to the Governor in Council particulars of an agreement negotiated between the Coordinator-General and the transferee and no such agreement shall be entered into or, being entered into, have any effect until its terms are approved by an order in council.

(3) The transferee is hereby authorised to acquire, manage, operate and control the authorised works pursuant to an agreement relating thereto approved by the Governor in Council and the same shall be deemed to be a function of the transferee under the Act under which he, she or it, as the case may be, is appointed or constituted and, where the transferee is a local government, shall be deemed to be a function of local government.

(4) From time to time the Coordinator-General may certify what land vested in the Crown is included in or required for authorised works to which an agreement made pursuant to this section relates and for the

*State Development and Public Works
Organisation Act 1971*

purpose of securing such land to the transferee the Governor in Council is hereby empowered to grant in fee simple or demise on an appropriate leasehold tenure or set apart and reserve the land to which the certificate relates.

(5) Every such grant or demise shall be made to the transferee without competition but otherwise shall be subject to the *Land Act 1962*.⁷

Authorised works that are road traffic facilities

85.(1) Where any authorised works are a road traffic facility within the meaning of the *Tolls on Privately Constructed Road Traffic Facilities Act 1931*⁸ the Governor in Council may, by the order in council whereby the Governor in Council authorises the Coordinator-General to undertake the works or by a subsequent order in council, direct that the Coordinator-General shall undertake the works as a road traffic facility under that Act.

(1A) Where such direction is given the Coordinator-General shall be, in relation to the authorised works to which the direction relates, the owner within the meaning of that Act.

(2) Where a direction is given pursuant to subsection (1) the Governor in Council may, by the order in council whereby the Governor in Council authorises the Coordinator-General to undertake the works in question or by a subsequent order in council—

- (a) direct that the provisions, specified by the Governor in Council, of the *Tolls on Privately Constructed Road Traffic Facilities Act 1931*⁸ shall not apply in respect of the authorised works in question;
- (b) direct that the provisions, specified by the Governor in Council, of that Act shall apply in respect of the authorised works in question in a modified form particularised in the order in council.

(3) Where authorised works are undertaken as a road traffic facility

⁷ Now see *Land Act 1994*.

⁸ The *Tolls on Privately Constructed Road Traffic Facilities Act 1931* was repealed by 1991 No. 53 s 2(1) sch 1.

*State Development and Public Works
Organisation Act 1971*

pursuant to subsection (1) the provisions of the *Tolls on Privately Constructed Road Traffic Facilities Act 1931*⁹ shall apply in respect thereof save to the extent that they are excluded pursuant to subsection (2)(a) and, where the Governor in Council has directed as provided in subsection (2)(b), shall apply in the modified form as so particularised.

Undertaking private works

86.(1) The Government may enter into an agreement with any person that private works agreed on by them shall be undertaken by the Coordinator-General on such terms and conditions as are provided in the agreement.

(2) The Governor in Council may, by order in council, authorise the Coordinator-General to undertake works agreed by the Government (whether under subsection (1) or otherwise) to be undertaken by the Coordinator-General and the Coordinator-General is hereby empowered to undertake those works as authorised works subject to and in accordance with the order in council and the material agreement.

Powers in respect of land for purposes of works

87.(1) In connection with the undertaking by the Coordinator-General of authorised works or in connection with any other works undertaken or to be undertaken pursuant to authority conferred under this Act, the Coordinator-General or his or her delegate, an officer or employee of the Coordinator-General, or any person authorised in writing by the Coordinator-General or his or her delegate may—

- (a) enter upon any land;
- (b) on any land, make any inspection, investigation, valuation or survey, or take levels;
- (c) dig and bore into any land to ascertain the nature of the soil or substrata thereof, and set out thereon the lines of any works;

⁹ The *Tolls on Privately Constructed Road Traffic Facilities Act 1931* was repealed by 1991 No. 53 s 2(1) sch 1.

*State Development and Public Works
Organisation Act 1971*

- (d) affix to or set up on any land trigonometrical stations, survey pegs, marks or poles and, from time to time, inspect, alter, remove, reinstate and repair the same;
- (e) occupy any land;
- (f) on and from any land occupied by or on behalf of the Coordinator-General—
 - (i) construct or place plant, machinery, equipment or goods;
 - (ii) erect workshops, sheds and other buildings, including buildings for providing housing and other amenities for officers or employees and their dependants;
 - (iii) make roads, cuttings and excavations;
 - (iv) manufacture and work materials of all kinds;
 - (v) deposit clay, earth, gravel, sand, stone, timber, wood, and other material;
 - (vi) take clay, earth, gravel, sand, stone, timber, wood, and other material;
 - (vii) demolish, destroy, and remove plant, machinery, equipment, goods, workshops, sheds, buildings or roads.

(2) The power to enter land conferred by subsection (1) includes power—

- (a) to enter and re-enter the land from time to time;
- (b) to remain upon the land for such time as is necessary to achieve the purpose of the entry;
- (c) to take such assistants, vehicles, materials, equipment and things as are necessary to achieve the purpose of the entry.

(3) Where practicable, not less than 7 days notice in writing shall be given to the occupier or, if there is no occupier, the owner of land of the intention to enter thereon.

(4) Where entry to land is sought to be or has been made pursuant to authority in writing of the Coordinator-General or his or her delegate, the authority shall be produced and shown to the owner or occupier of the land upon his or her demand.

Offences of interference and wilful obstruction

88. A person shall not—

- (a) destroy, mutilate, deface, remove, or alter the position of any trigonometrical station, survey peg, mark, or pole affixed to or set up on land pursuant to this Act save under the authority of the Coordinator-General or his or her delegate;
- (b) wilfully obstruct, or attempt to obstruct any person in the exercise by the person of a power conferred on the person by section 87.

Powers in respect of water for purposes of works

89. The Coordinator-General or his or her delegate expressly authorised in that behalf may—

- (a) raise or lower the level of the water in any body of water;
- (b) take, impound, divert or use, either permanently or temporarily the water in any body of water;

to the extent to which the Coordinator-General or, as the case may be, his or her delegate thinks it necessary for the purpose of or in connection with undertaking—

- (c) authorised works for or connected with the supply of water;
- (d) works authorised under this Act to be undertaken for or connected with the supply of water.

Compensation for exercise of power under ss 87 and 89

90.(1) A person who claims to have suffered damage resulting from an exercise of power under section 87 or 89 may apply for and be awarded compensation as provided for in this section.

(2) Every application for compensation on account of such damage shall be made and dealt with in the manner prescribed by the *Acquisition of Land Act 1967* in relation to applications for compensation made under that Act and the entitlement to such compensation (including right of appeal in respect thereof) and the assessment of such compensation shall be as prescribed by that Act in so far as the provisions of that Act are appropriate

*State Development and Public Works
Organisation Act 1971*

to a claim for compensation made on account of such damage and subject always to the provisions of this section.

(3) Compensation that may be payable on a claim made on account of damage resulting from an exercise of power under section 87 may include compensation in respect of—

- (a) damage of a temporary nature as well as of a permanent nature;
- (b) the taking of clay, earth, gravel, sand, timber, wood, and other material;

but shall not in any case exceed the amount that would have been payable under the *Acquisition of Land Act 1967* had the land in question been taken by the Coordinator-General.

(4) The assessment of compensation that may be payable on a claim made on account of damage resulting from an exercise of power under section 89 is subject to the following conditions—

- (a) compensation is not payable for the taking, impounding, diversion or use, permanently or temporarily, of water from any body of water;
- (b) compensation is not payable on account of a diminution or deterioration in a supply of water to any person unless it—
 - (i) deprives the person of a supply of water theretofore enjoyed by the person lawfully;
 - (ii) is the direct result of the works for or in connection with which the power was exercised;
 - (iii) will be permanent in its duration;
- (c) where the damage appears to be of a permanent or recurrent nature—an amount of compensation may be agreed on or awarded on account of damage sustained up to the date of the application for compensation and to be sustained thereafter in full satisfaction of the claim and in such case no further compensation shall be payable on account of future such damage.

(5) Where at the time when an application is made for compensation on account of damage resulting from an exercise of power under section 87 or 89 the works for or in connection with which the power is exercised are

*State Development and Public Works
Organisation Act 1971*

not completed a member of the Land Court may, on the application of the Coordinator-General, order that the matter of the application for compensation be deferred until the works are completed or for a time limited in the order and thereupon no further proceeding shall be had on the application for compensation (save an application hereinafter in this subsection referred to) until the completion of the works or, as the case may be, the expiration of the time so limited unless a member of the Land Court on the application of the applicant for compensation otherwise orders.

