Queensland

INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 2003

Act No. 64 of 2003

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INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 2003

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Queensland

Integrated Planning and Other Legislation Amendment Act 2003

Act No. 64 of 2003

An Act to amend legislation about integrated planning, and for other purposes

[Assented to 16 October 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Integrated Planning and Other Legislation Amendment Act 2003*.

2 Commencement

(1) Section 98 is taken to have commenced on 30 March 1998.

(2) Section 101 is taken to have commenced on 31 March 2003.

(3) The following provisions commence on assent—

(a) sections 3, 18(2), 30, 31, 37, 39 to 43, 48, 51, 52, 61, 73, 75, 76, 83 to 87, 89(1) and (2), 90 to 92, 95 to 97, 99, 100, 103 to 106, 108, 110(2) and (4) and 111;

(b) part 5;

(c) part 6;

(d) sections 126 to 128;

(e) part 8;

(f) part 10;

(g) schedule, amendments 1 to 4, 6 to 10, 14 to 18.

(4) The remaining provisions of this Act commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF INTEGRATED PLANNING ACT 1997

Division 1—Preliminary

3 Act amended in pt 2 and schedule

This part and the schedule amend the *Integrated Planning Act 1997.*

Division 2—Amendments for designations

4 Replacement of ss 2.6.7–2.6.9

Sections 2.6.7 to 2.6.9—

omit, insert—

'2.6.7 Matters the Minister must consider before designating land

'**(1)** Before designating land, the Minister must be satisfied that, for the development, the subject of the proposed designation—

(a) adequate environmental assessment has been carried out; and

(b) in carrying out environmental assessment under paragraph (a), there was adequate public consultation; and

(c) adequate account has been taken of issues raised during the public consultation.

'**(2)** The Minister must also consider—

(a) every properly made submission under subsection (4); and

(b) each relevant planning scheme; and

(c) each relevant State planning policy.

'**(3)** For subsection (1), there has been adequate environmental assessment and public consultation in carrying out environmental assessment if—

(a) the assessment and consultation has been carried out as required by guidelines made by the chief executive under section 5.8.8 for assessing the impacts of the development; or

(b) the processes under chapter 3, part 4 and part 5, division 2, have been completed for a development application for the community infrastructure to which the designation relates; or

(c) the process under chapter 5, part 7A, division 2, has been completed for an EIS for development for the community infrastructure; or

(d) the process under schedule 1, section 12, has been carried out for a planning scheme, or an amendment of a planning scheme, that includes the community infrastructure; or

(e) the coordinator-general has, under the *State Development and Public Works Organisation Act 1971*, section 35,[1] prepared a report evaluating an EIS for development for the community infrastructure; or

(f) the process under the *Environmental Protection Act 1994*, chapter 3, part 1[2] has been completed for an EIS for development for the community infrastructure.

'**(4)** However, if written notice of the proposed designation has not been given to each of the following entities about an action mentioned in subsection (3), the Minister must give written notice of the proposed designation to the entities inviting submissions about the proposed designation—

(a) the owner of any land to which the proposed designation applies;

(b) each local government the Minister is satisfied the designation affects.

'**(5)** A notice given under subsection (4) must give the entities at least 15 business days to make a submission.

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1 *State Development and Public Works Organisation Act 1971*, section 35 (Coordinator-General evaluates EIS, submissions, other material and prepares report)

2 *Environmental Protection Act 1994*, chapter 3 (Environmental impact statements), part 1 (EIS process)

‘2.6.8 Procedures after designation

‘**(1)** If the Minister designates land, the Minister must give a notice to—

(a) each owner of the land; and

(b) each local government given a notice under section 2.6.7(4)(b); and

(c) the chief executive.

‘**(2)** The notice must state each of the following—

(a) the designation has been made;

(b) the description of the land;

(c) the type of community infrastructure for which the land has been designated;

(d) any matters mentioned in section 2.6.4 and included as part of the designation.

‘**(3)** The Minister must also publish a gazette notice stating the matters mentioned in subsection (2)(a) to (c).

‘2.6.9 Procedures if designation does not proceed

‘If the Minister decides not to proceed with a proposed designation, the Minister must give a notice, stating that the designation will not proceed, to the persons mentioned in section 2.6.8(1)(a) and (b).’.

5 Amendment of s 5.7.6 (Documents chief executive must keep available for inspection and purchase)

Section 5.7.6—

insert—

‘(o) each notice given under section 2.6.8(1)(c).’.

6 Insertion of new ch 6, pt 2, div 2

Chapter 6, part 2—

insert—

'Division 2—Transitional provisions for designation

'6.2.4 Designation processes continue

'If before the commencement of this section a designator has started designation procedures under chapter 2, part 6, and schedule 6 or schedule 7, the designator may complete the procedures as if the *Integrated Planning and Other Legislation Amendment Act 2003*, part 2, division 2 had not commenced.'.

7 Omission of schs 6 and 7

Schedules 6 and 7—

omit.

8 Amendment of sch 10 (Dictionary)

Schedule 10, definition "consultation period"—

omit, insert—

' **"consultation period"**—

(a) for making or amending a planning scheme—see schedule 1, section 12(1)(g); or

(b) for making or amending a planning scheme policy—see schedule 3, section 2(1)(g); or

(c) for making or amending a State planning policy—see schedule 4, section 3(3)(g); or

(d) for making a ministerial designation of land—the period for the making of submissions stated in any notice given under section 2.6.7(4).

Division 3—Amendments for infrastructure

9 Amendment of s 2.1.3 (Key elements of planning schemes)

(1) Section 2.1.3(1)(d) and (e)—

omit, insert—

'(d) includes a priority infrastructure plan.[3]'.

(2) Section 2.1.3(3)(b)—

omit.

10 Replacement of s 2.1.24 (Infrastructure intentions in local planning instruments not binding)

Section 2.1.24—

omit, insert—

'2.1.24 Infrastructure intentions in local planning instruments not binding

'**(1)** If a local planning instrument indicates the intention of a local government or a supplier of State infrastructure to supply infrastructure it does not create an obligation on the local government or the supplier to supply the infrastructure.

'**(2)** If a local government or a supplier of State infrastructure states a desired standard of service in a priority infrastructure plan, an entity does not have a right to expect or demand the standard.'.

11 Replacement of s 2.2.5 (Local government must review benchmark development sequence annually)

Section 2.2.5—

omit, insert—

'2.2.5 Local government must review its priority infrastructure plan every 4 years

'**(1)** Each local government prescribed under a regulation must review its priority infrastructure plan at least once every 4 years.

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3 For the contents of a priority infrastructure plan, see schedule 10, definition "priority infrastructure plan".

Other legislation also requires local governments to note certain matters on planning schemes, for example, the *Mineral Resources Act 1989*, section 319 requires a local government to note on its planning scheme the existence of certain mining tenures.

'**(2)** The review must be conducted in consultation with the State agencies that participated in the preparation of the plan.

'**(3)** However, before consulting with the State agencies, the local government must assess the factors affecting the plan since the last review and advise the agencies of any proposed amendments to the plan.'.

12 Amendment of s 2.6.6 (How infrastructure charges apply to designated land)

Section 2.6.6, 'part 1 (Infrastructure charges)'—

omit, insert—

'part 1[4]'.

13 Amendment of s 2.6.12 (Designation of land by local governments)

Section 2.6.12—

insert—

'**(3)** However, land identified in a priority infrastructure plan as land for community infrastructure is not designated land unless it is also specifically identified as designated land.'.

14 Insertion of new s 3.2.4

After section 3.2.3—

insert—

'3.2.4 Acknowledgment notices for development inconsistent with priority infrastructure plans

'**(1)** This section applies, in addition to section 3.2.3, if the development is—

(a) either or both of the following—

(i) completely or partly outside a priority infrastructure area;

4 Chapter 5 (Miscellaneous), part 1 (Infrastructure planning and funding)

(ii) inconsistent with the assumptions about the type, scale, location or timing of future development stated in the priority infrastructure plan; and

(b) for any or all of the following—

(i) residential purposes;

(ii) retail or commercial purposes;

(iii) industrial purposes.

'**(2)** The acknowledgment notice must also state—

(a) the matters mentioned in subsection (1); and

(b) additional trunk infrastructure costs may be imposed under section 5.1.25; and

(c) additional infrastructure costs may be imposed under section 5.1.28.'.

15 Amendment of s 3.5.4 (Code assessment)

(1) Section 3.5.4(2)—

insert—

'(d) if the assessment manager is an infrastructure provider—the priority infrastructure plan.[5]'.

(2) Section 3.5.4(4)—

insert—

'(c) for chapter 5, part 1, the infrastructure provisions of the existing planning scheme applied.'.

16 Amendment of s 3.5.5 (Impact assessment)

Section 3.5.5(4)—

insert—

'(c) for chapter 5, part 1, the infrastructure provisions of the existing planning scheme applied.'.

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5 See chapter 5 (Miscellaneous), part 1 (Infrastructure planning and funding).

17 Amendment of s 3.5.17 (Changing conditions and other matters during the applicant's appeal period)

Section 3.5.17—

insert—

'**(7)** If the development approved by the negotiated decision notice is different from the development approved in the decision notice in a way that affects the amount of an infrastructure charge or regulated infrastructure charge, the local government may give the applicant a new infrastructure charges notice under section 5.1.8 or regulated infrastructure charges notice under section 5.1.18 to replace the original notice.'.

18 Amendment of s 3.5.32 (Conditions that can not be imposed)

(1) Section 3.5.32(1)(b)—

omit, insert—

'(b) for infrastructure to which chapter 5, part 1 applies, require (other than under chapter 5, part 1)—

(i) a monetary payment for the establishment, operating and maintenance costs of the infrastructure; or

(ii) works to be carried out for the infrastructure; or'.

(2) Section 3.5.32(1)—

insert—

'(e) limit the time a development approval has effect for a use or work forming part of a network of community infrastructure, other than State owned or State controlled transport infrastructure.'.

(3) Section 3.5.32(2)—

omit, insert—

'**(2)** This section does not stop a condition being imposed that requires a monetary payment, or works to be carried out, to protect or maintain the safety or efficiency of State owned or State controlled transport infrastructure.'.

19 Omission of ss 3.5.35 and 3.5.36

Sections 3.5.35 and 3.5.36—

omit.

20 Amendment of s 4.1.21 (Court may make declarations)

Section 4.1.21(1)(d)—

omit.

21 Insertion of new s 4.1.36

After section 4.1.35—

insert—

'4.1.36 Appeals about infrastructure charges

'**(1)** This section applies to a person who has been given, and is dissatisfied with, an infrastructure charges notices.

'**(2)** The person may appeal to the court against the notice.

'**(3)** The appeal must be started within 20 business days after the day the notice is given to the person.

'**(4)** An appeal under this section may only be about—

(a) the methodology used to establish the charge in the infrastructure charges schedule; or

(b) an error in the calculation of the charge.'.

22 Replacement of ch 5, pt 1

Chapter 5, part 1—

omit, insert—

‘PART 1—INFRASTRUCTURE PLANNING AND FUNDING

‘Division 1—Preliminary

‘5.1.1 Purpose of pt 1

The purpose of this part is to—

(a) seek to integrate land use and infrastructure plans; and

(b) establish an infrastructure planning benchmark as a basis for an infrastructure funding framework; and

(c) establish an infrastructure funding framework that is equitable and accountable; and

(d) integrate State infrastructure providers into the framework.

‘Division 2—Non-trunk infrastructure

‘5.1.2 Conditions local governments may impose for non-trunk infrastructure

‘**(1)** If a local government imposes a condition about non-trunk infrastructure, the condition may only be for supplying infrastructure for 1 or more of the following—

(a) networks internal to the premises;

(b) connecting the premises to external infrastructure networks;

(c) protecting or maintaining the safety or efficiency of the infrastructure network of which the non-trunk infrastructure is a component.

‘**(2)** The condition must state—

(a) the infrastructure to be supplied; and

(b) when the infrastructure must be supplied.

'Division 3—Trunk infrastructure

'5.1.3 Priority infrastructure plans for trunk infrastructure

'Each priority infrastructure plan[6] must be prepared as required by guidelines prescribed under a regulation.

'5.1.4 Funding trunk infrastructure for certain local governments

'**(1)** Under this Act, a local government may levy a charge for supplying trunk infrastructure under either—

(a) an infrastructure charges schedule; or

(b) a regulated infrastructure charges schedule.[7]

'**(2)** If the local government levies a charge for a trunk infrastructure network under an infrastructure charges schedule, it must use an infrastructure charges schedule for levying charges for all the trunk infrastructure networks for which it intends to levy a charge.

'**(3)** Subsection (2) does not stop a local government from—

(a) having, or not having, an infrastructure charges schedule for a part of a trunk infrastructure network; or

(b) adopting infrastructure charges schedules at different times.

'Division 4—Trunk infrastructure funding under an infrastructure charges schedule

'5.1.5 Making or amending infrastructure charges schedules

'**(1)** Despite section 2.1.5,[8] an infrastructure charges schedule must be prepared or amended as required by—

(a) guidelines prescribed under a regulation; and

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6 See section 2.1.3(1)(d) (Key elements of planning schemes).

7 See the *Local Government Act 1993*, chapter 14 (Rates and charges), part 2 (Making and levying rates and charges) for a local government's power to levy rates and charges in other ways.

8 Section 2.1.5 (Process for making or amending planning schemes)

(b) the process stated in schedule 3,[9] as if it were a planning scheme policy.

'**(2)** However, if the schedule is being prepared at the same time as the priority infrastructure plan, the process for preparing the schedule is the same as the process for preparing the plan.

'**(3)** The schedule, or an amendment of the schedule, has effect on and from—

(a) the day the adoption of the schedule, or the amendment of the schedule, is first notified in a newspaper circulating generally in the local government's area; or

(b) if a later day for the commencement of the schedule, or the amendment of the schedule, is stated in the schedule, or the amendment—the later day.

'5.1.6 Key elements of an infrastructure charges schedule

'**(1)** An infrastructure charges schedule must state each of the following—

(a) a charge (an **"infrastructure charge"**) for each trunk infrastructure network identified in the schedule;

(b) the estimated proportion of the establishment cost of each network to be funded by the charge;

(c) when it is anticipated the infrastructure forming part of the network will be provided;

(d) the estimated establishment cost of the infrastructure;

(e) each area in which the charge applies;

(f) each type of lot or use for which the charge applies;

(g) how the charge must be calculated for—

(i) each area mentioned in paragraph (e); and

(ii) each type of lot or use mentioned in paragraph (f).

'**(2)** An infrastructure charge may also apply to trunk infrastructure—

9 Schedule 3 (Process for making or amending planning scheme policies)

(a) despite section 2.1.2—that is not within, or completely within, the local government's area; or

(b) that is not owned by the local government, if the owner of the infrastructure agrees; or

(c) supplied by a local government on a State-controlled road.[10]

'5.1.7 Infrastructure charges

'**(1)** The infrastructure charge—

(a) must be for a trunk infrastructure network that services, or is planned to service, premises and is identified in the priority infrastructure plan; and

(b) must not be more than the proportion of the establishment cost of the network that reasonably can be apportioned to the premises for which the charge is stated, taking into account—

(i) the usage of the network by the premises; or

(ii) the capacity of the network allocated to the premises.

'**(2)** Also, if the infrastructure charge is levied for an existing lawful use, it must be based on the current share of usage of the network at the time the charge is levied.

'**(3)** Subsection (2) does not apply if the local government and the owner of the land to which the charge relates otherwise agree in writing.

'**(4)** However, an infrastructure charge must not be levied for a work or use of land authorised under the *Mineral Resources Act 1989* or the *Petroleum Act 1923*.

'5.1.8 Infrastructure charges notices

'**(1)** A notice requiring the payment of an infrastructure charge (an **"infrastructure charges notice"**) must state each of the following—

(a) the amount of the charge;

(b) the land to which the charge applies;

(c) when the charge is payable;

10 See *Transport Infrastructure Act 1994*, sections 31 and 40.

(d) the trunk infrastructure network for which the charge has been stated;

(e) the person to whom the charge must be paid.

'**(2)** If the notice is given as a result of a development approval, the local government must give the notice to the applicant—

(a) if the local government is the assessment manager—at the same time as the approval is given; or

(b) in any other case—within 10 business days after the local government receives a copy of the approval.

'**(3)** If the notice is not given as a result of a development approval, the local government must give the notice to the owner of the land.

'**(4)** The charge is not recoverable unless the entitlements under the approval are exercised.