Powers in respect of works on foreshore and under waters

91.(1) The Governor in Council may, by order in council, authorise the Coordinator-General to undertake works in, on, over, through or across any foreshore or land lying under Queensland waters and may, by that order in council or by a subsequent order in council—

- (a) authorise the Coordinator-General to take from the foreshore or from such land sand, stone, gravel and other material and to use the same for the works specified in the order in council;
- (b) direct that the provisions, specified in the order in council, of the *Harbours Act 1955*¹⁰ shall not apply in respect of the exercise of authority conferred on the Coordinator-General pursuant to this subsection.

(1A) The Coordinator-General may exercise an authority conferred on the Coordinator-General pursuant to subsection (1) in accordance with the order in council and subject to this section.

(1B) The provisions of the *Harbours Act 1955* shall apply according to their terms in respect of an exercise of authority conferred on the Coordinator-General pursuant to subsection (1) save such of those provisions as the Governor in Council directs shall not so apply.

(2) In this section—

“Queensland waters” means—

- (a) the waters of any harbour within the meaning of the *Harbours Act 1955*; and

¹⁰ See *Transport Infrastructure Act 1994*, section 236.

*State Development and Public Works
Organisation Act 1971*

- (b) the waters of the territorial sea of Australia that are adjacent to Queensland; and
- (c) the waters of the sea on the landward side of the territorial sea adjacent to Queensland that are not within the limits of Queensland.

Division 6—Investigating potential infrastructure facility

Purpose of div 6

91A. The purpose of this division is—

- (a) to allow persons authorised by the Coordinator-General to enter land to investigate the land’s potential and suitability for the development of an infrastructure facility mentioned in section 78(1)(f) before the powers under the section are exercised; and
- (b) to safeguard the interests of the owner of the land.

Definitions for div 6

91B. In this division—

“associated person”, of an investigator, means any of the following—

- (a) if the investigator is a corporation—the corporation’s chief executive, secretary or directors;
- (b) the investigator’s employees or partners who are individuals;
- (c) a person who is an agent of, or contractor for, the investigator, and engaged in writing for the investigator’s authority;
- (d) employees of an agent or contractor mentioned in paragraph (c);
- (e) if a person mentioned in paragraph (c) is a corporation—the corporation’s chief executive, secretary, directors or employees.

“investigator” means a person who holds an investigator’s authority.

“investigator’s authority” means an investigator’s authority granted under

*State Development and Public Works
Organisation Act 1971*

this division.

“owner”, of land, includes a person who to the knowledge of the Coordinator-General is an occupier of the land.

How to apply for investigator’s authority

91C.(1) This section applies if the person proposing the infrastructure facility can not successfully negotiate entry to the land with the owner.

(2) The person may apply to the Coordinator-General for an investigator’s authority for the land.

(3) The applicant must give the Coordinator-General the following in support of the application—

- (a) details of the proposed facility, including the land on which the facility is proposed to be located;
- (b) the likely demand for the services associated with the proposed facility;
- (c) advice as to how the proposed facility would satisfy an identified need;
- (d) details of the applicant’s financial and technical capacity to implement the proposed facility;
- (e) details of the steps the applicant has taken, or tried to take, to satisfy its obligations under subsection (1);
- (f) any other information the Coordinator-General considers is necessary to assess the application.

(4) The application must be in writing and state the following information—

- (a) the land intended to be entered under the authority;
- (b) the purpose for which the authority is sought;
- (c) details of the nature of the activities proposed to be conducted on the land;
- (d) the period for which the authority is sought.

*State Development and Public Works
Organisation Act 1971*

(5) The Coordinator-General must advise the owner—

- (a) that an application for an authority has been made for the land;
and
- (b) the powers a person granted an authority may exercise under this division.

Additional information about application

91D.(1) Before deciding the application, the Coordinator-General—

- (a) must consult with the owner about the proposed entry to the land;
and
- (b) may require the applicant to give additional information about the proposed entry.

(2) The Coordinator-General may reject the application if the applicant fails, without reasonable excuse, to give the additional information within a stated reasonable time of not less than 28 days.

Granting authority

91E.(1) The Coordinator-General may—

- (a) grant an investigator's authority, with or without conditions; or
- (b) refuse to grant the authority.

(2) If the Coordinator-General refuses to grant the authority, the Coordinator-General must give the applicant written reasons for the refusal.

(3) Without limiting subsection (1)(a), a condition may require the lodging of a bond or security deposit with the Coordinator-General.

(4) The authority must be only for the part of the land the Coordinator-General is satisfied is reasonably necessary for conducting the investigations.

Investigator's authority

91F.(1) The investigator's authority must be in writing stating the

*State Development and Public Works
Organisation Act 1971*

following—

- (a) the land to which it applies;
- (b) the purpose for which it is granted;
- (c) when it expires;
- (d) any conditions imposed on the authority.

(2) The authority authorises the investigator and associated persons—

- (a) to enter and re-enter land the subject of the authority for investigating the land's potential and suitability for the construction of the infrastructure facility; and
- (b) to the extent reasonably necessary or convenient for the purpose—
 - (i) to do anything on the land; or
 - (ii) to bring anything onto the land; or
 - (iii) to temporarily leave machinery, equipment or other items on the land.

Examples of things authorised by the authority—

1. To conduct surveys, investigate and take samples.
2. To clear vegetation, or otherwise disturb the land, to the extent reasonably necessary.
3. To construct temporary access tracks using the land or using materials brought onto the land.

(3) It is declared that—

- (a) the grant of the authority is not an indication of a commitment or approval by the State, the Coordinator-General or any other person to any proposal, and in particular, does not commit the State to acquiring any land for construction of the infrastructure facility; and
- (b) a person is not an employee or agent of the State merely because the person is an investigator.

(4) The investigator or associated person must comply with each condition of the authority, unless the investigator or associated person has a

reasonable excuse.

Maximum penalty for subsection (4)—200 penalty units.

What investigator must do before land is entered for the first time

91G.(1) Before land is entered for the first time under the investigator's authority, the investigator must give a written notice to the owner of the land together with a copy of the authority.

(2) The notice must state the following—

- (a) the investigator has been granted the investigator's authority;
- (b) the things the investigator and associated persons of the investigator are authorised to do under the authority;
- (c) a general outline of the things intended to be done on the land, including the construction of any temporary access track;
- (d) the approximate period during which the land is to be entered under the authority;
- (e) the rights of the owner under section 91K or 91L for the rectification of, or compensation for, any loss or damage suffered during the investigation;
- (f) the grant of the authority is not an indication of a commitment or approval by the State, the Coordinator-General or any other person in relation to any proposal, and in particular, does not commit the State to acquiring any land for construction of the infrastructure facility.

(3) The investigator or associated person may enter onto land only if—

- (a) the owner of the land gives written consent to the entry; or
- (b) at least 7 days have passed since the notice was given.

Investigator to issue associated person with identification

91H.(1) Before the investigator allows an associated person to act under the investigator's authority, the investigator must issue the associated person with identification.

*State Development and Public Works
Organisation Act 1971*

Maximum penalty—10 penalty units.

(2) The identification must—

- (a) state the names of the investigator and the person to whom the identification is issued; and
- (b) indicate that, for this Act, the person is associated with the holder of the authority; and
- (c) state the capacity in which the associated person is an associated person; and
- (d) be signed by or for the investigator; and
- (e) be signed by or for the associated person; and
- (f) state its expiry date.

(3) A person who stops being an associated person of an investigator must return the person's identification issued under subsection (1) to the investigator as soon as practicable, but within 21 days, after the person stops being an associated person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(4) Subsections (5) and (6) apply if a person who claims to be, or appears to be, the owner of the land asks an individual who has entered, is entering or is about to enter land under the authority—

- (a) for identification; or
- (b) about the person's authority to enter the land.

(5) If the request is made of an investigator, the investigator must immediately state the investigator's name and show the person a copy of the authority.

Maximum penalty—10 penalty units.

(6) If the request is made of an associated person of the investigator, the associated person must immediately state his or her name and show the other person the identification issued to the associated person under subsection (1).