'**(5)** The notice lapses if the approval stops having effect.[11]

'5.1.9 When infrastructure charges are payable

'An infrastructure charge is payable—

(a) if the charge applies to reconfiguring a lot that is assessable development—before the local government approves the plan of subdivision under chapter 3, part 7; or

(b) if the charge applies to building work that is assessable development—before the certificate of classification for the building work is issued; or

(c) if the charge applies to a material change of use—before the change happens; or

(d) if paragraphs (a), (b) and (c) do not apply—on the day stated in the infrastructure charges notice.

'5.1.10 Application of infrastructure charges

'An infrastructure charge levied and collected—

11 See section 3.5.21 (When approval lapses).

(a) for a network of trunk infrastructure, must be used to provide infrastructure for the network; or

(b) for works required for the local function of State-controlled roads, must be used to provide works on the State-controlled roads.

'5.1.11 Accounting for infrastructure charges

'**(1)** An infrastructure charge levied and collected for local works on State infrastructure must be separately accounted for.

'**(2)** To remove any doubt, it is declared that an infrastructure charge levied and collected by a local government need not be held in trust.

'5.1.12 Agreements about, and alternatives to, paying infrastructure charges

'**(1)** Despite sections 5.1.8 and 5.1.9, a person to whom an infrastructure charges notice has been given and the infrastructure provider may enter into a written agreement about 1 or more of the following—

(a) whether the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments;

(b) whether infrastructure may be supplied instead of paying all or part of the charge;[12]

(c) whether infrastructure that delivers the same standard of service as that identified in the priority infrastructure plan may be supplied instead of the infrastructure identified in the infrastructure charges schedule;

(d) if section 5.1.8(2)(a) applies for the charge and the infrastructure is land owned by the applicant—whether land in fee simple may be given instead of paying the charge or part of the charge.

'**(2)** For development infrastructure that is land, the local government may give the applicant a notice, in addition to, or instead of, the notice given under section 5.1.8, requiring the person to—

12 See *Transport Infrastructure Act 1994*, sections 31 and 40 for works involving a State-controlled road.

(a) give to the local government, in fee simple, part of the land the subject of the development application; or

(b) give to the local government, in fee simple, part of the land the subject of the development application and an infrastructure charge.

'**(3)** If the applicant is required to give land under subsection (2)(a), or a combination of land and a charge under subsection (2)(b), the total value of the contribution must not be more than the amount of the charge mentioned in section 5.1.8(1).

'**(4)** The applicant must comply with the notice as soon as practicable.

'**(5)** If subsection (1)(d) or (2) applies and the land is to be given to the local government for public parks infrastructure or local community facilities, the land must be given on trust.

'5.1.13 Local government may supply different trunk infrastructure from that identified in a priority infrastructure plan

'A local government may supply different trunk infrastructure from the infrastructure identified in the priority infrastructure plan if the infrastructure supplied delivers the same desired standard of service for the relevant network.

'5.1.14 Infrastructure charges taken to be a rate

'**(1)** An infrastructure charge levied by a local government is, for the purposes of recovery, taken to be a rate within the meaning of the *Local Government Act 1993*.

'**(2)** However, if the local government and an applicant enter into a written agreement stating the charge is a debt owing to it by the applicant or person, subsection (1) does not apply.

'Division 5—Trunk infrastructure funding under a regulated infrastructure charges schedule

'5.1.15 Regulated infrastructure charge

'A regulation may prescribe—

(a) a charge for the supply of trunk infrastructure; and

(b) development for which the charge may be levied.

'5.1.16 Adopting and notifying regulated infrastructure charges schedule

'**(1)** A local government may, by resolution, adopt a schedule of charges (a **"regulated infrastructure charges schedule"**) for the establishment cost of trunk infrastructure in a local government area.

'**(2)** Each charge in the schedule must not be more than the amount prescribed under section 5.1.15 for the charge.

'**(3)** The schedule must state—

(a) the charge for each trunk infrastructure network identified in the schedule; and

(b) development to which the charge applies; and

(c) the areas within which each charge applies.

'**(4)** As soon as practicable after the local government decides to adopt a regulated infrastructure charges schedule, the local government must publish, in a newspaper circulating generally in the local government's area, a notice stating the following—

(a) the name of the local government;

(b) that a regulated infrastructure charges schedule, for the supply of trunk infrastructure in the local government's area, has been adopted;

(c) the day the resolution was made;

(d) the day the schedule applies;

(e) whether the schedule replaces an existing schedule;

(f) that a copy of the schedule is available for inspection and purchase.

'**(5)** On the day the notice is published (or as soon as practicable after the day), the local government must give the chief executive—

(a) a copy of the notice; and

(b) 3 certified copies of the schedule.

'**(6)** The schedule has effect on and from—

(a) the day the adoption of the schedule is first notified in a newspaper circulating generally in the local government's area; or

(b) if a later day for the commencement of the schedule is stated in the schedule—the later day.

'**(7)** A copy of the schedule must be attached to each copy of the local government's planning scheme.

'**(8)** To remove any doubt, it is declared that the schedule is not part of the local government's planning scheme.

'5.1.17 Regulated infrastructure charges

'**(1)** A charge in a regulated infrastructure charges schedule (a **"regulated infrastructure charge"**) for premises must be for a trunk infrastructure network that services, or is planned to service, the premises and is identified in the priority infrastructure plan.

'**(2)** However, a regulated infrastructure charge must not be levied for a work or use of land authorised under the *Mineral Resources Act 1989* or the *Petroleum Act 1923*.

'5.1.18 Regulated infrastructure charges notice

'**(1)** A notice requiring the payment of a regulated infrastructure charge (a **"regulated infrastructure charges notice"**) must state each of the following—

(a) the amount of the charge;

(b) the land to which the charge applies;

(c) when the charge is payable;

(d) the trunk infrastructure network for which the charge has been stated.

'**(2)** The local government must give the notice to the applicant—

(a) if the local government is the assessment manager—at the same time as the development approval is given; or

(b) in any other case—within 10 business days after the local government receives a copy of the approval.

'**(3)** The charge is not recoverable unless the entitlements under the approval are exercised.

'**(4)** The notice lapses if the approval stops having effect.[13]

'5.1.19 When regulated infrastructure charges are payable

'A regulated infrastructure charge is payable—

(a) if the charge applies to reconfiguring a lot that is assessable development—before the local government approves the plan of subdivision under chapter 3, part 7; or

(b) if the charge applies to building work that is assessable development—before the certificate of classification for the building work is issued; or

(c) if the charge applies to a material change of use—before the change happens; or

(d) otherwise—on the day stated in the regulated infrastructure charges notice.

'5.1.20 Application of regulated infrastructure charges

'A regulated infrastructure charge levied and collected for a network of trunk infrastructure must be used to provide infrastructure for the network.

'5.1.21 Accounting for regulated infrastructure charges

'To remove any doubt, it is declared that a regulated infrastructure charge levied and collected by a local government need not be held in trust.

13 See section 3.5.21 (When approval lapses).

‘5.1.22 Agreements about, and alternatives to, paying regulated infrastructure charges

‘Despite sections 5.1.18 and 5.1.19, a person to whom a regulated infrastructure charges notice has been given and the infrastructure provider may enter into a written agreement about 1 or more of the following—

(a) whether the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments;

(b) whether infrastructure may be supplied instead of paying all or part of the charge.

‘5.1.23 Regulated infrastructure charges taken to be a rate

‘**(1)** A regulated infrastructure charge levied by a local government is, for the purposes of recovery, taken to be a rate within the meaning of the *Local Government Act 1993*.

‘**(2)** However, if the local government and an applicant enter into a written agreement stating the charge is a debt owing to it by the applicant or person, subsection (1) does not apply.

‘Division 6—Conditions local governments may impose for necessary trunk infrastructure

‘5.1.24 Conditions local governments may impose for necessary trunk infrastructure

‘**(1)** This section applies if—

(a) existing trunk infrastructure necessary to service the premises is not adequate and trunk infrastructure adequate to service the premises is identified in the priority infrastructure plan; or

(b) trunk infrastructure to service the premises is necessary, but is not yet available and is identified in the priority infrastructure plan; or

(c) trunk infrastructure identified in the priority infrastructure plan crosses the premises.

‘**(2)** A local government may require different trunk infrastructure from the infrastructure identified in the priority infrastructure plan if the required

infrastructure delivers the same desired standard of service for the relevant network.

'**(3)** The local government may impose a condition requiring the applicant to construct the trunk infrastructure mentioned in subsection (1) or (2), even if the infrastructure will service other premises.

'**(4)** The condition must state—

(a) the trunk infrastructure to be constructed; and

(b) when the infrastructure must be constructed.

'**(5)** Subsection (6) applies if—

(a) the trunk infrastructure mentioned in subsection (3) services, or is planned to service, other premises; and

(b) the amount of the value of the infrastructure is more than the amount of the value of the charge for the network.

'**(6)** The applicant—

(a) does not have to pay an infrastructure charge for the network; and

(b) is entitled to a refund from the infrastructure provider, on terms agreed with the infrastructure provider, for the proportion of the establishment cost of the trunk infrastructure mentioned in subsection (3)—

(i) that reasonably can be apportioned to the other users' premises mentioned in subsection (5)(a); and

(ii) collected, or to be collected, under an infrastructure charges schedule.

'**(7)** If subsection (6) does not apply, the amount of the value of the infrastructure supplied under the condition for a network must be offset against any charge that may be levied for the premises under section 5.1.8 for the network.

'**(8)** A condition imposed under subsection (3) complies with section 3.5.30—

(a) for subsection (1)(a) or (b)—

(i) to the extent the infrastructure is necessary to service the premises; and

(ii) if the infrastructure is the most efficient and cost effective solution for servicing the premises; and

(b) for subsection (1)(c)—to the extent the infrastructure is not an unreasonable imposition on—

(i) the development; or

(ii) the use of premises as a consequence of the development.

'Division 7—Conditions local governments may impose for additional trunk infrastructure costs

'5.1.25 Conditions local governments may impose for additional trunk infrastructure costs

'**(1)** A local government may not impose a condition requiring the payment of additional trunk infrastructure costs unless the local government has given an acknowledgment notice under section 3.2.4.

'**(2)** A local government may impose a condition requiring the payment of additional trunk infrastructure costs only if the development—

(a) is—

(i) inconsistent with the assumptions about the type, scale, location or timing of future development stated in the priority infrastructure plan; or

(ii) for premises completely or partly outside the priority infrastructure area; and

(b) would impose additional trunk infrastructure costs on the infrastructure provider after taking into account either or both of the following—

(i) infrastructure charges or regulated infrastructure charges levied for the development;

(ii) trunk infrastructure supplied, or to be supplied by the applicant under divisions 4 to 6.

'**(3)** A condition mentioned in subsection (2) must state each of the following—

(a) why the condition is required;

(b) the amount of the payment required;

(c) details of the infrastructure for which the payment is required;

(d) when the payment must be made;

(e) the person to whom the payment must be made;

(f) the applicant may elect to supply all or part of the infrastructure instead of making payment for the infrastructure to be supplied;

(g) if the applicant makes an election under paragraph (f)—

(i) any requirements for supplying the infrastructure; and

(ii) when the infrastructure must be supplied.

'**(4)** Unless the applicant and the infrastructure provider otherwise agree in writing, for subsection (3)(d), the payment must be made—

(a) if the trunk infrastructure is necessary to service the premises—by the day the development, or work associated with the development, starts; or

(b) if the trunk infrastructure is not necessary to service the premises—

(i) for reconfiguring a lot—before the local government approves the plan of subdivision under chapter 3, part 7; or

(ii) for other development—before the use commences.

'**(5)** Subsection (6) applies if—

(a) a development approval no longer has effect; and

(b) a payment for the additional trunk infrastructure costs has been made; and

(c) construction of the infrastructure has not substantially commenced before the approval ceased having effect.

'**(6)** The local government must repay to the person who made the payment any part of the payment the local government has not spent, or contracted to spend, on the design and construction of the infrastructure.

'**(7)** A condition imposed under this division complies with section 3.5.30, to the extent the trunk infrastructure is necessary, but not yet available, to service development, even if the infrastructure is also intended to service other development.

'**(8)** A local government may not impose a condition under this division for a supplier of State infrastructure.

'**(9)** Nothing in this division stops a local government from—

(a) levying a charge for the establishment cost of the component of the trunk infrastructure network included in the infrastructure charges schedule; or

(b) imposing a condition for non-trunk infrastructure; or

(c) imposing a condition for necessary trunk infrastructure.

'5.1.26 Local government additional trunk infrastructure costs in priority infrastructure areas

'**(1)** The costs that may be required by a local government under section 5.1.25, for development completely in the priority infrastructure area, may only include—

(a) for trunk infrastructure to be supplied earlier than anticipated in the priority infrastructure plan—the difference between the establishment cost of the infrastructure made necessary by the development and the amount of any charge paid for the infrastructure; or

(b) for trunk infrastructure associated with a different type, scale or intensity of development from that anticipated in the priority infrastructure plan—

(i) for a different type, a greater scale or a greater intensity of development—the establishment cost of any additional trunk infrastructure made necessary by the development; or

(ii) for a lesser scale or lesser intensity of development—the difference between the establishment cost of the infrastructure identified in the plan and the establishment cost of the infrastructure necessary for the development.

'**(2)** The applicant is entitled to a refund from the infrastructure provider, on terms agreed with the infrastructure provider, for the proportion of the establishment cost of the infrastructure—

(a) that reasonably can be apportioned to the other users of the infrastructure mentioned in subsection (1)(a) or (1)(b)(i); and

(b) collected, or to be collected, under an infrastructure charges schedule.

'5.1.27 Local government additional trunk infrastructure costs outside priority infrastructure areas

'**(1)** The costs that may be required under section 5.1.25, for development completely or partly outside the priority infrastructure area, may only include, for each network—

(a) the establishment cost of any trunk infrastructure made necessary by the development; and

(b) either or both of the following establishment costs of any temporary infrastructure—

(i) costs required to ensure the safe or efficient operation of the infrastructure mentioned in paragraph (a); or

(ii) costs made necessary by the development; and

(c) the decommissioning, removal and rehabilitation costs of any temporary infrastructure mentioned in paragraph (b); and

(d) the maintenance and operating costs of the infrastructure mentioned in paragraphs (a) and (b), for up to 5 years.

'**(2)** Subsection (3) applies if the planning scheme indicates the premises is part of an area intended for future development for—

(a) residential purposes; or

(b) retail or commercial purposes; or

(c) industrial purposes.

'**(3)** For subsection (1)(a), trunk infrastructure made necessary by the development includes the trunk infrastructure necessary to service the balance of the area mentioned in subsection (2).

'Division 8—Conditions State infrastructure providers may impose for infrastructure

'5.1.28 Conditions State infrastructure provider may impose

'**(1)** A State infrastructure provider may impose a condition about either or both of the following—

(a) infrastructure;

(b) works to protect the operation of the infrastructure.

'**(2)** The condition must be only for—

(a) protecting or maintaining the safety or efficiency of the provider's infrastructure network; or

(b) additional infrastructure costs.

Examples of a condition for safety or efficiency—

1. A deceleration lane and entry access to a shopping centre development.
2. Traffic signals at an intersection 1 block from a shopping centre development.
3. Upgrading transverse drainage under a State-controlled road because of increased hard stand parking area from development.
4. Road shoulder widening added to reconstruction of a road because of increased traffic loading to stop road edge wear.

Example of a condition for additional infrastructure costs—

Contribution for the construction of road works on a State-controlled road when land, not in the priority infrastructure area is developed as a large town-house estate—such as for the provision of footpaths, kerb and channel with ancillary drainage and a landscaped noise buffer.

'**(3)** A condition under subsection (1) may require either or both of the following—

(a) infrastructure to be supplied at a different standard to the standard stated in the priority infrastructure plan;

(b) different infrastructure to be supplied to the infrastructure identified in the priority infrastructure plan.

'**(4)** Subsection (5) applies if infrastructure mentioned in subsection (3)—

(a) has replaced, or is to replace, infrastructure for which a local government has collected, or may collect, an infrastructure charge; and

(b) provides the same desired standard of service as the replaced infrastructure.

'**(5)** The local government must—

(a) give the charge collected to the State infrastructure provider to be used—

(i) for the construction of the infrastructure; or

(ii) to reimburse the person who constructed the infrastructure; or

(b) enter into an agreement with the State infrastructure provider and the person required to comply with the condition about when payment of the charge collected will be made—

(i) for the construction of the infrastructure; or

(ii) to reimburse the person who constructed the infrastructure.

'**(6)** In this section—

"infrastructure network", for State owned or State controlled transport infrastructure, means transport infrastructure under the *Transport Infrastructure Act 1994* that is owned or controlled by the State.