Maximum penalty for subsection (6)—10 penalty units.

*State Development and Public Works
Organisation Act 1971*

Pretending to be an investigator etc.

91I. A person must not pretend—

- (a) to be an investigator; or
- (b) to be an associated person of an investigator.

Maximum penalty—80 penalty units.

Investigator to take care in acting under authority

91J. The investigator and all associated persons of the investigator—

- (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the land's owner; and
- (b) may do anything necessary or desirable to minimise the damage or inconvenience.

Rectification of damage by investigator

91K.(1) The owner of the land may, by written notice given to the investigator, require the investigator, within a reasonable time after the investigator has finished investigating the land under the authority, to rectify loss or damage suffered by the owner arising out of—

- (a) the entry onto the land; or
- (b) any use made of the land; or
- (c) anything brought onto the land; or
- (d) anything done or left on the land in connection with the investigator's authority.

(2) If the loss or damage mentioned in subsection (1) is not rectified or can not be rectified, the owner of the land may, by written notice given to the investigator, claim compensation for the loss or damage not rectified.

(3) A notice under subsection (1) or (2) must be given—

- (a) within 1 year after the loss or damage happened; or
- (b) at a later time allowed by the Land Court.

*State Development and Public Works
Organisation Act 1971*

- (4) The claim for compensation may be made—
- (a) whether or not the act or omission giving rise to the claim was authorised under the authority; and
 - (b) whether or not the investigator took steps to prevent the loss or damage; and
 - (c) even though the loss or damage was caused, or contributed to, by an associated person.

Compensation payable by investigator

91L.(1) The investigator must compensate the owner of the land for the loss or damage the owner has suffered and that has not been rectified.

- (2) The amount of compensation is—
- (a) the amount agreed between the parties; or
 - (b) if the parties can not agree on the amount within a reasonable time—the amount decided by the Land Court.

Release of bond or security deposit

91M.(1) This section applies if, under a condition of an investigator's authority, a bond or security deposit is required to be lodged with the Coordinator-General.

- (2) The Coordinator-General may keep the bond or security deposit until—
- (a) if the owner of the land does not give a notice of damage within the prescribed time—1 year after the investigator's authority expires; or
 - (b) if the owner of the land gives a notice of damage within the prescribed time and the Coordinator-General is satisfied the damage or loss has been repaired or rectified or compensation for the damage or loss has been paid to the owner—the damage or loss has been repaired or rectified or the compensation has been paid.

*State Development and Public Works
Organisation Act 1971*

(3) If the owner of the land gives a notice of damage within the prescribed time and the Coordinator-General is satisfied the damage or loss has not been repaired or rectified or compensation for the damage or loss has not been paid to the owner the Coordinator-General—

- (a) may use the bond or security deposit to repair or rectify the damage or loss or pay compensation to the owner; and
- (b) must pay the balance, if any, to the investigator.

(4) In this section—

“**notice of damage**” means a notice under section 91K.

“**prescribed time**”, for giving a notice of damage arising out of the entry onto land by an investigator, means 1 year after the investigator was last on the land.

PART 7—FINANCE PROVISIONS

Expenses of works

92.(1) When works are undertaken by the Coordinator-General or a project board—

- (a) for the benefit of a local body or a department of the Government;
- (b) for the benefit of a particular person;
- (c) upon the default of or on behalf of a local body;

the Governor in Council may, by order in council, require the local body or department or person concerned to pay to the Treasurer, at such time or times and on such terms and conditions as specified in the order the whole or a proportion, specified in the order, of the costs and expenses incurred by or on behalf of the Coordinator-General or project board in connection with the works.

(2) Where there is more than 1 local body or person concerned the Governor in Council may apportion the costs and expenses between or among them in such manner as the Governor in Council thinks just and

*State Development and Public Works
Organisation Act 1971*

may require payment of each local body or person accordingly.

(3) Moneys required pursuant to this section to be paid and unpaid as required may be recovered by the Treasurer—

- (a) by action in any court of competent jurisdiction as a debt due and payable to the Treasurer; or
- (b) by the exercise of all rights and remedies had by the Treasurer pursuant to the *Local Government Act 1936*¹¹ in respect of a Treasury loan due and repayable to the Treasurer by a local government and unpaid.

Expenditure generally on work by Coordinator-General

93. Where for work of a certain nature, an Act provides for expenditure from any fund or Parliament has appropriated money, moneys may be expended in respect of work of that nature undertaken by the Coordinator-General or the Coordinator-General's delegate.

Subsidies or Treasury loans for works

94. The Treasurer may, with the approval of the Governor in Council and subject to all necessary appropriations by Parliament, expend moneys in respect of works referred to in section 92(1), whether by way of grant of subsidy or of Treasury loan, as if such works were being undertaken by a local government.

Borrowings etc. by Coordinator-General

95.(1) Subject to this Act, the Coordinator-General may borrow or raise money or make financial arrangements—

- (a) by the sale of debentures, bonds or inscribed stock;
- (b) in such other way as is approved by the Treasurer;
- (c) partly in one way and partly in another way or other ways specified in paragraph (a) or approved pursuant to paragraph (b).

¹¹ Now see *Local Government Act 1993*.

*State Development and Public Works
Organisation Act 1971*

(2) Before entering into negotiations to borrow or raise money or make financial arrangements pursuant to subsection (1) the Coordinator-General shall obtain the sanction of the Treasurer authorising the Treasurer to enter upon such negotiations and, for this purpose, shall furnish the Treasurer with such information as the Treasurer requires.

(3) The Coordinator-General shall not borrow or raise money or make financial arrangements pursuant to negotiations sanctioned by the Treasurer unless the authority of the Governor in Council thereto is first obtained.

(3A) Such authority, if given, shall be given by way of order in council upon such terms and conditions as the Governor in Council thinks fit.

(4) The Coordinator-General shall be a local body under and within the meaning of the *Local Bodies' Loans Guarantee Act 1923*,¹² the provisions whereof (other than section 7) shall, subject to such modifications as the Governor in Council prescribes (whether generally or in respect of a particular borrowing, raising or arrangement) apply and extend accordingly.

(5) Where pursuant to the *Local Bodies' Loans Guarantee Act 1923*¹² the Treasurer on behalf of the Government guarantees the amount or any part of the amount of any borrowing or raising or the carrying out of any terms and conditions of any financial arrangement made pursuant to subsection (1) (with interest at the agreed rate), all moneys payable by the Treasurer pursuant to the guarantee shall be a charge upon and be paid out of consolidated fund which is hereby to the necessary extent appropriated accordingly.

Application of moneys

96.(1) All moneys borrowed or raised by the Coordinator-General shall be expended for the purpose for which the Coordinator-General was authorised to borrow or raise the same and not otherwise.

(2) If any amount of moneys borrowed or raised remains unexpended upon the completion of the purpose for which the moneys were borrowed or raised such amount shall be applied as the Treasurer directs.

¹² Now see *Statutory Bodies Financial Arrangements Act 1982*.

*State Development and Public Works
Organisation Act 1971*

Debentures, bonds and stock

97.(1) All debentures, bonds and inscribed stock issued to secure moneys borrowed by the Coordinator-General—

- (a) shall, subject to this Act, be issued in such series, at such times and places in or outside the State, and in such manner as the Coordinator-General thinks fit;
- (b) shall bear interest at the rate and be redeemable at such date or dates and at such place or places in or outside the State as provided for in the order in council referred to in section 95(3);
- (c) may, in the case of debentures and bonds with the consent of the holder thereof or in the case of inscribed stock with the consent of the registered owner, be paid off at any time previous to the due date thereof at not more than the amount of the principal sum remaining unpaid at the time or, with the consent of the Governor in Council, at a premium, with interest thereon to the date of payment only.

(2) Interest secured by debentures, bonds or inscribed stock shall be payable at such times and at such place or places in or outside the State as provided for in the order in council referred to in section 95(3) made in respect of the loan to which the debenture, bond or stock relates.

(3) Every debenture issued to secure moneys borrowed by the Coordinator-General—

- (a) shall be sealed with the seal of the Coordinator-General and, so sealed, shall be taken to have been duly issued;
- (b) shall be numbered consecutively so that no 2 debentures in one and the same series shall at any time bear the same number;
- (c) shall have set forth therein the places and times at which the principal sum and interest are payable;
- (d) may, at the option of the lender, have annexed thereto a coupon for each payment to become due, whether of principal or interest or both.

(4) Every debenture and, in the case of a debenture with coupons annexed, every coupon shall, unless the Governor in Council has otherwise

*State Development and Public Works
Organisation Act 1971*

provided in the order in council whereby the loan evidenced by the debenture was authorised, be transferable by delivery and payment to the person in possession of the debenture or coupon of the amount named therein shall discharge the Coordinator-General from all liability in respect of that payment due under the debenture.

(5) When a debenture or coupon is not transferable by delivery that fact shall be expressly stated on the face thereof.

Entitlement of holder of debenture etc.

98.(1) In the case of a debenture issued with coupons, the holder of a coupon, whether the same be separated from the debenture or not, shall be entitled to receive payment from the Coordinator-General of the amount named therein upon presentation on or after the due date for payment thereof at the place where the same is expressed to be made payable.

(2) In the case of a debenture issued without coupons, the lender or, in the event of a transfer of the debenture, the transferee for the time being shall, subject to this subsection, be entitled to receive payment from the Coordinator-General in respect of principal or interest or both in accordance with the terms and conditions of the debenture.

(3) A transferee with respect to whom the Coordinator-General has not been given notice as prescribed shall not be entitled to receive and the Coordinator-General shall not be liable to make to such transferee any payment in respect of any debenture issued without coupons save under attachment by process of law and then only to the extent of moneys due and payable to the transferee under the debenture and unpaid by the Coordinator-General to the lender or to a prior transferee.

(4) The entitlement of a transferee with respect to whom the Coordinator-General has been given notice as prescribed to receive any payment in respect of a debenture issued without coupons shall be subject to any payment which, having become due and payable under such debenture before the Coordinator-General was given such notice, was made by the Coordinator-General to the lender or a prior transferee.

(5) In subsections (3) and (4)—

“notice as prescribed” means a notice in writing signed by the transferor

*State Development and Public Works
Organisation Act 1971*

and transferee and verified to the satisfaction of the Coordinator-General.

Status of debenture, bond or stock as investment and a security

99.(1) The Coordinator-General or other borrower of moneys under the authority of this Act or an officer, servant or agent of the Coordinator-General or other borrower shall not receive and shall be deemed to have not received notice of any trust express, implied or constructive in relation to any debentures, bonds or stock issued under the authority of this Act, and the Coordinator-General or other borrower or any such officer, servant or agent shall not be bound to see to the execution of any trust to which any such debentures, bonds or stock may be subject.

(2) A person advancing money to the Coordinator-General or other borrower of moneys under the authority of this Act and receiving in consideration therefor any debentures, bonds or stock duly issued shall not be bound to enquire whether the issue of such debentures, bonds or stock was in fact duly authorised or into the application of the money so advanced or be in any way responsible for the non-application or misapplication thereof.

Brokerage

100.(1) The Coordinator-General may pay moneys by way of brokerage in relation to any borrowing or raising of money or the making of financial arrangements which the Governor in Council has authorised.

(2) However, no moneys shall be paid by the Coordinator-General by way of brokerage unless the Treasurer has approved of the payment of brokerage, which approval may be given by the Treasurer subject to such terms and conditions as the Treasurer thinks fit.

(3) Section 14 of the *Money Lenders Act 1916*¹³ shall not apply or extend to brokerage which the Coordinator-General is authorised by this section to pay and which brokerage has been approved by the Treasurer and is agreed

¹³ Now see *Credit Act 1987*.

*State Development and Public Works
Organisation Act 1971*

to be paid by the Coordinator-General subject to the terms and conditions (if any) imposed by the Treasurer.

Moneys recoverable as a debt

101. If the Coordinator-General or other borrower of moneys under the authority of this Act makes default in making a payment, whether of principal or interest, to the holder of any debenture or coupon or bond issued, or to the owner of any stock inscribed under the authority of this Act, that holder or owner may recover the amount thereof as a debt by action against the Coordinator-General or, as the case may be, the borrower other than the Coordinator-General in any court of competent jurisdiction.

Regulations relating to loans etc.

101A. The power conferred on the Governor in Council by this Act to make regulations includes power to make regulations relating to the borrowing or raising of money or the making of any financial arrangement under the authority of this Act and to the repayment of moneys borrowed or raised and the payment or repayment of moneys pursuant to any financial arrangement and, without limiting the generality of the foregoing power—

- (a) prescribing the form of and the manner of issuing debentures, bonds or inscribed stock, providing for the keeping and inspection of and the taking of copies of or extracts from the register of debentures and bonds or from any stock ledgers and providing for lost or defaced debentures, coupons, bonds or stock certificates and the destruction of discharged debentures, coupons, bonds or stock certificates;
- (b) prescribing matters relating to the raising of loans outside the State;
- (c) providing for sinking funds and other methods for the repayment of moneys borrowed, providing for and appointing trustees of a debt redemption fund with respect thereto and prescribing the powers, functions and duties of such trustees and regulating and controlling all or any matters with respect to such debt redemption funds, trustees, sinking funds or other methods aforesaid.

PART 8—MISCELLANEOUS PROVISIONS

Division 1—Specific powers and duties of Coordinator-General

Power to contract

102.(1) The Coordinator-General may negotiate and enter into contracts for the performance of the Coordinator-General's functions and duties or the exercise of the Coordinator-General's powers imposed or conferred on the Coordinator-General under any Act.

(2) A contract entered into by the Coordinator-General shall be made, varied or discharged as follows—

- (a) a contract that, if made between private persons, would be required by law to be in writing and under seal, shall be made in writing under the seal of the Coordinator-General and shall be varied or discharged in like manner;
- (b) a contract that, if made between private persons, would be required by law to be in writing signed by the parties, shall be made under the hand of the person who holds the office of Coordinator-General or the Coordinator-General's delegate, and shall be varied or discharged in like manner;
- (c) a contract that, if made between private persons, would be valid in law though not reduced to writing, may be made without writing by the Coordinator-General or the Coordinator-General's delegate, and may be varied or discharged in like manner.

Power to compound

103. The Coordinator-General may compound, for such sum or other consideration as the Coordinator-General thinks fit, with any party to a contract with the Coordinator-General or with any person by or against whom an action may be or has been commenced against or by the Coordinator-General.

*State Development and Public Works
Organisation Act 1971*

Power to obtain material from watercourse

104. The Coordinator-General may in and from any river, creek, stream, or watercourse search for, dig, raise, gather, take and carry away clay, earth, gravel, sand, stone or other material required by the Coordinator-General for works undertaken by the Coordinator-General.

Power as to roads

105.(1) Where in connection with the undertaking of works by the Coordinator-General or the implementation of an approved development scheme a re-arrangement of roads is required to be made the Governor in Council may, on the recommendation of the Coordinator-General, by order in council close any existing road or part of an existing road that in the Governor in Council's opinion is no longer required or will not be required upon the re-arrangement whereupon, notwithstanding any Act or law to the contrary—

- (a) the dedication of that road or part as a road shall cease;
- (b) the land comprised in such road or part shall, as the Governor in Council in the order in council directs, vest in the Coordinator-General for an estate in fee simple or in the Crown as Crown land and may be used for the purposes of the works or development scheme concerned or be disposed of as the Governor in Council directs.

(1A) A grant of land made to the Coordinator-General to give effect to an order in council made under subsection (1) shall be subject to such reservations and conditions as are prescribed by the *Land Act 1962*.¹⁴

(2) The Coordinator-General may—

- (a) make surveys for new roads;
- (b) open and construct new roads;
- (c) increase the width of a road;
- (d) raise or lower the soil of a road;

¹⁴ Now see *Land Act 1994*.

*State Development and Public Works
Organisation Act 1971*

- (e) close or partially close temporarily a road;
- (f) divert a road.

Power to exclude or divert traffic

106.(1) Where the Coordinator-General is satisfied that the proper performance of the Coordinator-General's functions or duties or exercise of the Coordinator-General's powers requires it, the Coordinator-General may—

- (a) temporarily exclude from any road, bridge, bridge approaches or any part thereof, all traffic or traffic of a type nominated by the Coordinator-General;
- (b) temporarily divert all traffic, or traffic of a type nominated by the Coordinator-General, upon any road, bridge or bridge approaches.