"safety or efficiency of the provider's infrastructure network" means the safety of any of the users of the provider's infrastructure network and others impacted by the network or the efficiency of the use of the provider's infrastructure network.[14]

'5.1.29 Requirements for conditions about safety or efficiency

'A condition imposed under section 5.1.28(2)(a) for supplying, or contributing toward the cost of, infrastructure must state—

(a) the infrastructure or works to be supplied or the contribution to be made; and

14 See any guidelines made by the chief executive administering the *Transport Infrastructure Act 1994* about safety or efficiency of a provider's infrastructure network.

(b) when the infrastructure or works must be supplied or the contribution made.

'5.1.30 Requirements for conditions about additional infrastructure costs

'**(1)** A State infrastructure provider may impose a condition under section 5.1.28(2)(b) only to the extent the development—

(a) is—

(i) inconsistent with the assumptions stated in the priority infrastructure plan; or

(ii) for premises completely or partly outside the priority infrastructure area; and

(b) imposes additional infrastructure costs on the State infrastructure provider.

'**(2)** A condition mentioned in subsection (1) must state each of the following—

(a) why the condition is required;

(b) the amount of the payment required;

(c) details of the infrastructure for which the payment is required;

(d) when the payment must be made;

(e) the person to whom the payment must be made;

(f) the applicant may elect to supply all or part of the infrastructure instead of making payment for the infrastructure to be supplied;

(g) if the applicant makes an election under paragraph (f)—

(i) any requirements for supplying the infrastructure; and

(ii) when the infrastructure must be supplied.

'**(3)** Unless the applicant and the infrastructure provider otherwise agree in writing, for subsection (2)(d), the payment must be made—

(a) if the trunk infrastructure is necessary to service the premises—by the day the development, or work associated with the development, starts; or

(b) if the trunk infrastructure is not necessary to service the premises—

(i) for reconfiguring a lot—before the local government approves the plan of subdivision under chapter 3, part 7; or

(ii) for other development—before the use commences.

'**(4)** Subsection (5) applies if—

(a) a development approval no longer has effect; and

(b) a payment for the additional infrastructure costs had been made; and

(c) construction of the infrastructure has not substantially commenced before the approval ceased having effect.

'**(5)** The State infrastructure provider must repay to the person who made the payment any part of the payment the State infrastructure provider has not spent, or contracted to spend, on the design and construction of the infrastructure.

'**(6)** A condition imposed under this division complies with section 3.5.30, to the extent the infrastructure is necessary, but not yet available, to service development, even if the infrastructure is also intended to service other development.

'5.1.31 State infrastructure provider additional infrastructure costs in priority infrastructure areas

'**(1)** The costs that may be required by a State infrastructure provider under section 5.1.30, for development completely in the priority infrastructure area, may only include—

(a) for infrastructure to be supplied earlier than the time anticipated in the priority infrastructure plan, the difference between—

(i) the present value of the establishment cost of the infrastructure; and

(ii) the present value of the establishment cost of the infrastructure, if the approval had not been given; or

(b) for infrastructure associated with a different type, scale or intensity of development from that anticipated in the priority

infrastructure plan—the establishment cost of any additional infrastructure made necessary by the development.

'**(2)** The applicant is entitled to a refund from the State infrastructure provider, on terms agreed with the State infrastructure provider, and the local government for the proportion of the establishment cost of the infrastructure—

(a) that reasonably can be apportioned to the other users' premises mentioned in subsection (1)(b); and

(b) collected, or to be collected, under an infrastructure charges schedule.

'5.1.32 State infrastructure provider additional infrastructure costs outside priority infrastructure areas

'**(1)** The costs that may be required under section 5.1.30, for development completely or partly outside the priority infrastructure area, may only include—

(a) the establishment cost of any infrastructure made necessary by the development; and

(b) the maintenance and operating costs of the infrastructure mentioned in paragraph (a) for up to 5 years; and

(c) the establishment, maintenance and operating costs of any temporary infrastructure required to ensure the safe or efficient operation of the infrastructure mentioned in paragraph (a) for up to 5 years.

'**(2)** Subsection (3) applies if the planning scheme indicates the premises is part of an area intended for future development for—

(a) residential purposes; or

(b) retail or commercial purposes; or

(c) industrial purposes.

'**(3)** For subsection (1)(a), infrastructure made necessary by the development includes the infrastructure necessary to service the balance of the area mentioned in subsection (2).

'Division 9—Miscellaneous

'5.1.33 Agreements for infrastructure partnerships

'**(1)** A person may enter into a written agreement with a public sector entity about—

(a) supplying or funding infrastructure; or

(b) refunding payments made towards the cost of supplying or funding infrastructure.

'**(2)** Subsection (1) has effect despite divisions 2 to 8 or chapter 3, part 5, division 6.

'5.1.34 Sale of certain land held on trust by local governments

'**(1)** Subsection (2) applies if—

(a) a local government intends to sell land it holds on trust in fee simple; and

(b) the land is held on trust for public parks infrastructure or local community facilities; and

(c) the local government completely or partly obtained the land in relation to an infrastructure charge levied, or a condition of an approval given, under this or the repealed Act; and

(d) the sale of the land would not be inconsistent with a current infrastructure agreement under which the local government obtained the land.

'**(2)** The local government must advertise its intention to sell the land by placing a notice of the sale in a newspaper circulating in the local government's area.

'**(3)** The notice must contain—

(a) a description of the land proposed to be sold; and

(b) the purpose for which the land was given on trust; and

(c) the reason for proposing to sell the land; and

(d) the reasonable time within which submissions must be made.

'**(4)** The local government must consider all submissions in relation to the notice before making a decision about the sale.

'**(5)** If a local government complies with this section and sells the land—

(a) the land is sold free of the trust; and

(b) the proceeds of the sale must be used for providing public parks infrastructure or land for local community facilities servicing the land.'.

23 Amendment of s 5.2.1 (Meaning of "infrastructure agreement")

Section 5.2.1, definition of **"infrastructure agreement"**—

omit, insert—

' **"infrastructure agreement"** means an agreement, as amended from time to time, mentioned in any of the following sections—

- section 3.5.34, to the extent the agreement is about a condition for the payment for, or the supply of, infrastructure
- section 5.1.7
- section 5.1.12
- section 5.1.14
- section 5.1.22
- section 5.1.23
- section 5.1.24
- section 5.1.25
- section 5.1.26
- section 5.1.28
- section 5.1.30
- section 5.1.31
- section 5.1.33.'.

24 Omission of s 5.2.2 (Agreements may be entered into about infrastructure)

Section 5.2.2—

omit.

25 Amendment of s 5.2.7 (Infrastructure agreements prevail if inconsistent with development approval)

Section 5.2.7—

insert—

'**(2)** To the extent an infrastructure agreement is inconsistent with an infrastructure charges notice or a regulated infrastructure charges notice, the agreement prevails.'.

26 Amendment of s 5.4.4 (Limitations on compensation under ss 5.4.2 and 5.4.3)

(1) Section 5.4.4(1)(b), after 'land'—

insert—

'or the clearing of vegetation'.

(2) Section 5.4.4(1)(e) and (f)—

omit, insert—

'(e) is about the matters comprising a priority infrastructure plan; or'.

27 Amendment of s 5.7.2 (Documents local government must keep available for inspection and purchase)

(1) Section 5.7.2(1)—

insert—

'(na) a register (the **"infrastructure charges register"**) of all infrastructure charges levied by the local government;

(nb) a register (the **"regulated infrastructure charges register"**) of all regulated infrastructure charges levied by the local government;

(nc) each regulated infrastructure charges schedule adopted by the local government;'.

(2) Section 5.7.2—

insert—

'**(3)** The infrastructure charges register and the regulated infrastructure charges register must, for each charge levied, include each of the following—

(a) the real property description of the land to which the charge applies;

(b) the schedule under which the charge was levied;

(c) the amount of the charge levied;

(d) the amount of the charge unpaid;

(e) the number of units of demand charged for;

(f) if the charge was levied as a result of a development approval—the approval reference number and the day the approval will lapse;

(g) if infrastructure was to be provided instead of paying the charge—details of any infrastructure still to be provided.'.

28 Replacement of s 5.7.9 (Limited planning and development certificates)

Section 5.7.9—

omit, insert—

'5.7.9 Limited planning and development certificates

'A limited planning and development certificate must contain the following information for premises—

(a) a summary of the provisions of any planning scheme, including any infrastructure charges schedule or regulated infrastructure charges schedule, applying specifically to the premises;

(b) a description of any designations applying to the premises.'.

29 Amendment of s 5.7.10 (Standard planning and development certificates)

Section 5.7.10(1)—

insert—

'(aa) details of any decision to approve or refuse an application to amend a planning scheme made under section 4.3 of the repealed Act, including any conditions of approval;

(ab) a copy of any information recorded for the premises in the infrastructure charges register or regulated infrastructure charges register;'.

30 Amendment of s 6.1.31 (Conditions about infrastructure for applications)

(1) Section 6.1.31(2)(c), from 'as if'—

omit, insert—

'under a policy or provision mentioned in subsection (1)(b)'.

(2) Section 6.1.31(3)(b)—

omit, insert—

'(b) if the application is being decided under an IPA planning scheme, subsection (2) applies only until—

(i) 31 March 2005; or

(ii) if the Minister, by gazette notice, nominates a later day for a particular planning scheme—the later day.'.

(3) Section 6.1.31(4) and (5)—

omit, insert—

'**(4)** Subsection (5) applies if a local government is deciding a development application only under a transitional planning scheme.

'**(5)** For deciding the application and to the extent the application is about the aspects of the application to be decided by the local government—

(a) section 3.5.32(1)(b)[15] does not apply; and

(b) chapter 5, part 1, division 7[16] does not apply.'.

31 Replacement of s 6.1.45 (Infrastructure agreements)

Section 6.1.45—

omit, insert—

'6.1.45 Infrastructure agreements

'**(1)** An infrastructure agreement made under part 6, division 2[17] of the repealed Act and in force immediately before the commencement of this section continues, on and after the commencement, to have effect and is binding on the parties to the agreement as if the repealed Act had not been repealed.

'**(2)** If an infrastructure agreement mentioned in subsection (1) or made under this Act contains permission criteria inconsistent with the *Integrated Planning Regulation 1998*, to the extent of the inconsistency, the agreement prevails.

'**(3)** In this section—

"permission criteria" means criteria under either or both of the following—

(a) for an agreement—

(i) mentioned in subsection (1)—the *Transport Infrastructure Act 1994*, section 40,[18] as in force immediately before 1 December 1999; or

(ii) made under this Act—the *Transport Infrastructure Act 1994*, section 40;

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15 Section 3.5.32 (Conditions that can not be imposed)

16 Chapter 5 (Miscellaneous), part 1 (Infrastructure planning and funding), division 7 (Conditions local governments may impose for additional trunk infrastructure costs)

17 Part 6 (Conditions, contributions, works and infrastructure agreements), division 2 (Infrastructure agreements) of the repealed Act

18 *Transport Infrastructure Act 1994*, section 40 (Impact of certain local government decisions on State-controlled roads)

(b) the *Transport Operations (Passenger Transport) Act 1994*, section 145(4).[19]'.

32 Insertion of new ch 6, pt 2, div 3

Chapter 6, part 2—

insert—

'Division 3—Transitional provisions for infrastructure

'6.2.5 Transitional provisions for infrastructure charges plans

'**(1)** If immediately before the commencement of this section an infrastructure charges plan was in force—

(a) the infrastructure charges plan continues to have effect as if it were an infrastructure charges schedule; and

(b) a reference to—

(i) the infrastructure charges plan is taken to be a reference to an infrastructure charges schedule; and

(ii) infrastructure identified in the plan is taken to be a reference to trunk infrastructure; and

(c) for sections 3.2.4 and 5.1.25, an assumption about the type, scale, location or timing of future development on which the plan is based has effect as if the assumption were stated in a priority infrastructure plan.

'**(2)** If immediately before the commencement of this section a local government was preparing an infrastructure charges plan, the local government may continue to prepare the plan as if the *Integrated Planning and Other Legislation Amendment Act 2003* had not commenced.

'**(3)** If a plan mentioned in subsection (2), is adopted by the local government after the commencement of this section—

(a) the plan is taken to be an infrastructure charges schedule; and

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19 *Transport Operations (Passenger Transport) Act 1994*, section 145 (Impact of certain decisions by local governments on public passenger transport)

(b) a reference to the plan is taken to be a reference to an infrastructure charges schedule; and

(c) a reference to infrastructure identified in the plan is taken to be a reference to trunk infrastructure; and

(d) for sections 3.2.4 and 5.1.25, an assumption about the type, scale, location or timing of future development on which the plan is based has effect as if the assumption were stated in a priority infrastructure plan.

'**(4)** If an infrastructure charges plan mentioned in subsections (1) to (3) includes public parks infrastructure—

(a) the infrastructure is taken to have been validly included in the plan; and

(b) any infrastructure charge levied under the plan is taken to have been validly levied.

'6.2.6 When planning schemes do not require priority infrastructure plans

'An IPA planning scheme does not have to include a priority infrastructure plan until the day mentioned in section 6.1.31(3)(b) applying to the scheme.

'6.2.7 Priority infrastructure plans

'**(1)** This section applies if—

(a) a local government was preparing a plan similar to a priority infrastructure plan before the commencement of this section; and

(b) the plan, when completed, complies with the criteria prescribed for the preparation of priority infrastructure plans; and

(c) the Minister, under schedule 1, section 18, advises the local government that it may adopt the plan.

'**(2)** The plan is taken to be a priority infrastructure plan.

'6.2.8 Infrastructure charges schedules

'**(1)** This section applies if—

(a) a local government was preparing a schedule similar to an infrastructure charges schedule before the commencement of this section; and

(b) the schedule, when completed, complies with the criteria prescribed for the preparation of an infrastructure charges schedule; and

(c) the Minister, under schedule 1, section 18, advises the local government that it may adopt the schedule.

'**(2)** The schedule is taken to be an infrastructure charges schedule.

'6.2.9 Reduction of charge for infrastructure supplied under conditions

'**(1)** Subsection (2) applies if—

(a) a development approval is subject to conditions imposed under section 6.1.31; and

(b) after the conditions are imposed, the local government prepares an infrastructure charges plan or an infrastructure charges schedule for the supply of infrastructure for which the conditions were imposed; and

(c) the local government intends to levy a charge on the premises for the infrastructure.

'**(2)** The local government must reduce the charge having regard to any contributions made or infrastructure supplied under the condition.

'6.2.10 Appeals about infrastructure contribution conditions imposed under planning scheme policies

'**(1)** This section applies if—

(a) a local government has a planning scheme policy for infrastructure prepared under section 6.1.20; and

(b) the policy requires infrastructure contributions for urban water cycle management and transport infrastructure; and

(c) the policy was prepared as an infrastructure charges plan but has been adopted as a planning scheme policy; and

(d) the local government has, under section 6.1.31, imposed a condition on a development approval requiring the applicant to pay contributions for the infrastructure.

'**(2)** Any appeal about the condition must proceed as if it were an appeal under section 4.1.36.'.

33 Amendment of sch 1 (Process for making or amending planning schemes)

Schedule 1—

insert—

'8A Requirements for priority infrastructure plans

'**(1)** This section applies if a local government is—

(a) making a planning scheme that includes a priority infrastructure plan; or

(b) amending a planning scheme to include or amend a priority infrastructure plan.

'**(2)** Before the local government makes a resolution under section 9, the local government must agree with the suppliers of State infrastructure for the priority infrastructure plan about—

(a) assumptions for the priority infrastructure plan; and

(b) the location and size of the priority infrastructure area.

'**(3)** If the parties can not agree on the matters mentioned in subsection (2), the Minister must—

(a) establish a committee to prepare a report on the matters and having considered the report, decide the matters; or

(b) having considered the written views of the parties, decide the matters.'.

34 Amendment of sch 5 (Community infrastructure)

(1) Schedule 5—

insert—

'(ia) miscellaneous transport infrastructure under the *Transport Infrastructure Act 1994*;'.

(2) Schedule 5, item 1(o)—

omit, insert—

'(o) transport infrastructure mentioned in schedule 10, definition "development infrastructure";'.

35 Amendment of sch 10 (Dictionary)

(1) Schedule 10, definitions "benchmark development sequence", "capital costs", "desired standard of service", "development infrastructure item", "infrastructure charge", "infrastructure charges plan" and "local community purpose"—

omit.

(2) Schedule 10—

insert—

' **"desired standard of service"**, for a network of development infrastructure, means the standard of performance stated in the priority infrastructure plan.

"development infrastructure" means—

(a) land or works, or both land and works for—

(i) urban and rural residential water cycle management infrastructure (including infrastructure for water supply, sewerage, collecting water, treating water, stream managing, disposing of waters and flood mitigation); or

(ii) transport infrastructure (including roads, vehicle lay-bys, traffic control devices, dedicated public transport corridors, public parking facilities predominantly serving a local area, cycle ways, pathways, ferry terminals and the local function, but not any other function, of State-controlled roads); or[20]

20 The chief executive administering the *Transport Infrastructure Act 1994* may make guidelines, including guidelines defining the local function of State-controlled roads.