(1A) Wherever it is practicable, notice of intention to exercise a power conferred by subsection (1) shall be given by advertisement published in a newspaper that circulates in the locality concerned.

(2) A person shall not fail to comply with a direction given or notice erected in the exercise of a power conferred by this section.

Power to manage reserves and other lands

107.(1) The Governor in Council may, by proclamation published in the gazette, place under the control and management of the Coordinator-General any land reserved and set apart for a public purpose, any cemetery, park, foreshore or other land, and any building, structure, or other thing that has been provided for out of moneys appropriated by Parliament.

(2) Upon publication of the proclamation—

- (a) the land, building, structure or other thing concerned shall vest in the Coordinator-General and, in the case of land, for such estate or interest as is specified in the proclamation; and
- (b) the control and management of the land, building, structure or other thing concerned shall be a function of the Coordinator-General under this Act and a trust or provision that

*State Development and Public Works
Organisation Act 1971*

then regulates the management, control or use thereof shall cease to operate.

(2A) The registrar of titles and any other person charged with the duty of recording in a public register dealings affecting the land concerned shall, on the request of the Coordinator-General and production of sufficient notification of the making of the proclamation, make in the register that relates to the instrument of title to the land all entries necessary to give effect to the proclamation and the provisions of subsection (2).

(3) The Coordinator-General may, according to the nature of that which the proclamation vests in the Coordinator-General and the purpose for which it is so vested, do all such things as the Coordinator-General thinks fit to effect that purpose and subject thereto to improve the land, building, structure or thing vested in the Coordinator-General.

Power to encroach upon roads and lands for purposes of works

108. The Coordinator-General may cause to be laid, led or carried under, on, through or over—

- (a) any road;
- (b) any land other than a road, upon payment of just compensation to the owner and occupier thereof;

all tracks, lines, pipes, conduits, and material of every description required for the proper functioning of works.

Duty to take care at work-sites and power to prevent traffic

109.(1) During the progress of works undertaken by the Coordinator-General the Coordinator-General—

- (a) shall take proper precautions against accident and to prevent injury to land adjoining the site of the works or to buildings and structures on such land;
- (b) shall cause the site of the works to be adequately lighted and guarded during the hours of darkness;
- (c) may cause such barricades to be erected across or in any road as

*State Development and Public Works
Organisation Act 1971*

the Coordinator-General thinks fit and thereby prevent the passage of traffic.

(2) A person shall not take down, remove or alter the position of any barricade erected by or on behalf of the Coordinator-General or extinguish or move any light placed by the Coordinator-General or on his or her behalf save under the authority of the Coordinator-General.

Division 2—Provisions concerning legal liability of Coordinator-General

Service on Coordinator-General

111. A notice, order, process, summons, or document of any kind that is to be served on the Coordinator-General shall be—

- (a) delivered to the Coordinator-General personally; or
- (b) sent by prepaid post addressed to the Coordinator-General;

and in either case shall be taken to have been served when it is received by the Coordinator-General.

Limited liability of Coordinator-General for injury to person or property

112.(1) Liability shall not attach to the Coordinator-General, and an action shall not lie against the Coordinator-General, in respect of anything done or omitted to be done by the Coordinator-General or by his or her contractors, officers or workers in or in connection with the construction, maintenance, management or control of any road, bridge or culvert or the approaches to any bridge or culvert save in respect of the negligent acts of the Coordinator-General, the Coordinator-General's officers or workers in connection with the construction, maintenance, management or control thereof.

(2) A person shall not be entitled to recover against the Coordinator-General, the Coordinator-General's officers or workers, damages in respect of any injury to the person or to property on account of anything done or omitted for the purposes of the performance of the Coordinator-General's functions or duties or the exercise of the

*State Development and Public Works
Organisation Act 1971*

Coordinator-General's powers under any Act or arising out of employment for any of those purposes unless—

- (b) in the case of injury to the person—the person alleged to be injured shall, when so required by the Coordinator-General submit himself or herself for examination by a legally qualified medical practitioner (nominated by the Coordinator-General), who is hereby authorised to make all relevant examinations and tests, and furnish to that medical practitioner all information that the Coordinator-General requires to enable the Coordinator-General to ascertain the true nature and extent of the injury;
- (c) in the case of injury to property—the plaintiff shall, when so required by the Coordinator-General, permit a person nominated by the Coordinator-General to enter upon and inspect the property alleged to be injured and furnish to that person all facilities and information that the Coordinator-General requires to enable the Coordinator-General to ascertain the full nature and extent of the injury and the amount (if any) expended in repairing the property.

(3) Noncompliance with all or any of the provisions of subsection (2) shall not act as a bar to the maintenance of an action or to the recovery of damages therein if the court that determines the action is of opinion that there was reasonable excuse for such non-compliance.

Personal injury action adjudicated by judge alone

114. Every claim for damages in respect of injury to the person, fatal or non-fatal, that is made in an action against the Coordinator-General, the Coordinator-General's officers or workers on account of anything done or omitted for the purposes of the performance of the Coordinator-General's functions or duties or the exercise of the Coordinator-General's powers under any Act or arising out of employment for any of those purposes shall, where action is brought in the Supreme Court, be heard and determined by a judge without a jury.

*State Development and Public Works
Organisation Act 1971*

Officers and workers not personally liable

115.(1) An officer or worker of the Coordinator-General or his or her delegate shall not incur any personal liability on account of an act done or omission made by him or her under the direction of the Coordinator-General or his or her delegate and bona fide for the purposes of the performance of the Coordinator-General's functions or duties or the exercise of the Coordinator-General's powers under any Act.

(2) An expense incurred by an officer or worker of the Coordinator-General or the Coordinator-General's delegate in respect of an act so done shall be taken to be an expense authorised by this Act or, as the case may be, by the Act that imposes or confers on the Coordinator-General the function, duty or power in question.

Division 3—Facilitation of execution of Act

Offences

116.(1) A person who contravenes or fails to comply with a provision of this Act or fails to comply with a requisition made by the Coordinator-General under this Act and directed to the person commits an offence against this Act and, save where a specific penalty is otherwise prescribed, is liable to a penalty of \$500.

(2) A person whose offence consists of a failure to furnish to the Coordinator-General accurate information may, upon the person's conviction therefor, be ordered by the adjudicating court to furnish the information within the time specified by the court.

(3) A person who, having been so ordered, fails to comply with the order commits an offence against this Act, which shall be deemed a continuing offence for which the person may be convicted from time to time, and is liable to a penalty of \$25 for each day during which the person's failure continues.

*State Development and Public Works
Organisation Act 1971*

Mode of prosecution

117. A prosecution for an offence against this Act shall be by way of summary proceeding under the *Justices Act 1886*.

Publication of orders in council

119.(1) Every order in council made for the purposes of this Act shall be published in the gazette.

(2) Every such order in council shall be laid before the Legislative Assembly within 14 sitting days after its publication in the gazette if the Assembly is in session and, if not, then within 14 sitting days after the commencement of its next session.

(3) If the Legislative Assembly disallows an order in council by resolution of which notice has been given at any time within 14 sitting days after the order has been laid before it that order in council shall thereupon cease to have effect but without prejudice to the validity of anything done or omitted thereunder in the meantime or to the making of a further order in council.

Mode of service

120. In addition to any other mode of service available a writing that is to be served on any person under this Act may be sent to the person by prepaid post addressed to the person at the person's address last known to the sender.

Regulations

121.(1) The Governor in Council may make regulations not inconsistent with this Act providing with respect to—

- (a) the preparation of programs of works, development areas, development schemes, environmental coordination and procedures by or pursuant to which State development areas are to be declared or varied or terminated;
- (b) the custody and affixing of the official seal of the

*State Development and Public Works
Organisation Act 1971*

Coordinator-General or any body corporate established under this Act;

- (c) the procedure of meetings and the conduct of the business of any body, corporate or unincorporate, established under this Act preservation of the validity of the proceedings of any such body;
- (d) the manner and detail in which the Coordinator-General, and any body, corporate or unincorporate, shall perform a function or duty or exercise a power imposed or conferred upon the Coordinator-General or it by this Act;
- (e) safeguarding and securing against trespass, injury, misuse, or use for or in connection with any purpose not authorised by or under this Act, lands and property vested in or under the management or control of the Coordinator-General or of a project board;
- (f) the use by the public of lands or property vested in or under the management or control of the Coordinator-General or a project board for or in connection with any purpose;
- (h) forms to be used for the purposes of this Act and the particular purposes for which the forms shall respectively be used;
- (i) penalties not exceeding \$50 for any breach of the regulations;
- (j) all matters required or permitted by this Act to be prescribed;
- (k) all matters, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

(2) Provision made by the regulations may, if the Governor in Council thinks fit, be so made as to require an exercise of discretion or the formation of an opinion by the Minister or by any other person.