(iii) local public parks infrastructure (including playground equipment, playing fields, courts and picnic facilities); or

(b) land, and works that ensure the land is suitable for development, for local community facilities, including, for example—

(i) community halls or centres; or

(ii) public recreation centres; or

(iii) public libraries.

"establishment cost", for infrastructure, means—

(a) on-going administration costs for the infrastructure charges schedule for the infrastructure; and

(b) for future infrastructure—all costs for the design, financing and construction of the infrastructure and for land acquisition for the infrastructure; and

(c) for existing infrastructure—

(i) the cost of reconstructing the same works using contemporary materials, techniques and technologies; and

(ii) if the land acquisition for the infrastructure was completed after 1 January 1990—the present value of the amount (if any) paid by the infrastructure provider for acquiring the land.

"infrastructure charge" see section 5.1.6.

"infrastructure charges notice" see section 5.1.8.

"infrastructure charges plan" means an infrastructure charges plan under this Act before the commencement of the *Integrated Planning and Other Legislation Amendment Act 2003*, part 2, division 3.

"infrastructure charges register" see section 5.7.2.

"infrastructure charges schedule" means an infrastructure charges schedule under chapter 5, part 1, division 4.

"infrastructure provider", for an application, means a local government that is the assessment manager and—

(a) supplies trunk infrastructure for development; or

(b) has an agreement with another entity that supplies trunk infrastructure to the local government area.

"non-trunk infrastructure" means development infrastructure that is not trunk infrastructure.

"plans for trunk infrastructure" means the part of a priority infrastructure plan that identifies the trunk infrastructure network that exists or may be supplied to service future growth in the local government's area to meet the desired standard of service stated in the plan.

"priority infrastructure area", for a local government—

1. "Priority infrastructure area" means the area—
   (a) that is developed, or approved for development, for each of the following purposes—
      (i) residential, other than rural residential;
      (ii) retail and commercial;
      (iii) industrial; and
   (b) that will accommodate at least 10 years, but not more than 15 years, of growth for the purposes mentioned in paragraph (a).
2. "Priority infrastructure area" includes an area not mentioned in item 1 that—
   (a) the local government decides to include in the area; and
   (b) is serviced by development infrastructure.

"priority infrastructure plan" means the part of a planning scheme that—

(a) identifies the priority infrastructure area; and

(b) includes the plans for trunk infrastructure; and

(c) identifies, if required by a supplier of State infrastructure with a relevant jurisdiction—
   (i) a statement of intent for State-controlled roads; or
   (ii) the roads implementation program under the *Transport Infrastructure Act 1994*, section 11; and

(d) states the assumptions about the type, scale, location and timing of future development on which the plan is based; and

(e) states the desired standard of service for each development infrastructure network identified in the plan; and

(f) includes any infrastructure charges schedule.

"regulated infrastructure charge" see section 5.1.17.

"regulated infrastructure charges notice" see section 5.1.18.

"regulated infrastructure charges register" see section 5.7.2.

"regulated infrastructure charges schedule" see section 5.1.16.

"State infrastructure" means any of the following—

(a) State schools infrastructure;

(b) public transport infrastructure;

(c) State-controlled roads infrastructure;

(d) emergency services infrastructure

"State infrastructure provider" means a concurrence agency that supplies, or contributes toward the cost of, State infrastructure.

"statement of intent", for a State-controlled road, means a statement about the State-controlled road, including proposals for the provision of transport infrastructure included in the roads implementation program under the *Transport Infrastructure Act 1994*, section 11.

"trunk infrastructure" means development infrastructure identified in a priority infrastructure plan as trunk infrastructure.'.

Division 4—Other amendments

36 Amendment of s 1.3.5 (Definitions for terms used in "development")

(1) Section 1.3.5, definition "building work"—

insert—

'4. "Building work" does not include undertaking—

(a) operations of any kind and all things constructed or installed that allow taking, or interfering with, water (other than using a water truck to pump water) under the *Water Act 2000*; or

(b) tidal works.'.

(2) Section 1.3.5, definition "operational work"—

omit, insert—

' **"operational work"—**

1. "Operational work" means—

(a) extracting gravel, rock, sand or soil from the place where it occurs naturally; or

(b) conducting a forest practice; or

(c) excavating or filling that materially affects premises or their use; or

(d) placing an advertising device on premises; or

(e) undertaking work in, on, over or under premises that materially affects premises or their use; or

(f) clearing vegetation on freehold land; or

(g) undertaking operations of any kind and all things constructed or installed that allow taking, or interfering with, water (other than using a water truck to pump water) under the *Water Act 2000*; or

(h) undertaking—

(i) tidal works; or

(ii) work in a coastal management district.

2. "Operational work" does not include—

(a) for items 1(a) to (f)—any element of the work that is building, drainage or plumbing work; or

(b) destroying, disturbing or removing vegetation on land that is not freehold land.'.

37 Replacement of ch 1, pt 4 (Uses and rights)

Chapter 1, part 4—

omit, insert—

‘PART 4—EXISTING USES AND RIGHTS PROTECTED

‘1.4.1 Lawful uses of premises on 30 March 1998

‘To the extent an existing use of premises was lawful immediately before 30 March 1998, the use is taken to be a lawful use under this Act on 30 March 1998.

‘1.4.2 Lawful uses of premises protected

‘**(1)** Subsection (2) applies if immediately before the commencement of a planning instrument or an amendment of a planning instrument the use of premises was a lawful use of the premises.

‘**(2)** Neither the instrument nor the amendment can—

(a) stop the use from continuing; or

(b) further regulate the use; or

(c) require the use to be changed.[21]

‘1.4.3 Lawfully constructed buildings and works protected

‘To the extent a building or other work has been lawfully constructed or effected, neither a planning instrument nor an amendment of a planning instrument can require the building or work to be altered or removed.

‘1.4.4 New planning instruments can not affect existing development approvals

‘**(1)** This section applies if—

(a) a development approval exists for premises; and

(b) after the approval is given, a new planning instrument or an amendment of a planning instrument commences.

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21 For development on State land from 30 March 1998 to 31 March 2000, see repealed section 6.1.40 (Application of ch 1, pt 5).

'**(2)** To the extent the approval has not lapsed,[22] neither the planning instrument nor the amendment can stop or further regulate the development, or otherwise affect the approval.

'1.4.5 Implied and uncommenced right to use premises protected

'**(1)** Subsection (2) applies if—

(a) a development approval comes into effect for a development application; and

(b) when the application was properly made, a material change of use, for a use implied by the application, was self-assessable development or exempt development; and

(c) after the application was properly made, but before the use started, a new planning instrument, or an amendment of a planning instrument—

(i) declared the material change of use to be assessable development; or

(ii) changed an applicable code for the material change of use.

'**(2)** The use is taken to be a lawful use in existence immediately before the commencement of the new planning instrument or amendment if—

(a) the development, the subject of the approval, is completed within the time stated for completion of the development in—

(i) a permit; or

(ii) this Act; and

(b) the use of the premises starts within 5 years after the completion.

'1.4.6 Strategic port land

'Section 1.4.1 applies to lawful uses of strategic port land as if a reference to 30 March 1998 were a reference to 1 December 2000.

22 For when approvals lapse, see section 3.5.21 (When approval lapses).

‘1.4.7 State forests

‘For this Act, each of the following is taken to be an existing lawful use of a State forest—

(a) conservation;

(b) conducting a forest practice;

(c) grazing;

(d) recreation.

‘1.4.8 Sch 8 may still apply to certain development

‘Nothing in this part stops development in relation to a lawful use being assessable or self-assessable development under schedule 8 if the development begins after schedule 8 starts to apply to it.’.

38 Amendment of s 2.1.2 (Area to which planning schemes apply)

Section 2.1.2—

insert—

‘**(2)** The local government may also apply its planning scheme for assessing prescribed tidal work in its tidal area to the extent stated in a code for prescribed tidal work under this Act.’.

39 Replacement of s 2.1.16 (Meaning of “planning scheme policy”)

Section 2.1.16—

omit, insert—

‘2.1.16 Meaning of “planning scheme policy”

‘A **“planning scheme policy”** is an instrument that—

(a) supports the local dimension of a planning scheme; and

(b) supports local government actions under this Act for IDAS and for making or amending its planning scheme; and

(c) is made by a local government under this division.[23]'.

40 Amendment of s 2.1.18 (Adopting planning scheme policies in planning schemes)

Section 2.1.18—

insert—

'**(2)** A planning scheme policy must not apply, adopt or incorporate another document prepared by the local government.'.

41 Amendment of s 2.1.23 (Local planning instruments have force of law)

Section 2.1.23(4)—

omit, insert—

'**(4)** A planning scheme policy may only do 1 or more of the following—

(a) state information a local government may request for a development application;

(b) state the consultation the local government may carry out under section 3.2.5;

(c) state actions a local government may take to support the process for making or amending its planning scheme;

(d) contain standards identified in a code.'.

42 Replacement of s 2.1.25 (Covenants not to be inconsistent with planning schemes)

Section 2.1.25—

omit, insert—

23 The Minister also may make a planning scheme policy if the local government fails to comply with a direction under section 2.3.2.

‘2.1.25 Covenants not to conflict with planning schemes

‘Subject to section 3.5.37, a covenant under the *Land Act 1994*, section 373A(4) or the *Land Title Act 1994*, section 97A(3)(a) or (b) is of no effect to the extent it conflicts with a planning scheme—

(a) for the land subject to the covenant; and

(b) in effect when the document creating the covenant is registered.’.

43 Amendment of s 2.4.6 (Repealing State planning policies)

Section 2.4.6(3)—

omit, insert—

‘**(3)** The repeal has effect on and from—

(a) the day the notice is published in the gazette; or

(b) if a later day for the repeal is stated in the notice—the later day.’.

44 Amendment of s 3.1.2 (Development under this Act)

(1) Section 3.1.2(2)—

omit, insert—

‘**(2)** Schedule 9 identifies development that a planning scheme or a temporary local planning instrument can not declare to be assessable development or self-assessable development.’.

(2) Section 3.1.2(3), after ‘schedule 8’—

insert—

‘or 9’.

45 Amendment of s 3.1.5 (Approvals under this Act)

Section 3.1.5(1), ‘assessable’ (first occurrence)—

omit.

46 Replacement of s 3.1.6 (Preliminary approval may override local planning instrument)

Section 3.1.6—

omit, insert—

'3.1.6 Preliminary approval may override a local planning instrument

'**(1)** This section applies if—

(a) an applicant applies for a preliminary approval; and

(b) part of the application states the way in which the applicant seeks the approval to vary the effect of any local planning instrument for the land.

'**(2)** Subsection (3) applies to the extent the application is for—

(a) development that is a material change of use; and

(b) the part mentioned in subsection (1)(b).

'**(3)** If the preliminary approval approves the material change of use, the preliminary approval may, in addition to the things an approval may do under part 5, do either or both of the following for development relating to the material change of use—

(a) state that the development is—

(i) assessable development (requiring code or impact assessment); or

(ii) self-assessable development; or

(iii) exempt development;

(b) identify any codes for the development.

'**(4)** Subsection (5) applies to the extent the application is for—

(a) development other than a material change of use; and

(b) the part mentioned in subsection (1)(b).

'**(5)** If the preliminary approval approves the development, the preliminary approval may, in addition to the things an approval may do under part 5, do either or both of the following for the development—

(a) state that the development is—

(i) assessable development (requiring code or impact assessment); or

(ii) self-assessable development; or

(iii) exempt development;

(b) identify codes for the development.

'**(6)** To the extent the preliminary approval, by doing either or both of the things mentioned in subsection (3) or (5), is different to the local planning instrument, the approval prevails.

'**(7)** However, subsection (3) or (5) no longer applies to development mentioned in subsection (3)(a) or (5)(a) when the first of the following happens—

(a) the development approved by the preliminary approval and authorised by a later development permit is completed;

(b) any time limit for completing the development ends.[24]

'**(8)** To the extent the preliminary approval is inconsistent with schedule 8 or 9, the preliminary approval is of no effect.'.

47 Replacement of ss 3.1.7 and 3.1.8

Sections 3.1.7 and 3.1.8—

omit, insert—

'3.1.7 Assessment manager

'**(1)** The **"assessment manager"**—

(a) for an application mentioned in schedule 8A—is the entity stated for the application; and

(b) administers and decides an application, but may not always assess all aspects of development for the application.[25]

'**(2)** If the assessment manager is to be decided by the Minister under schedule 8A, the Minister may instead require the application to be split into 2 or more applications.

'**(3)** If a local government is the assessment manager for development not completely within the local government's planning scheme area—

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24 See section 3.5.31(1)(c) (Conditions generally).

25 See section 3.5.3A (When assessment manager must not assess part of an application)

(a) subsection (1) applies despite the *Local Government Act 1993*, section 25;[26] and

(b) to the extent the application is for development for prescribed tidal work, the local government has the jurisdiction to assess the application in addition to any other jurisdiction it may have for assessing the application.

'**(4)** If an individual (however called) is the assessment manager and has 1 or more jurisdictions as a concurrence agency, the person is not a concurrence agency but the person's jurisdiction as assessment manager includes each jurisdiction the person would have had as a concurrence agency.

'3.1.7A Concurrence agencies if Minister decides assessment manager

'**(1)** This section applies if—

(a) the assessment manager for an application is decided by the Minister; and

(b) the Minister is satisfied 1 or more other entities, that are not concurrence agencies for the application, could have been the assessment manager for the application.

'**(2)** The Minister may state that 1 or more of the entities are to be a concurrence agency for the application.

'**(3)** An entity that becomes a concurrence agency under subsection (2) has the jurisdiction it would have had if it were the assessment manager.

'3.1.8 Referral agencies for development applications

'**(1)** A referral agency has, for assessing and responding to the part of a development application giving rise to the referral, the jurisdiction or jurisdictions prescribed under a regulation.

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26 The *Local Government Act 1993*, section 25—

25 Jurisdiction of local government

Each local government has jurisdiction (the **"jurisdiction of local government"**) to make local laws for, and otherwise ensure, the good rule and government of, its territorial unit.

'**(2)** If 2 or more entities prescribed as referral agencies are the same individual (however called), the entities are taken to be a single referral agency with multiple jurisdictions.'.

48 Insertion of new ss 3.1.10 and 3.1.11

After section 3.1.9—

insert—

'3.1.10 Self-assessable development and codes

'Self-assessable development must comply with applicable codes.[27]

'3.1.11 Native Title Act (Cwlth)

'**(1)** Subsections (2) and (3) apply if an assessment manager takes action under the *Native Title Act 1993* (Cwlth), section 24HA or 24KA.

'**(2)** If the assessment manager takes the action before the decision stage starts, the decision stage does not start until the action is completed.

'**(3)** If the assessment manager takes the action after the decision stage has started, the decision stage stops the day after the action is taken and starts again the day after the action is completed.'.

49 Replacement of s 3.2.1 (Applying for development approval)

Section 3.2.1—

omit, insert—

'3.2.1 Applying for development approval

'**(1)** Each application must be made to the assessment manager in the approved form.[28]

'**(2)** The approved form—

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27 It is an offence to carry out self-assessable development in contravention of applicable codes. See section 4.3.2 (Self-assessable development must comply with codes).

28 A single application may be made for both a preliminary approval and a development permit.

(a) must contain a mandatory requirements part including a requirement for an accurate description of the land; and

(b) may contain a supporting information part.

'**(3)** Subject to subsection (12), each application must contain, or be supported by, the written consent of the owner of the land to the making of the application if the application is for—

(a) a material change of use of premises or a reconfiguration of a lot; or

(b) work on land below high-water mark and outside a canal as defined under the *Coastal Protection and Management Act 1995*; or

(c) work on rail corridor land as defined under the *Transport Infrastructure Act 1994*.

'**(4)** Each application must be accompanied by the fee—

(a) if the assessment manager is a local government—fixed by resolution of the local government; or

(b) if the assessment manager is another public sector entity—prescribed under a regulation under this or another Act.

'**(5)** To the extent the development involves taking, or interfering with, a State resource prescribed under a regulation, the regulation may require the application to be supported by 1 or more of the following prescribed under the regulation for the development—

(a) evidence of an allocation of, or an entitlement to, the resource;

(b) evidence the chief executive of the department administering the resource is satisfied the development is consistent with an allocation of, or an entitlement to, the resource;

(c) evidence the chief executive of the department administering the resource is satisfied the development application may proceed in the absence of an allocation of, or an entitlement to, the resource.