Coordinator-General must make guidelines

121A.(1) The Coordinator-General must make guidelines for the processes to be followed by proponents and the Coordinator-General for—

- (a) taking land under section 78 for infrastructure facilities; and

*State Development and Public Works
Organisation Act 1971*

- (b) dealing in the way mentioned in section 79A with the land taken; and
- (c) investigating, under part 6, division 6, the potential of land for infrastructure facilities.

(2) The guidelines are statutory instruments under the *Statutory Instruments Act 1992*.

(3) A guideline made under subsection (1)(a) must provide for the following—

- (a) the giving of notice, including public notice, about the proposed acquisition of the land;
- (b) that the notice must state that it is intended to reach agreement through consultation and negotiation to acquire the land, but that if agreement can not be reached, the land may be compulsorily taken;
- (c) notification of the day for starting consultation and negotiation for the proposed taking of the land, which must be at least 1 month after the notice is given;
- (d) a consultation and negotiation period of at least 4 months;
- (e) that the notice must state the day the consultation and negotiation period ends;
- (f) that there must be at least 2 months of consultation and negotiation after the statement has been published in the gazette under section 78(1D)(a)(ii);
- (g) that a notice of intention to resume the land by compulsory acquisition must not be given until 2 months after the consultation and negotiation period starts;
- (h) that the holder of an interest in the land proposed to be acquired may lodge an objection against the acquisition at any time after 2 months after the consultation and negotiation period starts and before the consultation and negotiation period ends.

(4) Subject to subsection (3), a guideline made under subsection (1)(a) must be formulated having regard to the procedures and underlying

*State Development and Public Works
Organisation Act 1971*

principles of the *Mineral Resources Act 1989*, part 17 and in particular, the obligation for consultation and negotiation.

Annual report

122.(1) The Coordinator-General shall as soon as is practicable after 30 June in each year prepare and furnish to the Minister a report on the operations of the department under the direction of the Coordinator-General during the period of 12 months ended on 30 June last past.

(2) The Minister shall lay the report of the Coordinator-General before the Legislative Assembly within 14 sitting days from the day on which the Minister receives the report.

(3) In this section—

“**sitting days**” means days on which the Legislative Assembly sits for the dispatch of business.

PART 9—TRANSITIONAL PROVISIONS FOR THE STATE DEVELOPMENT AND PUBLIC WORKS ORGANISATION AMENDMENT ACT 1999

Studies being prepared are taken to be EISs for this part

123.(1) This section applies if—

- (a) a project involves—
 - (i) development requiring an application for a development approval; or
 - (ii) mining; and
- (b) at the commencement of section 29B, the proponent is preparing a study under this Act about the environmental effects of the project; and
- (c) the Coordinator-General, under section 29B, declares the project

*State Development and Public Works
Organisation Act 1971*

to be a significant project.

(2) The proponent may complete the study as if the *State Development and Public Works Organisation Amendment Act 1999* had not commenced.

(3) The study, when completed and given to the Coordinator-General, is taken to be an EIS prepared under part 4.

(4) Any written submission made about the study is taken to be a properly made submission for an application for the project if the application—

- (a) is for a development approval requiring impact assessment under the *Integrated Planning Act 1997*; or
- (b) is for an approval under an Act other than the *Integrated Planning Act 1997* and the application requires public notification.

(5) Words used in this section that are defined in part 4 have the same meaning in this section.

SCHEDULE

section 4

| | |
|--------------------------------------------------------------------------------------------|-----------------|
| <i>State Development and Public Works Organisation Act 1938</i> | 2 G 6 No. 3 |
| <i>State Development and Public Works Organisation Act Amendment Act 1940</i> | 4 G 6 No. 2 |
| <i>State Development and Public Works Organisation Act Amendment Act 1949</i> | 13 G 6 No. 41 |
| <i>State Development and Public Works Organisation Act Amendment Act 1951</i> | 15 G 6 No. 19 |
| <i>State Development and Public Works Organisation Act Amendment Act 1954</i> | 3 Eliz 2 No. 48 |
| <i>State Development and Public Works Organisation Act Amendment Act of 1958</i> | 7 Eliz 2 No. 48 |
| <i>State Development and Public Works Organisation Act Amendment Act 1964</i> | No. 65 of 1964 |
| <i>State Development and Public Works Organisation Act Amendment Act 1970</i> | No. 32 of 1970 |

ENDNOTES

1 **Index to endnotes**

| | | Page |
|---|-------------------------------------------------|------|
| 2 | Date to which amendments incorporated | 111 |
| 3 | Key | 112 |
| 4 | Table of earlier reprints | 112 |
| 5 | Tables in earlier reprints | 113 |
| 6 | List of legislation | 113 |
| 7 | List of annotations | 114 |

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 11 February 2000. Future amendments of the State Development and Public Works Organisation Act 1971 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

*State Development and Public Works
Organisation Act 1971*

3 Key

Key to abbreviations in list of legislation and annotations

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

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised,
electronic form only.]

| Reprint No. | Amendments included | Reprint date |
|-------------|-----------------------|------------------|
| 1 | to Act No. 18 of 1981 | 15 December 1994 |
| 1A | to Act No. 37 of 1996 | 8 January 1997 |
| 2 | to Act No. 32 of 1999 | 25 June 1999 |

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

| Name of table | Reprint No. |
|-----------------------------------|-------------|
| Changed citations and remade laws | 1 |
| Changed names and titles | 1 |
| Corrected minor errors | 2 |
| Obsolete and redundant provisions | 1 |
| Renumbered provisions | 1 |

6 List of legislation

State Development and Public Works Organisation Act 1971 No. 55 (prev State and Regional Planning and Development, Public Works Organization and Environmental Control Act 1971)

date of assent 2 December 1971

commenced 1 January 1972 (proc pubd gaz 25 December 1971 p 2014)

as amended by—

State and Regional Planning and Development, Public Works Organization and Environmental Control Act Amendment Act 1973 No. 26

date of assent 19 April 1973

commenced on date of assent

State and Regional Planning and Development, Public Works Organization and Environmental Control Act Amendment Act 1974 No. 60

date of assent 27 September 1974

commenced on date of assent

Limitation of Actions Act 1974 No. 75 s 4 sch

date of assent 1 November 1974

commenced 1 July 1975 (see s 2)

State and Regional Planning and Development, Public Works Organization and Environmental Control Act Amendment Act 1978 No. 62

date of assent 23 October 1978

commenced on date of assent

State Development and Public Works Organization Act and Other Acts Amendment Act 1979 No. 26 pts 1–2

date of assent 6 June 1979

commenced on date of assent

*State Development and Public Works
Organisation Act 1971*

State Development and Public Works Organization Act Amendment Act 1981 No. 18

date of assent 24 April 1981
commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1996 (1996 SL No. 361)

State Development and Public Works Organisation Amendment Act 1999 No. 32

date of assent 16 June 1999
commenced on date of assent

Trusts (Investments) Amendment Act 1999 No. 69 pt 1, s 7 sch

date of assent 6 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 3 February 2000 (2000 SL No. 16)

7 List of annotations

Long title amd 1978 No. 62 s 2

Short title

s 1 sub 1978 No. 62 s 3
amd 1999 No. 32 s 2 sch

Commencement of Act

s 2 om 1999 No. 32 s 2 sch

Arrangement of Act

s 3 amd 1973 No. 26 s 2; 1978 No. 62 s 4; 1981 No. 18 s 2
om R1 (see RA s 36)

Repeals and savings

s 4 amd R1 (see RA s 37)

Definitions

prov hdg sub 1999 No. 32 s 3(1)

s 5 def “**application**” ins 1981 No. 18 s 3(a)
def “**approved plan**” ins 1981 No. 18 s 3(b)
def “**Council**” om 1978 No. 62 s 5(a)
def “**development**” amd 1978 No. 62 s 5(b)
def “**Director (Administration and Finance)**” ins 1978 No. 62 s 5(c)
om 1996 No. 37 s 147 sch 2
def “**ecology**” om 1978 No. 62 s 5(a)
def “**environment**” om 1978 No. 62 s 5(a)
ins 1999 No. 32 s 3(3)
def “**environmental effects**” ins 1978 No. 62 s 5(c)
sub 1999 No. 32 s 3(2)–(3)

*State Development and Public Works
Organisation Act 1971*

def “**infrastructure**” ins 1981 No. 18 s 3(c)
 def “**infrastructure coordination plan**” ins 1981 No. 18 s 3(c)
 def “**local authority**” om R1 (see RA s 39)
 def “**local body**” amd 1978 No. 62 s 5(d)
 def “**Minister**” amd 1978 No. 62 s 5(e)
 om R1 (see RA s 39)
 def “**pollution**” om 1978 No. 62 s 5(a)
 def “**prescribed development**” ins 1981 No. 18 s 3(d)
 def “**region**” om 1978 No. 62 s 5(a)
 def “**secretary**” om 1978 No. 62 s 5(a)
 def “**waste**” om 1978 No. 62 s 5(a)

Functions and duties of Coordinator-General

s 13 amd 1978 No. 62 s 6

Cooperation with Coordinator-General

s 16 amd 1978 No. 62 s 7

Division 3—Officers and workers of Coordinator-General

div hdg amd 1978 No. 62 s 8
 sub 1996 No. 37 s 147 sch 2

Appointment of officers

s 18 sub 1978 No. 62 s 9
 om 1996 No. 37 s 147 sch 2

Authority of Director (Administration and Finance) to attest

s 21 sub 1978 No. 62 s 10
 om 1996 No. 37 s 147 sch 2

Alterations to approved program of works

s 25 amd 1978 No. 62 s 11

Objectives of comprehensive program of works

s 28 amd 1978 No. 62 s 12

PART 4—ENVIRONMENTAL COORDINATION

Division 1—Preliminary

div hdg ins 1999 No. 32 s 5

Definitions for pt 4

s 29 prev s 29 renum as s 29A 1999 No. 32 s 4
 pres s 29 ins 1999 No. 32 s 5

Supervision of environment

s 29A (prev s 29) sub 1978 No. 62 s 13
 renum 1999 No. 32 s 4
 amd 1999 No. 32 s 6
 (2)–(4) exp 30 March 2000 (see s 29A(4))

Division 2—Significant project

div hdg ins 1999 No. 32 s 7

Declaration of significant project

s 29B ins 1999 No. 32 s 7

Matters Coordinator-General considers before making declaration

s 29C ins 1999 No. 32 s 7

Application of divs 3–6

s 29D ins 1999 No. 32 s 7

Division 3—EIS process

div hdg ins 1999 No. 32 s 7

Notice of requirement for EIS and of draft terms of reference

s 29E ins 1999 No. 32 s 7

Finalising terms of reference

s 29F ins 1999 No. 32 s 7

Coordinator-General may seek information to assist preparation of EIS

s 29G ins 1999 No. 32 s 7

Preparation of EIS

s 29H ins 1999 No. 32 s 7

Public notification of EIS

s 29I ins 1999 No. 32 s 7

Making submissions on EIS

s 29J ins 1999 No. 32 s 7

Coordinator-General evaluates EIS, submissions, other material and prepares report

s 29K ins 1999 No. 32 s 7

Division 4—Relationship with Integrated Planning Act 1997

div hdg ins 1999 No. 32 s 7

Application of div 4

s 29L ins 1999 No. 32 s 7

Applications for material change of use or requiring impact assessment

s 29M ins 1999 No. 32 s 7

When the decision stage for the project starts under IDAS

s 29N ins 1999 No. 32 s 7

Application of Coordinator-General's report to IDAS

s 29O ins 1999 No. 32 s 7

Assessment manager to be given copy of Coordinator-General's report

s 29P ins 1999 No. 32 s 7

Division 5—Relationship with Mineral Resources Act 1989

div hdg ins 1999 No. 32 s 7

Definitions for div 5

s 29Q ins 1999 No. 32 s 7

*State Development and Public Works
Organisation Act 1971*

Process if certificate of application has not been issued

s 29R ins 1999 No. 32 s 7

Process if certificate of application has been issued

s 29S ins 1999 No. 32 s 7

Application of Coordinator-General's report to issue of mining lease

s 29T ins 1999 No. 32 s 7

Minister to be given copy of Coordinator-General's report

s 29U ins 1999 No. 32 s 7

Coordinator-General's report is a result of Minister's study for s 268

s 29V ins 1999 No. 32 s 7

Division 6—Relationship with other legislation

div hdg ins 1999 No. 32 s 7

Application of div 6

s 29W ins 1999 No. 32 s 7

EIS under this part is EIS for other Act

s 29X ins 1999 No. 32 s 7

Application of Coordinator-General's report to other approval process

s 29Y ins 1999 No. 32 s 7

Person approving project to be given copy of Coordinator-General's report

s 29Z ins 1999 No. 32 s 7

Coordinator-General's report must be taken into consideration

s 29ZA ins 1999 No. 32 s 7

PART 5—PRESCRIBED DEVELOPMENT

pt hdg prev pt hdg om 1978 No. 62 s 14(a)
pres pt hdg ins 1981 No. 18 s 4

Division 1—Declaration of prescribed development

div hdg ins 1981 No. 18 s 4

Investigation of developments of State significance

s 30 prev s 30 om 1978 No. 62 s 13
pres s 30 ins 1981 No. 18 s 4

Effect of investigation on local bodies

s 31 prev s 31 om 1978 No. 62 s 13
pres s 31 ins 1981 No. 18 s 4

Declaration of prescribed developments

s 32 prev s 32 amd 1974 No. 60 s 2
om 1978 No. 62 s 13
pres s 32 ins 1981 No. 18 s 4

Notification of decision

s 33 prev s 33 om 1978 No. 62 s 13
pres s 33 ins 1981 No. 18 s 4

Division 2—Infrastructure coordination plans**div hdg** ins 1981 No. 18 s 4**Preparation of plans****s 34** prev s 34 om 1978 No. 62 s 13
pres s 34 ins 1981 No. 18 s 4**Approval of infrastructure coordination plan****s 35** prev s 35 om 1978 No. 62 s 13
pres s 35 ins 1981 No. 18 s 4**Variation of approved plan****s 36** prev s 36 om 1978 No. 62 s 13
pres s 36 ins 1981 No. 18 s 4**Effect of approved plan****s 37** prev s 37 om 1978 No. 62 s 13
pres s 37 ins 1981 No. 18 s 4**Local bodies may make and perform agreements etc.****s 38** prev s 38 sub 1973 No. 26 s 3
om 1978 No. 62 s 14(b)
pres s 38 ins 1981 No. 18 s 4**Agreements to be furnished to Coordinator-General****s 39** prev s 39 sub 1973 No. 26 s 4
om 1978 No. 62 s 14(b)
pres s 39 ins 1981 No. 18 s 4**Approval of agreements****s 40** prev s 40 amd 1973 No. 26 s 5
sub 1974 No. 60 s 3
om 1978 No. 62 s 14(b)
pres s 40 ins 1981 No. 18 s 4**Constitution of Regional Coordination Councils****s 40A** ins 1974 No. 60 s 4
om 1978 No. 62 s 14(b)**Appointment of members of Regional Coordination Councils****s 40B** ins 1974 No. 60 s 5
om 1978 No. 62 s 14(b)**Variation of approved agreement****s 41** prev s 41 amd 1973 No. 26 s 6; 1974 No. 60 s 6
om 1978 No. 62 s 14(b)
pres s 41 ins 1981 No. 18 s 4**Division 3—Applications relating to prescribed development****div hdg** ins 1981 No. 18 s 4

*State Development and Public Works
Organisation Act 1971*

Referral of applications

- s 42** prev s 42 amd 1974 No. 60 s 7
 om 1978 No. 62 s 14(b)
 pres s 42 ins 1981 No. 18 s 4

Delegate members

- s 42A** ins 1974 No. 60 s 8
 om 1978 No. 62 s 14(b)

Remission of applications

- s 43** prev s 43 amd 1974 No. 60 s 9
 om 1978 No. 62 s 14(b)
 pres s 43 ins 1981 No. 18 s 4