'**(6)** Subsection (3)(b) does not apply for an application to the extent—

(a) subsection (5) applies to the application; or

(b) another Act requires the application to be supported by 1 or more of the things mentioned in subsection (5)(a) to (c).[29]

'**(7)** An application is a **"properly made application"** if—

(a) the application is made to the assessment manager; and

(b) the application is made in the approved form; and

(c) the mandatory requirements part of the approved form is correctly completed; and

(d) the application is accompanied by the fee for administering the application; and

(e) if subsection (6) applies—the application is supported by the evidence required under subsection (5).

'**(8)** The assessment manager may refuse to receive an application that is not a properly made application.

'**(9)** If the assessment manager receives, and after consideration accepts, an application that is not a properly made application, the application is taken to be a properly made application.

'**(10)** Subsection (9) does not apply to an application unless the application contains—

(a) the written consent of the owner of any land to which the application applies; or

(b) any evidence required under subsection (5).

'**(11)** For subsection (5), interfering with a State resource includes carrying out development on land other than freehold land.

'**(12)** To the extent the land, the subject of the application, has the benefit of an easement and the development is not inconsistent with the terms of the easement, the consent of the owner of the servient tenement is not required.'.

50 Replacement of s 3.2.8 (Public scrutiny of applications)

Section 3.2.8—

omit, insert—

29 See, for example, the *Water Act 2000*, sections 967, 969 and 971.

‘3.2.8 Public scrutiny of applications and related material

‘**(1)** The assessment manager must keep, for each application, the following documents available for inspection and purchase—

(a) the application, including any supporting material;

(b) any acknowledgment notice;

(c) any information request;

(d) any properly made submission;

(e) any referral agency response.

‘**(2)** The documents mentioned in subsection (1) must be kept available for inspection and purchase from the time the assessment manager receives the application until—

(a) the application is withdrawn or lapses; or

(b) if paragraph (a) does not apply—the end of the last period during which an appeal may be made against a decision on the application.

‘**(3)** Subsection (1) does not apply to supporting material to the extent the assessment manager is satisfied the material contains sensitive security information.

‘**(4)** Also, the assessment manager may remove the name, address and signature of each person who made a submission before making the submission available for inspection and purchase.’.

51 Replacement of s 3.2.11 (Withdrawing an application)

Section 3.2.11—

omit, insert—

‘3.2.11 Withdrawing an application

‘**(1)** At any time before the application is decided, the applicant may withdraw the application by giving written notice of the withdrawal to—

(a) the assessment manager; and

(b) any referral agency; and

(c) if the application requires referral coordination—the chief executive.

'**(2)** If within 1 year of withdrawing the application, the applicant makes a later application that is not substantially different from the withdrawn application, any properly made submission about the withdrawn application is taken to be a properly made submission about the later application.'.

52 Amendment of s 3.2.12 (Applications lapse in certain circumstances)

Section 3.2.12(2)(b)—

omit, insert—

'(b) if the next action is complying with section 3.3.8—

(i) for an application required by an enforcement notice or in response to a show cause notice—3 months; or

(ii) for any other application—12 months; or'.

53 Amendment of s 3.3.4 (Applicant advises assessment manager)

Section 3.3.4(1)(b), '3.3.5(2)'—

omit, insert—

'3.3.5(3)'.

54 Replacement of s 3.3.5 (Referral coordination)

Section 3.3.5—

omit, insert—

'3.3.5 Referral coordination

'**(1)** The information requests for an application require coordination (**"referral coordination"**) by the chief executive if any of the following apply—

(a) there are 3 or more concurrence agencies;

(b) all or part of the development—

(i) is assessable under a planning scheme; and

(ii) is prescribed under a regulation;

(c) all or part of the development is the subject of an application for a preliminary approval mentioned in section 3.1.6.

'**(2)** However, subsection (1)(b) does not apply if the assessment manager gives the applicant written notice that all or part of the development mentioned in subsection (1)(b) would, in the assessment manager's opinion, be unlikely to have significant effects on the environment.

'**(3)** If referral coordination is required, the applicant must give the chief executive—

(a) a copy of the application and the acknowledgment notice; and

(b) the fee prescribed under a regulation; and

(c) written notice of the day the applicant complied with section 3.3.3(1) for each referral agency.

'**(4)** If a concurrence agency's functions have been lawfully devolved or delegated to the entity that is the assessment manager, the entity is not counted as a referral agency for subsection (1)(a).

'**(5)** If an application requires referral coordination under subsection (1), section 3.2.3(1)[30] applies to the application, despite section 3.2.3(1A).'.

55 Amendment of s 3.3.7 (Information requests to applicant (referral coordination))

Section 3.3.7(2), '3.3.5(2)(d)'—

omit, insert—

'3.3.5(3)(c)'.

56 Amendment of s 3.3.14 (Referral agency assessment period)

Section 3.3.14—

insert—

'**(2A)** The referral agency's assessment period mentioned in subsection (1) applies even if there is no information request period for the application because an EIS is required.'.

30 Section 3.2.3 (Acknowledgment notices generally)

57 Amendment of s 3.3.15 (Referral agency assesses application)

Section 3.3.15(2)(b) from ', Standard Sewerage'—

omit, insert—

'on building work.'.

58 Amendment of s 3.3.18 (Concurrence agency's response powers)

(1) Section 3.3.18(4)—

omit.

(2) Section 3.3.18(5)—

omit, insert—

'**(5)** To the extent a concurrence agency's jurisdiction is about assessing the effects of development on designated land, the concurrence agency may only tell the assessment manager to refuse the application if—

(a) the concurrence agency is satisfied the development would compromise the intent of the designation; and

(b) the intent of the designation could not be achieved by imposing conditions on the development approval.'.

59 Replacement of s 3.3.19 (Advice agency's response powers)

Section 3.3.19—

omit, insert—

'3.3.19 Advice agency's response powers

'**(1)** An advice agency's response may, within the limits of its jurisdiction, recommend to the assessment manager 1 or more of the following—

(a) the conditions that should attach to any development approval;

(b) that any approval should be for part only of the application;

(c) that any approval should be a preliminary approval only.

'**(2)** Alternatively, an advice agency's response may, within the limits of its jurisdiction, advise the assessment manager—

(a) it has no advice agency recommendations; or

(b) it should refuse the application.

'**(3)** An advice agency's response may also do either or both of the following—

(a) offer other advice to the assessment manager about the application;

(b) tell the assessment manager to treat the response as a properly made submission.'.

60 Replacement of s 3.4.2 (When notification stage applies)

Section 3.4.2—

omit, insert—

'3.4.2 When the notification stage applies

'**(1)** The notification stage applies to an application if either of the following applies—

(a) any part of the application requires impact assessment;

(b) the application is an application to which section 3.1.6 applies.

'**(2)** Subsection (1) applies even if—

(a) code assessment is required for another part of the application; or

(b) a concurrence agency advises the assessment manager it requires the application to be refused.

'**(3)** However, subsection (1)(b) does not apply if—

(a) a preliminary approval to which section 3.1.6 applies has been given for land; and

(b) the application—

(i) does not seek to change the type of assessment for the development; or

(ii) seeks only to change development requiring code assessment to self-assessable development; and

(c) a code proposed as part of the application is substantially consistent with a code in the preliminary approval.'.

61 Amendment of s 3.4.5 (Notification period for applications)

Section 3.4.5(b)—

omit, insert—

'(b) must not include any business day from 20 December in a particular year to 5 January in the following year, both days inclusive.'.

62 Insertion of new s 3.5.3A

After section 3.5.3—

insert—

'3.5.3A When assessment manager must not assess part of an application

(1) This section applies to the part of a development application (the **"coordinated part"**) for which, were it a separate development application, there would be a different assessment manager.

(2) Despite sections 3.5.4 and 3.5.5, the assessment manager must not assess the development, the subject of the coordinated part.'.

63 Amendment of s 3.5.4 (Code assessment)

(1) Section 3.5.4(2)—

insert—

'(c) any relevant State planning policy not identified in the planning scheme as being appropriately reflected in the planning scheme.'.

(2) Section 3.5.4—

insert—

'**(2A)** However, subsection (2)(c) does not apply for the part of an application involving assessment against the *Building Act 1975*.'.

64 Insertion of new s 3.5.5A

After section 3.5.5—

insert—

‘3.5.5A Assessment for s 3.1.6 preliminary approvals that override a local planning instrument

‘**(1)** Subsection (2) applies to the part of an application for a preliminary approval mentioned in section 3.1.6 that states the way in which the applicant seeks the approval to vary the effect of any applicable local planning instrument for the land.

‘**(2)** The assessment manager must assess the part of the application having regard to each of the following—

(a) the common material;

(b) the result of the assessment manager’s assessment of the development under section 3.5.4 or 3.5.5, or both;

(c) the effect the proposed variations would have on any right of a submitter for following applications, with particular regard to the amount and detail of supporting material for the current application available to any submitters;

(d) the consistency of the proposed variations with aspects of the planning scheme, other than those sought to be varied;

(e) the matters prescribed under a regulation (to the extent they apply to a particular proposal).’.

65 Replacement of s 3.5.11 (Decision generally)

Section 3.5.11—

omit, insert—

‘3.5.11 Decision generally

‘**(1)** In deciding the application, the assessment manager must—

(a) approve all or part of the application and attach to the approval, in the exact form given by the concurrence agency, any concurrence agency conditions; or

(b) approve all or part of the application subject to conditions decided by the assessment manager and attach to the approval, in the exact form given by the concurrence agency, any concurrence agency conditions; or

(c) refuse the application.

'**(2)** The assessment manager's decision must be based on the assessments made under division 2.

'**(3)** For an approval under subsection (1)(a) or (b), if a concurrence agency's response has, under section 3.3.18(1)(b) or (c), stated an action that must be taken, the assessment manager must also take the action.

'**(4)** If a concurrence agency response has stated that the application must be refused, the assessment manager must refuse the application.

'**(5)** Subsections (1) to (4) do not apply to any part of an application for a preliminary approval mentioned in section 3.1.6 that states the way in which the applicant seeks the approval to vary the effect of any applicable local planning instrument for the land.[31]

'**(6)** It is declared that—

(a) a development approval includes any conditions—

(i) imposed by the assessment manager; and

(ii) a concurrence agency has given in a response under section 3.3.16 or 3.3.17, or an amended response under section 3.3.17; and

(b) the assessment manager may give a preliminary approval even though the applicant sought a development permit; and

(c) if the assessment manager approves only part of an application, the balance of the application is taken to be refused.'.

66 Replacement of s 3.5.13 (Decision if application requires code assessment)

Section 3.5.13—

omit, insert—

'3.5.13 Decision if application requires code assessment

'**(1)** This section applies to any part of the application requiring code assessment.

'**(2)** The assessment manager must approve the application if the assessment manager is satisfied the application complies with all

31 Section 3.5.14A establishes rules for decision making about the part of an application mentioned in subsection (5).

applicable codes whether or not conditions are required for the development to comply with the codes.

'**(3)** Subject to subsection (2), the assessment manager's decision may conflict with an applicable code only if there are enough grounds to justify the decision, having regard to—

(a) the purpose of the code; and

(b) any State planning policy not identified in the planning scheme as being appropriately reflected in the planning scheme.

'**(4)** However—

(a) if the application is for building work, the assessment manager's decision must not conflict with the *Building Act 1975*; and

(b) if the decision is made under subsection (3)(a) and the assessment is against a code in a planning scheme—the assessment manager's decision must not compromise the achievement of the desired environmental outcomes for the planning scheme area.'.

67 Amendment of s 3.5.14 (Decision if application requires impact assessment)

Section 3.5.14(4)—

omit, insert—

'**(4)** Subsections (2)(a) and (3) do not apply if compromising the achievement of the desired environmental outcomes for the planning scheme area is necessary to further the outcomes of a State planning policy not identified in the planning scheme as being appropriately reflected in the planning scheme.'.

68 Insertion of new s 3.5.14A

After section 3.5.14—

insert—

'3.5.14A Decision if application under s 3.1.6 requires assessment

'**(1)** In deciding the part of an application for a preliminary approval mentioned in section 3.1.6 that states the way in which the applicant seeks

the approval to vary the effect of any applicable local planning instrument for the land, the assessment manager must—

(a) approve all or some of the variations sought; or

(b) subject to section 3.1.6(3) and (5)—approve different variations from those sought; or

(c) refuse the variations sought.

'**(2)** However—

(a) to the extent development applied for under other parts of the application is refused, any variation relating to the development must also be refused; and

(b) the assessment manager's decision must not compromise the achievement of the desired environmental outcomes for the planning scheme area; and

(c) subsection (1)(a) and (b) applies only to the extent the decision is consistent with any State planning policies not identified in the planning scheme as being appropriately reflected in the planning scheme.'.

69 Amendment of s 3.5.15 (Decision notice)

(1) Section 3.5.15(2)—

insert—

'(fa) if all or part of the application is for a preliminary approval mentioned in section 3.1.6 and the assessment manager has approved a variation to an applicable local planning instrument—the variation;'.

(2) Section 3.5.15(2)(i)—

omit, insert—

'(i) whether or not there were any properly made submissions about the application and for each properly made submission, the name and address of the principal submitter;'.

(3) Section 3.5.15—

insert—

'**(6)** If the decision notice is given by a private certifier, this section applies subject to section 5.3.5.'.

70 Replacement of s 3.5.19 (When approval takes effect)

Section 3.5.19—

omit, insert—

'3.5.19 When approval takes effect

'**(1)** If the application is approved, or approved subject to conditions, the decision notice, or if a negotiated decision notice is given, the negotiated decision notice, is taken to be the development approval and has effect—

(a) if there is no submitter and the applicant does not appeal the decision to the court, from the time—

(i) the decision notice is given; or

(ii) if a negotiated decision notice is given—the negotiated decision notice is given; or

(b) if there is a submitter and the applicant does not appeal the decision to the court, the earlier of the following—

(i) when the submitter's appeal period ends;

(ii) the day the last submitter gives the assessment manager written notice that the submitter will not be appealing the decision; or

(c) if an appeal is made to the court, subject to section 4.1.47(2) and the decision of the court under section 4.1.54—when the appeal is finally decided.

'**(2)** If a submitter acts under subsection (1)(b)(ii), the assessment manager must give the applicant a copy of the submitter's notice.

'**(3)** In this section—

"submitter" includes an advice agency that has told the assessment manager to treat its response as a properly made submission.[32]'.

32 See section 3.3.19 (Advice agency's response powers).

71 Replacement of s 3.5.27 (Certain approvals to be recorded on planning scheme)

Section 3.5.27—

omit, insert—

'3.5.27 Certain approvals to be recorded on planning scheme

'**(1)** Subsection (2) applies if a local government—

(a) gives a development approval and is satisfied the approval is inconsistent with the planning scheme; or

(b) gives a development approval mentioned in section 3.1.6; or

(c) decides to apply a superseded planning scheme for a purpose mentioned in section 3.2.5(1)(a) or 3.2.5(3)(a).

'**(2)** The local government must—

(a) note the approval or decision on its planning scheme; and

(b) give the chief executive written notice of the notation and the land to which the note relates.

'**(3)** The note is not an amendment of the planning scheme.

'**(4)** Failure to comply with subsection (2) does not affect the validity of the approval or decision.'.

72 Insertion of new s 3.5.31A

After section 3.5.31—

insert—

'3.5.31A Conditions requiring compliance

'**(1)** For a matter prescribed under a regulation, a condition may require a document or work to be assessed for compliance with a condition.

'**(2)** The assessment and the process for the assessment must be carried out in the way prescribed under the regulation.'.

73 Amendment of s 3.5.37 (Covenants not to be inconsistent with development approvals)

Section 3.5.37(2)—

omit, insert—

'**(2)** The covenant is of no effect unless it is entered into—

(a) as a requirement of a condition of a development approval for the application; or

(b) under an infrastructure agreement.'.

74 Replacement of s 3.6.2 (Notice of direction)

Section 3.6.2—

omit, insert—

'3.6.2 Notice of direction

'**(1)** The Minister may direct the assessment manager, by written notice, to take 1 or more of the following actions or to refuse the application—

(a) to attach to the development approval the conditions stated in the notice;

(b) to approve part only of the development;

(c) to give a preliminary approval only;

(d) for an application to which section 3.1.6 applies—

(i) to approve all or some of the variations sought; or

(ii) subject to section 3.1.6(3) and (5)—to approve different variations from those sought; or

(iii) to refuse the variations sought.

'**(2)** The notice must state—

(a) the nature of the State interest giving rise to the direction; and

(b) the reasons for the Minister's direction.

'**(3)** The Minister must give a copy of the notice to the applicant.'.

75 Amendment of s 3.7.4 (Plan for reconfiguring that is not assessable development)

Section 3.7.4(2)—

omit, insert—

'**(2)** The local government must approve the plan, if—

(a) the plan is consistent with any development permit relevant to the plan; and

(b) there are no outstanding rates or charges levied by the local government or expenses that are a charge over the land under any Act.'.

76 Amendment of s 4.1.22 (Court may make orders about declarations)

Section 4.1.22(2)—

omit.

77 Replacement of s 4.1.28 (Appeals by submitters)

Section 4.1.28—

omit, insert—

'4.1.28 Appeals by submitters

'**(1)** A submitter for a development application may appeal to the court only against—

(a) the part of the approval relating to the assessment manager's decision under section 3.5.14 or 3.5.14A; or

(b) for an application processed under section 6.1.28(2)—the part of the approval about the aspects of the development that would have required public notification under the repealed Act.

'**(2)** To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—

(a) the giving of a development approval;

(b) any provision of the approval including—

(i) a condition of, or lack of condition for, the approval; or

(ii) the length of a currency period for the approval.

'**(3)** However, a submitter may not appeal if the submitter—

(a) withdraws the submission before the application is decided; or

(b) has given the assessment manager a notice under section 3.5.19(1)(b)(ii).

'**(4)** The appeal must be started within 20 business days (the **"submitter's appeal period"**) after the decision notice or negotiated decision notice is given to the submitter.'.

78 Amendment of s 4.1.29 (Appeals by advice agency submitters)

(1) Section 4.1.29(1)—

omit, insert—

'**(1)** Subsection (1A) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.[33]

'**(1A)** The advice agency may, within the limits of its jurisdiction, appeal to the court about any part of the approval relating to the assessment manager's decision under section 3.5.14 or 3.5.14A.'.

(2) Section 4.1.29—

insert—

'**(3)** However, if the advice agency has given the assessment manager a notice under section 3.5.19(1)(b)(ii), the advice agency may not appeal the decision.'.

79 Omission of s 4.1.40 (Certain appellants must obtain information about submitters)

Section 4.1.40—

omit.

80 Replacement of s 4.1.41 (Notice of appeal to other parties (div 8))

Section 4.1.41—

omit, insert—

33 See section 3.3.19 (Advice agency's response powers).

‘4.1.41 Notice of appeal to other parties (div 8)

‘**(1)** An appellant under division 8 must give written notice of the appeal to—

(a) if the appellant is an applicant—

(i) the chief executive; and

(ii) the assessment manager; and

(iii) any concurrence agency; and

(iv) any principal submitter whose submission has not been withdrawn; and

(v) any advice agency treated as a submitter whose submission has not been withdrawn; or

(b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal—

(i) the chief executive; and

(ii) the assessment manager; and

(iii) any referral agency; and

(iv) the applicant; or

(c) if the appellant is a person to whom a notice mentioned in section 4.1.30 has been given—

(i) the chief executive; and

(ii) the deciding entity; and

(iii) any entity that was a concurrence agency or building referral agency for the development application to which the notice relates.

‘**(2)** The notice must be given within—

(a) if paragraph (b) does not apply—10 business days after the appeal is started; or

(b) if the appellant is a submitter or advice agency whose response to the development application is treated as a submission for an appeal—2 business days after the appeal is started.

‘**(3)** The notice must state—

(a) the grounds of the appeal; and

(b) if the person given the notice is not the respondent or a co-respondent under section 4.1.43—that the person may, within 10 business days after the notice is given, elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.'.

81 Replacement of s 4.1.43 (Respondent and co-respondents for appeals under div 8)

Section 4.1.43—

omit, insert—

'4.1.43 Respondent and co-respondents for appeals under div 8

'**(1)** Subsections (2) to (8) apply for appeals under sections 4.1.27 to 4.1.29.

'**(2)** The assessment manager is the respondent for the appeal.

'**(3)** If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.

'**(4)** Any submitter may elect to become a co-respondent to the appeal.

'**(5)** If the appeal is about a concurrence agency response, the concurrence agency is a co-respondent for the appeal.

'**(6)** If the appeal is only about a concurrence agency response, the assessment manager may apply to the court to withdraw from the appeal.

'**(7)** The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.

'**(8)** A person to whom a notice of appeal is required to be given under section 4.1.41 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.

'**(9)** For an appeal under section 4.1.30—

(a) the assessment manager is the respondent; and

(b) any entity that was a concurrence agency or a building referral agency for the development application to which a notice under section 3.6.3 relates may elect to become a co-respondent.'.

82 Replacement of s 4.1.45 (How a person may elect to be co-respondent)

Section 4.1.45—

omit, insert—

'4.1.45 How an entity may elect to be a co-respondent

'An entity that is entitled to elect to be a co-respondent to the appeal may do so, within 10 business days after notice of the appeal is given to the entity, by following the rules of court for the election.'.

83 Amendment of s 4.3.1 (Carrying out assessable development without permit)

Section 4.3.1(1), 'without a'—

omit, insert—

'unless there is an effective'.

84 Amendment of s 4.3.6 (Development or use carried out in emergency)

Section 4.3.6(1)(b), 'local government'—

omit, insert—

'assessing authority'.

85 Amendment of s 4.3.11 (Giving enforcement notice)

Section 4.3.11(6)—

omit, insert—

'**(6)** An enforcement notice requiring any person carrying out development to stop carrying out the development may be given by fixing the notice to the premises, or the building or structure on the premises, in a way that a person entering the premises would normally see the notice.'.

86 Replacement of s 4.3.15 (Compliance with enforcement notice)

Section 4.3.15—

omit, insert—

‘4.3.15 Offences relating to enforcement notices

‘**(1)** A person who is given an enforcement notice must comply with the notice.

Maximum penalty—1 665 penalty units.

‘**(2)** A person must not damage, deface or remove an enforcement notice given under section 4.3.11(6).

Maximum penalty—1 665 penalty units.’.

87 Replacement of s 4.3.16 (Processing application required by enforcement notice)

Section 4.3.16—

omit, insert—

‘4.3.16 Processing application required by enforcement or show cause notice

‘If a person applies for a preliminary approval or development permit as required by an enforcement notice or in response to a show cause notice, the person—

(a) must not discontinue the application, unless the person has a reasonable excuse; and

(b) must take all necessary and reasonable steps to enable the application to be decided as quickly as possible, unless the person discontinues the application with a reasonable excuse; and

(c) if the person appeals against the decision on the application—must take all necessary and reasonable steps to enable the appeal to be decided by the court as quickly as possible, unless the person has a reasonable excuse.

Maximum penalty—1 665 penalty units.’.

88 Insertion of new ch 4, pt 4, div 4

Chapter 4, part 4—

insert—

'Division 4—Appeals about other matters

'4.4.15 Appeals for compliance assessment

'**(1)** For an assessment mentioned in section 3.5.31A, a person may appeal—

(a) in the circumstances prescribed under a regulation; and

(b) to the entity prescribed in the regulation; and

(c) within the time and in the way prescribed under the regulation.

'**(2)** The entity prescribed under the regulation must be the tribunal or the court.

'**(3)** The regulation may prescribe the provisions of part 1 or 2 that are to apply for hearing and deciding the appeal.'.

89 Amendment of s 5.3.5 (Private certifier may decide certain development applications and inspect and certify certain works)

(1) Section 5.3.5(4)(c)—

omit, insert—

'(c) all necessary approvals under the Standard Sewerage Law have been given for an on-site sewerage facility related to development on a premises not in a declared service area for a sewerage service under the *Water Act 2000*.'.

(2) Section 5.3.5, example for subsection (4)(c)—

omit, insert—

'*Example for subsection (4)(c)—*

If a proposal involves building work in an area that is not a declared service area for a sewerage service and work ancillary to the building work involves the building, installing or changing of an on-site sewerage facility, a private certifier who is engaged to assess and decide the building work application must not decide that application until all necessary approvals under the Standard Sewerage Law are given for the on-site sewerage facility.'.

(3) Section 5.3.5(6)(b)—

omit, insert—

'(b) give the assessment manager the approved form for the documents mentioned in paragraph (a); and

(c) if the assessment manager is the local government—pay the fee fixed by the local government under the *Local Government Act 1993*, section 1071A(1)(e) for accepting the documents mentioned in paragraph (a).'.

(4) Section 5.3.5—

insert—

'**(6A)** If the assessment manager is a local government, the local government must, when the private certifier complies with subsection (6), immediately give the private certifier a document (**"the acknowledgment"**) acknowledging the receipt of the fee mentioned in subsection (6)(c).

'**(6B)** If the private certifier approves the application, the private certifier must not give the applicant any of the documents mentioned in subsection (6)(a)(ii) or (iii) until the private certifier has received the acknowledgment from the assessment manager.

Maximum penalty for subsection (6B)—40 penalty units.

'**(6C)** If the private certifier approves the application, the private certifier must give the documents mentioned in subsection (6)(a)(ii) and (iii) to the applicant within 5 business days after the day the private certifier receives the acknowledgment.'.

(5) Section 5.3.5(7)(b)—

omit, insert—

'(b) if the assessment manager is the local government—

(i) pay the fee fixed by the local government under the *Local Government Act 1993*, section 1071A(1)(e) for accepting the documents mentioned in paragraph (a); and

(ii) give the local government the approved form for the documents.'.

(6) Section 5.3.5(8) to (10)—

omit.

90 Amendment of s 5.4.2 (Compensation for reduced value of interest in land)

Section 5.4.2(b)—

omit, insert—

'(b) a development application (superseded planning scheme) for a development permit relating to the land has been made; and'.

91 Amendment of s 5.4.4 (Limitations on compensation under ss 5.4.2 and 5.4.3)

Section 5.4.4(1)(h)(i) and (ii), 'reduced'—

omit, insert—

'significantly reduced'.

92 Amendment of s 5.7.2 (Documents local government must keep available for inspection and purchase)

Section 5.7.2(1)(g) and (m)—

omit.

93 Amendment of s 5.7.6 (Documents chief executive must keep available for inspection and purchase)

(1) Section 5.7.6—

insert—

'(l) each final terms of reference, EIS and EIS assessment report prepared in accordance with chapter 5, part 7A;

(m) if the State has entered into a bilateral agreement with the Commonwealth under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth)—any material the agreement requires to be made publicly available by the State;

(n) each guideline issued by the chief executive under section 5.8.8.'.

(2) Section 5.7.6—

insert—

'**(2)** The documents mentioned in subsection (1) may be contained in hard copy or electronic form.'.

94 Insertion of new ch 5, pt 7A

Chapter 5—

insert—

'PART 7A—ENVIRONMENTAL IMPACT STATEMENTS

'Division 1—Preliminary

'5.7A.1 When EIS process applies

'**(1)** This part applies for development prescribed under a regulation, if the development is—

(a) or is proposed to be, the subject of a development application; or

(b) for community infrastructure intended to be carried out on land proposed to be designated for the infrastructure.

'**(2)** However, if the development is a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), the chief executive may give the proponent written notice that this part does not apply for the EIS process.

'5.7A.2 Purpose of EIS process

The purpose of the EIS process is as follows—

(a) to assess—

(i) the potential adverse and beneficial environmental, economic and social impacts of the development; and

(ii) management, monitoring, planning and other measures proposed to minimise any adverse environmental impacts of the development;

(b) if practicable, to consider feasible alternative ways to carry out the development;

(c) to give enough information about the matters mentioned in paragraphs (a) and (b) to the proponent, Commonwealth and State authorities and the public;

(d) to prepare or propose an environmental management plan for the development;

(e) for development under section 5.7A.1(a)—to help the assessment manager and any concurrence agencies to make an informed decision about the development application;

(f) for development under section 5.7A.1(b)—to help the designator to make an informed decision about—

(i) whether or not to proceed with a proposed designation; and

(ii) if the designation proceeds—the requirements included in the designation;[34]

(g) to meet any assessment requirements under—

(i) the Commonwealth Environment Act for development that is, or includes, a controlled action under that Act; or

(ii) a bilateral agreement;[35]

(h) to allow the State to meet its obligations, if any, under a bilateral agreement.

'Division 2—EIS process

'5.7A.3 Applying for terms of reference

'**(1)** A proponent of development to which this part applies must apply to the chief executive for terms of reference for an EIS for the development.

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34 See section 2.6.4.

35 For controlled actions under the *Commonwealth Protection and Biodiversity Conservation Act 1999*, see section 67 (What is a controlled action?) of that Act.

For assessment requirements of controlled actions, see chapter 4, part 8 (Assessing impacts of controlled actions) of that Act.

For bilateral agreements, see chapter 3 (Bilateral agreements) of that Act.

'**(2)** The application must be made in the approved form and be accompanied by the fee prescribed under a regulation for administering the terms of reference.

'**(3)** If an applicant proposes to make 1 or more applications for preliminary approval for the development, the EIS must be prepared for the first of the applications.

'**(4)** However, if the chief executive agrees that the EIS can be prepared for a stated later application, the EIS must be prepared for that application.

'5.7A.4 Draft terms of reference for EIS

'**(1)** Subsection (2) applies—

(a) after the chief executive receives the application; and

(b) if the chief executive, having regard to criteria prescribed under a regulation, is satisfied draft terms of reference for the EIS should be publicly notified; and

(c) after consulting the relevant entities mentioned in section 5.7A.13(b) and (c).

'**(2)** The chief executive must prepare draft terms of reference that allow the purposes of the EIS to be achieved for the development.

'**(3)** The chief executive must publish a notice stating each of the following—

(a) a description of the development and of the land on which the development is proposed to be carried out;

(b) that the chief executive has prepared draft terms of reference for the EIS;

(c) where a copy of the draft terms of reference may be inspected and, on payment of a reasonable fee, purchased;

(d) that anyone may make written comments to the chief executive about the draft terms of reference;

(e) the day by which comments must be made (the **"last day for making comments"**) and the address for making comments;

(f) another matter prescribed under a regulation.

'**(4)** The notice must be published at least once in the way prescribed under a regulation.

'**(5)** The last day for making comments must not be earlier than 15 business days after the notice is published.

'**(6)** The fee mentioned in subsection (3)(c) must not be more than the actual cost of producing the copy.

'**(7)** The chief executive must, until the last day for making comments, keep—

(a) a copy of the draft terms of reference available for inspection and purchase; and

(b) brief details about the draft terms of reference available on the department's web site on the internet.

'**(8)** Until the last day for making comments, any person may make written comments to the chief executive about the draft terms of reference.

'**(9)** Also, the chief executive must give a copy of the notice and the draft terms of reference to—

(a) each local government whose local government area the chief executive is satisfied the draft terms of reference relate; and

(b) for development that is, or is proposed to be, the subject of a development application—each entity that is, or would be, a referral agency.

'**(10)** A local government receiving a copy of the draft terms of reference must make the copy available for inspection and purchase until the last day of the comment period.

'5.7A.5 Terms of reference for EIS

'**(1)** The chief executive must—

(a) if the chief executive has acted under section 5.7A.4—finalise the terms of reference and give them to the proponent within 10 business days after the end of the comment period; or

(b) if the chief executive has not prepared draft terms of reference—

(i) prepare draft terms of reference the chief executive is satisfied will allow the purposes of the EIS to be achieved for the development; and

(ii) give them to the proponent within 20 business days after the chief executive receives the application.

'**(2)** For subsection (1)(a), the chief executive must take account of any comments received on or before the last day for making comments.

'**(3)** The chief executive may extend the period for preparing or finalising the terms of reference if the chief executive gives the proponent notice of the extension before the period ends.

'**(4)** The notice must state a new day by which the chief executive must give the proponent the terms of reference.

'**(5)** The chief executive must, within 5 business days after the chief executive gave a copy of the terms of reference to the proponent, also give a copy of the terms of reference—

(a) to the extent the development for which the terms of reference have been prepared is, or is proposed to be, the subject of a development application to—

(i) the assessment manager and all referral agencies; or

(ii) the entities that would be the assessment manager and all referral agencies for a development application for the development, if an application is made; and

(b) to the extent the development for which the terms of reference have been prepared is for community infrastructure intended to be carried out on land proposed to be designated for the infrastructure—to the entity who would be the designator under chapter 2, part 6.

'5.7A.6 Preparation of draft EIS

'**(1)** The proponent must prepare a draft EIS and give it to the chief executive together with the fee prescribed under a regulation for administering the remaining EIS process.

'**(2)** If the chief executive is satisfied the draft EIS addresses the terms of reference and includes any matters prescribed under a regulation for inclusion in the draft EIS, the chief executive must give the proponent a written notice to that effect.