Applications remaining with Coordinator-General

- s 44** prev s 44 amd 1974 No. 60 s 10
 om 1978 No. 62 s 14(b)
 pres s 44 ins 1981 No. 18 s 4

Advertisement calling for submissions

- s 45** prev s 45 om 1978 No. 62 s 14(b)
 pres s 45 ins 1981 No. 18 s 4

Determination of application

- s 46** prev s 46 om 1978 No. 62 s 14(b)
 pres s 46 ins 1981 No. 18 s 4

Effect of determination

- s 47** prev s 47 om 1978 No. 62 s 14(b)
 pres s 47 ins 1981 No. 18 s 4

Effect of reference on time limitations

- s 47A** prev s 47A ins 1973 No. 26 s 7
 om 1978 No. 62 s 14(b)
 pres s 47A ins 1981 No. 18 s 4

Prescribed development to await approval

- s 47B** ins 1981 No. 18 s 4

Withdrawal of applications

- s 47C** ins 1981 No. 18 s 4

Division 4—Information concerning development

- div hdg** ins 1981 No. 18 s 4

Coordinator-General may obtain information

- s 47D** ins 1981 No. 18 s 4

Declaration of State development areas, variation and termination thereof

- s 48** sub 1973 No. 26 s 8

Procedure in relation to State development areas

- s 49** sub 1973 No. 26 s 8

Use of land under approved development scheme

prov hdg amd 1999 No. 32 s 8(1)
s 55 amd 1999 No. 32 s 8(2)–(3)

Continued existing lawful use not an offence

s 55A ins 1999 No. 32 s 9

Division 1A—Compensation

div hdg ins 1999 No. 32 s 9

Subdivision 1—Preliminary

sdiv hdg ins 1999 No. 32 s 9

Definition for div 1A

s 55B ins 1999 No. 32 s 9

Subdivision 2—Entitlement to compensation

sdiv hdg ins 1999 No. 32 s 9

Compensation

s 55C ins 1999 No. 32 s 9

Limitations on compensation under s 55C

s 55D ins 1999 No. 32 s 9

Subdivision 3—Claims for, and payment of, compensation

sdiv hdg ins 1999 No. 32 s 9

Time limit for claiming compensation

s 55E ins 1999 No. 32 s 9

Deciding claims for compensation

s 55F ins 1999 No. 32 s 9

Notification of decision

s 55G ins 1999 No. 32 s 9

Calculating reasonable compensation involving changes

s 55H ins 1999 No. 32 s 9

When compensation is payable

s 55I ins 1999 No. 32 s 9

Payment of compensation to be recorded on title

s 55J ins 1999 No. 32 s 9

Subdivision 4—Appeals

sdiv hdg ins 1999 No. 32 s 9

Appeals against decisions on compensation claims

s 55K ins 1999 No. 32 s 9

How appeals are started

s 55L ins 1999 No. 32 s 9

Hearing procedures

s 55M ins 1999 No. 32 s 9

*State Development and Public Works
Organisation Act 1971*

Appeal decision

s 55N ins 1999 No. 32 s 9

Project boards

s 70 amd 1973 No. 26 s 9; 1974 No. 60 s 11; 1978 No. 62 s 15; 1999 No. 32 s 10

Chairperson and deputy chairperson

s 70A amd 1978 No. 62 s 16

Term of appointment of member of board

s 71 amd 1973 No. 26 s 10

Termination of membership of board

s 72 amd 1974 No. 60 s 12; 1978 No. 62 s 17

Casual vacancies

s 73 amd 1974 No. 60 s 13; 1978 No. 62 s 18

Meetings of boards

s 74 amd 1974 No. 60 s 14; 1978 No. 62 s 19

Disclosure of interests

s 74A ins 1999 No. 32 s 11

Fees of members of boards

s 75 amd 1978 No. 62 s 20

Status, powers etc. of project board

s 77 amd 1973 No. 26 s 11

Audit of project board's accounts

s 77A ins 1974 No. 60 s 15
sub 1978 No. 62 s 21

Power of Coordinator-General to take land

s 78 amd 1999 No. 32 s 12

Ensuring reasonable steps are taken to acquire land by agreement

s 78A ins 1999 No. 32 s 13

Relationship with native title legislation

s 78B ins 1999 No. 32 s 13

Power to use, lease or dispose of land

s 79A ins 1999 No. 32 s 14

**Power of Coordinator-General to negotiate transfer of works undertaken by the
Coordinator-General**

s 84 amd 1978 No. 62 s 22

Offences of interference and wilful obstruction

s 88 amd 1973 No. 26 s 12

Powers in respect of works on foreshore and under waters

s 91 amd 1978 No. 62 s 23

Division 6—Investigating potential infrastructure facility

div hdg ins 1999 No. 32 s 15

Purpose of div 6

s 91A ins 1999 No. 32 s 15

Definitions for div 6

s 91B ins 1999 No. 32 s 15

How to apply for investigator's authority

s 91C ins 1999 No. 32 s 15

Additional information about application

s 91D ins 1999 No. 32 s 15

Granting authority

s 91E ins 1999 No. 32 s 15

Investigator's authority

s 91F ins 1999 No. 32 s 15

What investigator must do before land is entered for the first time

s 91G ins 1999 No. 32 s 15

Investigator to issue associated person with identification

s 91H ins 1999 No. 32 s 15

Pretending to be an investigator etc.

s 91I ins 1999 No. 32 s 15

Investigator to take care in acting under authority

s 91J ins 1999 No. 32 s 15

Rectification of damage by investigator

s 91K ins 1999 No. 32 s 15

Compensation payable by investigator

s 91L ins 1999 No. 32 s 15

Release of bond or security deposit

s 91M ins 1999 No. 32 s 15

Borrowings etc. by Coordinator-General

prov hdg amd 1979 No. 26 s 4(a)

s 95 amd 1978 No. 62 s 24; 1979 No. 26 s 4(b)–(g)

Application of moneys

prov hdg amd 1979 No. 26 s 5(a)

s 96 amd 1979 No. 26 s 5(b)–(c)

Debentures, bonds and stock

prov hdg amd 1979 No. 26 s 6(a)

s 97 amd 1973 No. 26 s 13; 1978 No. 62 s 25; 1979 No. 26 s 6(b)–(c)

Entitlement of holder of debenture etc.

s 98 amd 1973 No. 26 s 14

*State Development and Public Works
Organisation Act 1971*

Status of debenture, bond or stock as investment and a security**prov hdg** amd 1979 No. 26 s 7(a)**s 99** amd 1973 No. 26 s 15; 1979 No. 26 s 7(b); 1999 No. 69 s 7 sch**Brokerage****s 100** amd 1979 No. 26 s 8**Moneys recoverable as a debt****s 101** amd 1973 No. 26 s 16; 1979 No. 26 s 9**Regulations relating to loans etc.****s 101A** ins 1979 No. 26 s 10**Power to contract****s 102** amd 1981 No. 18 s 5; 1996 No. 37 s 147 sch 2**Signature of documents****s 110** amd 1978 No. 62 s 26(a)

om 1996 No. 37 s 147 sch 2

Service on Coordinator-General**s 111** amd 1978 No. 62 s 26(a); 1996 No. 37 s 147 sch 2**Limited liability of Coordinator-General for injury to person or property****s 112** amd 1974 No. 75 s 4 sch**Notice of action in other cases****s 113** om 1974 No. 75 s 4 sch**Offences****s 116** amd 1981 No. 18 s 6**Proof of signature of Director (Administration and Finance) not required****prov hdg** amd 1978 No. 62 s 26(b)**s 118** amd 1978 No. 62 s 26(a)

om 1996 No. 37 s 147 sch 2

Regulations**s 121** amd 1973 No. 26 s 17; 1978 No. 62 s 27; 1979 No. 26 s 11**Coordinator-General must make guidelines****s 121A** ins 1999 No. 32 s 16**Annual report****s 122** prev s 122 om 1978 No. 62 s 28

pres s 122 ins 1981 No. 18 s 7

**PART 9—TRANSITIONAL PROVISIONS FOR THE STATE DEVELOPMENT
AND PUBLIC WORKS ORGANISATION AMENDMENT ACT 1999****pt hdg** ins 1999 No. 32 s 17

**Studies being prepared are taken to be EISs for this part
s 123** ins 1999 No. 32 s 17