'5.7A.7 Public notification of draft EIS

'**(1)** After the proponent has received notice under section 5.7A.6(2), the proponent must—

(a) publish a notice stating each of the following—

(i) a description of the development and of the land on which the development is proposed to be carried out;

(ii) where a copy of the draft EIS and any associated documents decided by the chief executive may be inspected and, on payment of a reasonable fee, purchased;

(iii) that anyone may make written submissions to the chief executive about the draft EIS;

(iv) the day by which submissions must be made (the **"last day for making submissions"**) and the address for making a submission;

(v) another matter prescribed under a regulation; and

(b) to the extent the development for which the EIS has been prepared is, or is proposed to be, the subject of a development application, give a copy of the draft EIS to—

(i) the assessment manager and all referral agencies; or

(ii) the entities that would be the assessment manager and all referral agencies for a development application for the development, if an application is made; and

(c) to the extent the development for which the EIS has been prepared is for community infrastructure intended to be carried out on land proposed to be designated for the infrastructure, give a copy of the draft EIS to the entity who would be the designator under chapter 2, part 6.

'**(2)** The notice must be published at least once in the way prescribed under a regulation.

'**(3)** The last day for making submissions must not be earlier than 30 business days after the notice is published.

'**(4)** The fee mentioned in subsection (1)(a) must not be more than the actual cost of producing the copy.

'**(5)** The chief executive must, until the last day for making submissions, keep—

(a) a copy of the draft EIS and any associated documents decided by the chief executive available for inspection and purchase; and

(b) brief details about the draft EIS available on the department's web site on the internet.

'**(6)** The chief executive must give a copy of the notice and the draft EIS to each local government whose local government area the chief executive is satisfied the EIS relates.

'**(7)** A local government receiving a copy of the draft EIS must make the copy available for inspection and purchase until the last day for making submissions.

'5.7A.8 Making submissions on draft EIS

'**(1)** Until the last day for making submissions—

(a) any person may make a submission to the chief executive about the draft EIS; and

(b) the chief executive must accept properly made submissions about the draft EIS.

'**(2)** However, the chief executive may accept a submission even if the submission is not a properly made submission.

'**(3)** If the chief executive accepts a submission, the person who made the submission may, by notice given to the chief executive—

(a) until the last day for making submissions—amend the submission; or

(b) at any time before the chief executive gives the EIS to the assessment manager—withdraw the submission.

'5.7A.9 Chief executive evaluates draft EIS, submissions and other relevant material

'**(1)** The chief executive must, after the last day for making submissions and consulting the relevant entities mentioned in section 5.7A.13(b) and (c), consider each of the following—

(a) the draft EIS;

(b) all properly made submissions;

(c) other submissions accepted by the chief executive about the draft EIS;

(d) any other material the chief executive considers is relevant to the draft EIS.

'**(2)** After considering the matters mentioned in subsection (1), the chief executive must give the proponent a notice—

(a) asking the proponent to change the draft EIS in a way stated in the notice; or

(b) stating the chief executive has accepted the draft EIS as the EIS for the development.

'**(3)** The chief executive's action under subsection (2) must be based on the chief executive's considerations under subsection (1).

'**(4)** If the chief executive asks the proponent to change the draft EIS, the chief executive must, when the chief executive is satisfied with the changed draft EIS, give the proponent a notice stating the chief executive has accepted the changed draft as the EIS for the development.

'5.7A.10 EIS assessment report

'The chief executive must prepare a report (an **"EIS assessment report"**) about the EIS within 30 business days after the chief executive gave the proponent the notice under section 5.7A.9(2)(b).

'5.7A.11 Criteria for preparing report

'In preparing the EIS assessment report, the chief executive must consider each of the following—

(a) the terms of reference for the EIS;

(b) the EIS;

(c) all properly made submissions and any other submissions accepted by the chief executive;

(d) any other material the chief executive considers is relevant to preparing the report.

‘5.7A.12 Required content of report

‘The EIS assessment report must—

(a) address the adequacy of the EIS in addressing the terms of reference; and

(b) address the adequacy of any environmental management plan for the development; and

(c) make recommendations about the suitability of the development; and

(d) recommend any conditions on which any approval required for the development may be given; and

(e) contain any other matter prescribed under a regulation.

‘5.7A.13 Who the chief executive must give EIS and other material to

‘The chief executive must, within 5 business days after the chief executive completes the EIS assessment report, give the EIS, copies of all properly made submissions, copies of submissions the chief executive has accepted and the EIS assessment report, to—

(a) the proponent; and

(b) to the extent the development for which the EIS has been prepared is, or is proposed to be, the subject of a development application—

(i) the assessment manager and all referral agencies; or

(ii) the entities that would be the assessment manager and all referral agencies for a development application for the development, if an application is made; and

(c) to the extent the development for which the EIS has been prepared is for community infrastructure intended to be carried out on land proposed to be designated for the infrastructure—the entity who would be the designator under chapter 2, part 6; and

(d) another entity prescribed under a regulation.

'Division 3—How EIS process affects IDAS

'5.7A.14 How IDAS applies for development the subject of an EIS

'**(1)** Subsection (2) applies to a development application to the extent the development is the subject of the EIS.

'**(2)** For the application—

(a) the EIS and the EIS assessment report are part of the supporting material; and

(b) sections 3.3.5 to 3.3.13 and the notification stage do not apply; and

(c) for development requiring impact assessment—a properly made submission about the draft EIS is taken to be a properly made submission about the application; and

(d) if there is a referral agency—the referral agency's assessment period does not start unless the chief executive gives the referral agency the material under section 5.7A.13; and

(e) if there is no referral agency—the decision stage does not start unless the chief executive gives the assessment manager the material under section 5.7A.13; and

(f) if the application is changed in a way that the development is substantially different—the EIS process starts again for the development.

'**(3)** If the application has not been made, subsection (2) applies only to the extent—

(a) the application is made within 3 months after the chief executive gives the applicant all of the material as required by section 5.7A.13; and

(b) the development is substantially the same as the development to which the EIS relates.

'**(4)** The chief executive may extend the time mentioned in subsection (3)(a) at any time before the period ends.

'Division 4—How EIS process affects designation

'5.7A.15 Matters a designator must consider

'**(1)** Subsection (2) applies to the extent the development, the subject of the EIS, is development for community infrastructure intended to be carried out on land proposed to be designated for the infrastructure.

'**(2)** In fulfilling the designator's duties under sections 1.2.2(1)(a) and 1.2.3(1), the designator must have regard to the EIS and the EIS assessment report.'.

95 Amendment of s 5.8.8 (Chief executive may issue guidelines)

Section 5.8.8(2)—

omit, insert—

'**(2)** Before issuing a guideline, the chief executive must consult about the making of the guideline using the process under schedule 3, part 2 with necessary changes, as if the guideline were a planning scheme policy.'.

96 Amendment of ch 6 (Savings and transitionals, repeals and consequential amendments)

(1) Chapter 6, heading—

omit, insert—

'CHAPTER 6—TRANSITIONAL PROVISIONS'.

(2) Chapter 6, part 1, heading—

omit, insert—

'PART 1—TRANSITIONAL PROVISIONS FOR INTEGRATED PLANNING ACT 1997'.

97 Amendment of s 6.1.20 (Planning scheme policies for infrastructure)

Section 6.1.20—

insert—

'**(3A)** This section applies despite section 2.1.23.'.

98 Amendment of s 6.1.24 (Certain conditions attach to land)

Section 6.1.24(2)—

omit, insert—

'**(2)** Also, if an application to amend a former planning scheme was, or the conditions attached to an amendment were, approved under the repealed Act or under section 6.1.26 and conditions in relation to either amendment were attached to the land under the repealed Act or section 6.1.26—

(a) if the approval was given before the commencement of this section—the conditions remain attached to the land on and from the commencement of this section and are binding on successors in title; and

(b) if the approval was given under section 6.1.26—the conditions remain attached to the land on and from the day the approval was given and are binding on successors in title.

'**(3)** Subsections (1) and (2) apply, despite —

(a) a later amendment of the transitional planning scheme; and

(b) the later introduction or amendment of an IPA planning scheme.

'**(4)** In this section—

"former planning scheme" includes any planning scheme made under the repealed Act or an Act repealed by the repealed Act.'.

99 Amendment of s 6.1.26 (Effect of commencement on certain applications in progress)

Section 6.1.26—

insert—

'**(3)** Subsection (4) applies if—

(a) at any time subsection (2) applies for an application mentioned in subsection (1); and

(b) applying subsection (2) requires the amendment of a planning scheme; and

(b) the local government has an IPA planning scheme.

'**(4)** The Governor in Council may amend the IPA planning scheme using the processes under the repealed Act as if the IPA planning scheme were a former planning scheme.'.

100 Amendment of s 6.1.30 (Deciding applications (other than under the Standard Building Regulation))

Section 6.1.30(4) and (5)—

omit, insert—

'**(4)** If a development application is made for development that under a transitional planning scheme requires an application for the setting of conditions or the issue of a certificate of compliance or similarly endorsed certificate—

(a) the assessment manager may not refuse the application despite section 3.5.11(1)(c);[36] but

(b) a concurrence agency may still direct the assessment manager to refuse the application.

'**(5)** If the assessment manager does not decide the application mentioned in subsection (4) within the decision making period, the application is taken to have been approved—

(a) without conditions imposed by the assessment manager; and

(b) subject to any matter a concurrence agency told the assessment manager under section 3.3.18(1).

'**(6)** However, if a concurrence agency told the assessment manager to refuse the application—

(a) if subsection (4) applies—the assessment manager must refuse the application; or

(b) if subsection (5) applies—the application is taken to be refused.'.

36 Section 3.5.11 (Decision generally)

101 Insertion of new s 6.1.35A

After section 6.1.35—

insert—

'6.1.35A Applications to change conditions of rezoning approvals under repealed Act

'**(1)** This section applies if a person wants to change the conditions attached to an approval given under section 2.19(3)(a) or 4.4(5) of the repealed Act.

'**(2)** A person may—

(a) make a development application to achieve the change; or

(b) apply under section 4.3(1) or 4.15(1) of the repealed Act to change the conditions.

'**(3)** If a person applies under subsection (2)(b) the application must be processed by the local government as if the repealed Act had not been repealed.'.

102 Replacement of s 6.1.35C

Section 6.1.35C—

omit, insert—

'6.1.35C Future effect of approvals for applications mentioned in s 3.1.6

'**(1)** Subsection (2) applies if—

(a) a development application in which the applicant sought to vary the effect of a planning scheme in 1 or more of the ways mentioned in section 3.1.6(2), as that section was immediately before the commencement of this section, is made; and

(b) the application was made before the commencement of this section; and

(c) the application has been, or is, approved.

'**(2)** To the extent the approval does either or both of the following, the approval is valid—

(a) approves the development applied for;

(b) does 1 or more of the things mentioned in section 3.1.6(3) or 3.1.6(5), as that section was immediately before the commencement of this section.'.

103 Insertion of new s 6.1.45AA

After section 6.1.45—

insert—

'6.1.45AA Rezoning agreements under previous Acts

'**(1)** This section applies to an agreement made for securing the conditions of a rezoning approval if the conditions did not attach to the land, the subject of the approval, and bind successors in title.

'**(2)** To the extent the agreement was validly made, still has effect and is not inconsistent with a condition of a development approval, nothing in the repealed Act or this Act affects the agreement.

'**(3)** However, if an assessment manager is imposing a condition under this Act about infrastructure or a local government is fixing an infrastructure charge under chapter 5, part 1, any amount under the agreement that is payable or has been paid in relation to infrastructure must be taken into consideration.'.

104 Amendment of s 6.1.45A (Development control plans under repealed Act)

(1) Section 6.1.45A—

insert—

'**(1A)** An IPA planning scheme may include a development control plan mentioned in subsection (1) either with or without amendment.

'**(1B)** If a proposed IPA planning scheme is to include an unamended development control plan, schedule 1, sections 3 to 8, 12 to 14 and 17 do not apply for the development control plan.

'**(1C)** If a statement in the IPA planning scheme identifies the area of a development control plan included in the scheme, the following subsections apply for the area.

'**(1D)** The repealed Act, the transitional planning scheme and any transitional planning scheme policies continue to apply to the extent necessary to administer the development control plan.

'**(1E)** Sections 6.1.28 to 6.1.30 apply for assessing development applications in the development control plan area.

'**(1F)** The development control plan may include or refer to codes or other measures of the planning scheme.

(2) Section 6.1.45A(2)—

insert—

'(c) if the development control plan states that an appeal may be made, and an appeal is made, the appeal is validly made.'.

(3) Section 6.1.45A(5)—

omit, insert—

'**(5)** Subsection (5A) applies to—

(a) a transitional planning scheme that includes the development control plan; or

(b) the development control plan, if it is included in an IPA planning scheme.

'**(5A)** A transitional planning scheme or a development control plan, may be amended under—

(a) the provisions of this Act relating to the process for amending a planning scheme; or

(b) a process mentioned in subsection (1) to the extent stated in the development control plan.

'**(5B)** A transitional planning scheme policy mentioned in subsection (1C) may be amended under—

(a) the provisions of this Act relating to the process for amending a planning scheme policy; or

(b) a process mentioned in subsection (1) to the extent stated in the development control plan.'.

(4) Section 6.1.45A(6), '(5)(a)'—

omit, insert—

'(5A)'.

105 Amendment of s 6.1.54 (Provisions applying for State-controlled roads)

Section 6.1.54(1)(b)—

omit, insert—

'(b) an IPA planning scheme for which the Minister has given the local government a notice for this section.'.

106 Replacement of ch 6, pt 2 (Repeals)

Chapter 6, part 2—

omit, insert—

'PART 2—TRANSITIONAL PROVISIONS FOR INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 2003

'Division 1—Transitional provisions generally

'6.2.1 Transitional regulations for Integrated Planning and Other Legislation Amendment Act 2003

'**(1)** A regulation (a **"transitional regulation"**) may make provision about a matter for which—

(a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the purposes of the *Integrated Planning and Other Legislation Amendment Act 2003*; and

(b) the *Integrated Planning and Other Legislation Amendment Act 2003* does not make provision or sufficient provision.

'**(2)** A transitional regulation may have retrospective operation to a day not earlier than the date of assent of the *Integrated Planning and Other Legislation Amendment Act 2003*.

'**(3)** A transitional regulation must declare it is a transitional regulation.

'**(4)** This section and any transitional regulation expire 1 year after this section commences.

'6.2.2 Particular planning scheme policies still valid

'**(1)** This section applies to a planning scheme policy in force at the commencement of this section.

'**(2)** To the extent the policy was valid at the commencement, the policy is still valid despite sections 2.1.16 and 2.1.23.[37]'.

107 Insertion of new s 6.2.3

After section 6.2.2—

insert—

'6.2.3 When s 3.5.31A applies

'Section 3.5.31A applies for applications decided on or after the commencement of this section.'.

108 Amendment of sch 4 (Process for making or amending State planning policies)

Schedule 4, section 10—

omit, insert—

'10 Copies of State planning policies to local governments

'The chief executive must give each local government the chief executive is satisfied is affected by the State planning policy or amendment a copy of the State planning policy or amendment adopted.'.

109 Replacement of sch 8 (Assessable, self-assessable and exempt development)

Schedule 8—

37 Section 2.1.16 (Meaning of "planning scheme policy").
Section 2.1.23 (Local planning instruments have force of law)

omit, insert—

‘SCHEDULE 8

‘PART 1—ASSESSABLE DEVELOPMENT

Table 1: Building work

For the Standard Building Regulation[1]	
1	For assessing building work against the Standard Building Regulation, building work that is not — (a) self-assessable; and (b) declared under the Standard Building Regulation to be exempt development.

1 Table 1, item 1 commenced 30 March 1998

Table 2: Material change of use of premises

For an environmentally relevant activity[1]	
1	Making a material change of use of premises for an environmentally relevant activity (other than a mining activity or petroleum activity) as defined under the *Environmental Protection Act 1994*.
For a brothel[2]	
2	Making a material change of use of premises for a brothel as defined under the *Prostitution Act 1999.*
On strategic port land[3]	
3	Making a material change of use of premises on strategic port land that is inconsistent with the land use plan approved under the *Transport Infrastructure Act 1994*, section 171 (Approval of land use plans).

Table 2: Material change of use of premises

For a major hazard facility[4]	
4	Making a material change of use of premises for a major hazard facility or possible major hazard facility as defined under the *Dangerous Goods Safety Management Act 2001*.

1 Table 2, item 1 commenced 1 July 1998
2 Table 2, item 3 commenced 1 July 2000
3 Table 2, item 4 commenced 1 December 2000
4 Table 2, item 5 commenced 7 May 2002

Table 3: Reconfiguring a lot

Under the *Land Title Act 1994*[1]	
1	Reconfiguring a lot under the *Land Title Act 1994*, unless the plan of subdivision necessary for the reconfiguration— (a) is a building format plan of subdivision that does not subdivide land on or below the surface of the land; or (b) is for the amalgamation of 2 or more lots; or (c) is for the incorporation, under the *Body Corporate and Community Management Act 1997*, section 42A,[2] of a lot with common property for a community titles scheme; or (d) is for the conversion, under the *Body Corporate and Community Management Act 1997*, section 42C,[3] of lessee common property within the meaning of that Act to a lot in a community titles scheme; or (e) is in relation to the acquisition, including by agreement, under the *Acquisition of Land Act 1967* or otherwise, of land by— (i) a constructing authority, as defined under that Act, for a purpose set out in paragraph (a) of the schedule to that Act; or (ii) an authorised electricity entity; or (f) is in relation to land held by the State, or a statutory body representing the State and the land is being subdivided for a purpose set out in the *Acquisition of Land Act 1967*, schedule, paragraph (a) whether or not the land relates to an acquisition; or (g) is for the reconfiguration of a lot comprising strategic port land as defined in the *Transport Infrastructure Act 1994*; or (h) is for the reconfiguration of a South Bank lot within the corporation area under the *South Bank Corporation Act 1989*.

1 Table 3, item 1, other than paragraphs (e)(ii) and (h) commenced on 30 March 1998.

2 *Body Corporate and Community Management Act 1997*, section 42A (Lease)

3 *Body Corporate and Community Management Act 1997*, section 42C (Effect of ending of authorisation)

Table 4: Operational works

For clearing native vegetation on freehold land[1]	
1	Operational work that is the clearing of native vegetation on freehold land, unless the clearing is— (a) to the extent necessary to build a single residence on a lot and any reasonable associated building or structure; or (b) necessary for essential management; or (c) necessary for routine management in an area that is outside— (i) an area of high nature conservation value; and (ii) an area vulnerable to land degradation; and (iii) a remnant endangered regional ecosystem shown on a regional ecosystem map; and (iv) an area of unlawfully cleared vegetation; or (d) in an urban area, other than an area mentioned in paragraph (c)(i) or (iii); or (e) in a non-urban area, other than an area mentioned in paragraph (c), and is the natural and ordinary consequence of other assessable development and the total area of the part of the land on which the development occurs is less than 5 hectares; or (f) for a mining activity or a petroleum activity as defined under the *Environmental Protection Act 1994*; or (g) by fire under the *Fire and Rescue Authority Act 1990*; or (h) for the conservation or restoration of natural areas; or (i) for ancillary works and encroachments that are carried out in accordance with requirements specified by gazette notice by the chief executive under the *Transport Infrastructure Act 1994* or done as required by a contract entered into with the chief executive under the *Transport Infrastructure Act 1994*, section 47.
Associated with reconfiguration[2]	
2	Operational works for the reconfiguration of a lot, if the reconfiguration is also assessable development.

Table 4: Operational works

For taking, or interfering with, water[3]	
3	Operational work of any kind and for all things constructed or installed that allow the taking, or interfering with, water (other than using a water truck to pump water) under the *Water Act 2000*, if the operations allow, under that Act— (a) taking or interfering with, water from a watercourse, lake or spring (other than under the *Water Act 2000*, section 20(2), (3) or (5)) or from a dam constructed on a watercourse; or (b) taking, or interfering with, artesian water under the *Water Act 2000*; or (c) taking, or interfering with— (i) overland flow water, if the operations are mentioned as assessable development in a water resource plan under the *Water Act 2000* or prescribed under a regulation under this or another Act; or (ii) subartesian water, if the operations are mentioned as assessable development in a water resource plan under the *Water Act 2000* or prescribed under a regulation under this or another Act; or (d) controlling the flow of water into or out of a watercourse, lake or spring in an area declared under the *Water Act 2000* to be a drainage and embankment area if the operations are declared under the *Water Act 2000* to be assessable development.
For a referrable dam[4]	
4	Operational work that— (a) is the construction of a referrable dam as defined under the *Water Act 2000*; or (b) will increase the storage capacity of a referrable dam by more than 10%.

Table 4: Operational works

For tidal work or work within a coastal management district[5]	
5	Operational work that is— (a) tidal work; or (b) any of the following carried out completely or partly within a coastal management district— (i) interfering with quarry material on State coastal land above high-water mark; (ii) disposing of dredge spoil or other solid waste material in tidal water, other than under an allocation notice under the *Coastal Protection and Management Act 1995*; (iii) draining or allowing drainage or flow of water or other matter across State coastal land above high-water mark; (iv) constructing or installing works in a watercourse and not assessable under item 3 or 4; (v) reclaiming land under tidal water; (vi) constructing an artificial waterway associated with the reconfiguration of a lot; (vii) constructing an artificial waterway not associated with the reconfiguring of a lot on land, other than State coastal land, above high-water mark if the maximum surface area of water on the waterway is at least 5 000m^2; (viii) constructing a bank or bund wall to establish a ponded pasture on land, other than State coastal land, above high-water mark; (ix) removing or interfering with coastal dunes on land, other than State coastal land, that is in a erosion prone area and above high-water mark.

1 Table 4, item 1 commenced 13 September 2000

2 Table 4, item 2 commenced 30 March 1998

3 Table 4, item 3 commenced 19 April 2002

4 Table 4, item 4 commenced 19 April 2002

5 Table 4, item 5 not yet commenced

Table 5: Various aspects of development

Development for quarrying in a watercourse or lake	
1	All aspects of development for removing quarry material from a watercourse or lake as defined under the *Water Act 2000* if an allocation notice is required under that Act.
Development on a heritage registered place	
2	All aspects of development carried out on a registered place as defined under the *Queensland Heritage Act 1992*, other than development— (a) for which an exemption certificate under that Act has been issued; or (b) that is emergency work or excluded under that Act; or (c) carried out by the State.

'PART 2—SELF–ASSESSABLE DEVELOPMENT

Table 1: Building work

By the State, a public sector entity or a local government[1]	
1	Building work carried out by or on behalf of the State, a public sector entity or a local government, other than building work declared under the Standard Building Regulation to be exempt development.
For the Standard Building Regulation[2]	
2	For assessing building work against the Standard Building Regulation, building work declared under the Standard Building Regulation to be self-assessable development.

1 Table 1, item 1 commenced 30 March 1998

2 Table 1, item 2 commenced 30 March 1998

Table 2

1	Table not used.

Table 3

1	Table not used.

Table 4: Operational work

For taking or interfering with, water[1]	
1	Operational work of any kind and all things constructed or installed for taking water if the work allows— (a) taking water from a watercourse, lake or spring under the *Water Act 2000*, section 20(3); or (b) taking, or interfering with— (i) overland flow water, if the operations are mentioned as self-assessable development in a water resource plan under the *Water Act 2000* or prescribed under a regulation under this or another Act; or (ii) subartesian water, if the operations are mentioned as self-assessable development in a water resource plan under the *Water Act 2000* or prescribed under a regulation under this or another Act; or (c) controlling the flow of water into or out of a watercourse, lake or spring in an area declared under the *Water Act 2000* to be a drainage and embankment area if the operations are declared under the *Water Act 2000* to be self-assessable development.

1 Table 2, item 1 commenced 19 April 2002

‘SCHEDULE 8A

‘ASSESSMENT MANAGER FOR DEVELOPMENT APPLICATIONS

Table 1

Item	Application type	Assessment manager
Local government planning schemes and local government tidal areas		
1	If the application is for— (a) development completely in a single local government area and— (i) is assessable against the planning scheme; or (ii) is for building work that is assessable against the standard building regulation;[1] or (iii) is for the reconfiguration of a lot; or (iv) is for a brothel as defined under the *Prostitution Act 1999*; or (v) is operational works associated with the reconfiguration of a lot; or (b) prescribed tidal work completely in a single local government tidal area; or (c) prescribed tidal work partly in a single local government tidal area and in no other local government tidal area or port authority’s strategic port land tidal area; or (d) prescribed tidal work starting in a local government area and extending into another local government’s tidal area but in no port authority’s strategic port land tidal area.	Local government

1 Under section 5.3.5(1), an accredited or suitably qualified and experienced private certifier may receive, assess and decide development applications as if the private certifier were the assessment manager.

Table 2

Item	Application type	Assessment manager
Strategic port land and strategic port land tidal areas		
1	If table 1 does not apply and the application is for— (a) development completely in a single port authority's strategic port land; or (b) tidal work completely in a single port authority's strategic port land tidal area; or (c) tidal work partly in a single port authority's strategic port land tidal area and in no local government tidal area or another port authority's strategic port land tidal area.	Port authority

Table 3

Item	Application type	Assessment manager
Environmentally relevant activities		
1	If table 1 or 2 does not apply and the application is for— (a) development for an environmentally relevant activity as defined under the *Environmental Protection Act 1994*; and (b) no other assessable development.	Administering authority

Table 3

Item	Application type	Assessment manager
	Vegetation clearing	
2	If table 1 or 2 does not apply and the application is for— (a) operational work for the clearing of native vegetation on freehold land; and (b) no other assessable development.	Chief executive administering the *Vegetation Management Act 1999*
	Taking or interfering with water	
3	If table 1 or 2 does not apply and the application is for— (a) operational work for— (i) the taking or interfering with, water under the *Water Act 2000*; or (ii) construction of a referrable dam under the *Water Act 2000* or that will increase the storage capacity of a referable dam by more than 10%; and (b) no other assessable development.	Chief executive administering the *Water Act 2000*

Table 3

Item	Application type	Assessment manager
Major hazard facilities		
4	If table 1 or 2 does not apply and the application is for— (a) material change of use for a major hazard facility or possible major hazard facility as defined in the *Dangerous Goods Safety Management Act 2001*; and (b) no other assessable development.	Chief executive administering the *Dangerous Goods Safety Management Act 2001*
Quarrying in a watercourse or lake		
5	If table 1 or 2 does not apply and the application is for— (a) removing quarry material from a watercourse or lake as defined under the *Water Act 2000* if an allocation notice is required under that Act; and (b) no other assessable development.	Chief executive administering the *Water Act 2000*
Tidal work or work within a coastal management district		
6	If table 1 or 2 does not apply and the application is for— (a) operational work that is— (i) tidal work; or (ii) work carried out completely or partly within a coastal management district; and (b) no other assessable development.	Chief executive administering the *Coastal Protection and Management Act 1995*
A heritage registered place		
7	If table 1 or 2 does not apply and the application is for— (a) assessable development on a registered place as defined under the *Queensland Heritage Act 1992*; and (b) no other assessable development.	Queensland Heritage Council

Table 4

Item	Application type	Assessment manager
Applications involving multiple jurisdictions		
1	If table 1, 2 or 3 does not apply and the application is for— (a) 2 or more of the following— (i) an environmentally relevant activity for which the chief executive administering the *Environmental Protection Act 1994* is the administering authority; (ii) development on contaminated land; (iii) operational work that is tidal work or work carried out completely or partly within a coastal management district; (iv) assessable development on a registered place as defined in the *Queensland Heritage Act 1992*; and (b) no other assessable development.	The chief executive administering the *Coastal Protection and Management Act 1995*, the *Environmental Protection Act 1994* and the *Queensland Heritage Act 1992*

Table 4

Item	Application type	Assessment manager
2	If table 1, 2 or 3 does not apply and the application is for— (a) 2 or more of the following operational work for— (i) the clearing of native vegetation under the *Vegetation Management Act 1999*; (ii) the taking or interfering with, water under the *Water Act 2000*; (iii) the construction of a referrable dam under the *Water Act 2000* or that will increase the storage capacity of a referable dam by more than 10%; (ii) removing quarry material from a watercourse or lake as defined under the *Water Act 2000* if an allocation notice is required under that Act; and (b) no other assessable development.	The chief executive administering the *Vegetation Management Act 1999* and the *Water Act 2000*
3	If table 1, 2 or 3 does not apply and the application is for— (a) development for an environmentally relevant activity mentioned in the *Environmental Protection Regulation 1998*, schedule 1, item 19 (dredging material) or item 20 (extracting rock or other material); and (b) removing quarry material from a watercourse or lake as defined under the *Water Act 2000* if an allocation notice is required under that Act; and (c) no other assessable development.	The chief executive administering the *Water Act 2000*

Table 5

Item	Application type	Assessment manager
Decided by the Minister		
1	Development not stated in Tables 1 to 4	The Minister administering this Act

Table 6

Item	Application type	Assessment manager
Concurrence agency assessment manager		
1	An application— (a) for an aspect of development, a concurrence agency, under section 3.3.20(1), told the assessment manager that approval for the aspect must be a preliminary approval only; and (b) if the preliminary approval states that the assessment manager does not require any further assessment of the proposal in relation to the development permit; and (c) if the application is for the development permit only for the aspect of development for which the preliminary approval was given.	The entity that would have been the concurrence agency for the application

‘SCHEDULE 9

‘DEVELOPMENT THAT IS EXEMPT FROM ASSESSMENT AGAINST A PLANNING SCHEME[38]

Table 1

1	Table not used.

Table 2: Material change of use of premises

By the State, or an entity acting for the State	
1	Making a material change of use of premises implied by building work, plumbing work, drainage work or operational work if the work was substantially commenced by the State, or an entity acting for the State, before 31 March 2000.
For a class 1 or 2 building under the Building Code of Australia (BCA)	
2	Making a material change of use of premises for a class 1 or 2 building under the Building Code of Australia (BCA), part A3 if the use is for providing support services and short term accommodation for persons escaping domestic violence.

Table 3: Reconfiguring a lot

Other than a lot within the meaning of the *Land Title Act 1994*	
1	Reconfiguring a lot other than a lot within the meaning of the *Land Title Act 1994*.

Table 3: Reconfiguring a lot

Under the *Land Title Act 1994*	
2	Reconfiguring a lot under the *Land Title Act 1994*, if the plan of subdivision necessary for the reconfiguration— (a) is a building format plan of subdivision that does not subdivide land on or below the surface of the land; or (b) is for the amalgamation of 2 or more lots; or (c) is for the incorporation, under the *Body Corporate and Community Management Act 1997*, section 42A,[1] of a lot with common property for a community titles scheme; or (d) is for the conversion, under the *Body Corporate and Community Management Act 1997*, section 42C,[2] of lessee common property within the meaning of that Act to a lot in a community titles scheme; or (e) is in relation to the acquisition, including by agreement, under the *Acquisition of Land Act 1967* or otherwise, of land by— (i) a constructing authority, as defined under that Act, for a purpose set out in paragraph (a) of the schedule to that Act; or (ii) an authorised electricity entity; or (f) is in relation to land held by the State, or a statutory body representing the State, and the land is being subdivided for a purpose set out in the *Acquisition of Land Act 1967*, schedule, paragraph (a), whether or not the land relates to an acquisition; (g) is for the reconfiguration of a lot comprising strategic port land as defined under the *Transport Infrastructure Act 1994*.

1 *Body Corporate and Community Management Act 1997*, section 42A (Lease)

2 *Body Corporate and Community Management Act 1997*, section 42C (Effect of ending of authorisation)

38 Development listed in schedule 9 can not be made assessable or self-assessable development against a planning scheme. However, the development may still be assessable against schedule 8.

Table 4: Operational work

By or on behalf of a public sector entity	
1	Operational work or plumbing or drainage work (including maintenance and repair work) if the work is carried out by or on behalf of a public sector entity authorised under a State law to carry out the work.
For ancillary works and encroachments	
2	Operational work that is ancillary works and encroachments that are carried out in accordance with requirements specified by gazette notice by the chief executive under the *Transport Infrastructure Act 1994* or done as required by a contract entered into with the chief executive under the *Transport Infrastructure Act 1994*, section 47.
For substitute railway crossing	
3	Operational work for the construction of a substitute railway crossing by a railway manager in response to an emergency under the *Transport Infrastructure Act 1994*, section 100.
Performed by Queensland Rail	
4	Operational work performed by Queensland Rail under the *Transport Infrastructure Act 1994,* section 150.
Under a rail feasibility investigator's authority	
5	Operational work carried out under a rail feasibility investigator's authority granted under the *Transport Infrastructure Act 1994.*
Under the *Coastal Protection and Management Act 1995*, section 70	
6	Operational work that is the digging or boring into land by an authorised person under the *Coastal Protection and Management Act 1995*, section 70.
7	Operational work for a navigational aid or sign for maritime navigation.

Table 4: Operational work

For subscriber connections	
8	Operational work for a subscriber connection.
For agriculture	
9	Operational work associated with— (a) management practices for the conduct of an agricultural use, other than— (i) the clearing of native vegetation on freehold land; or (ii) operations of any kind and all things constructed or installed for taking, or interfering with, water (other than using a water truck to pump water) if the operations are for taking, or interfering with, water under the *Water Act 2000*; or (b) weed or pest control, unless it involves the clearing of native vegetation on freehold land; or (c) the use of fire under the *Fire and Rescue Authority Act 1990*; or (d) the conservation or restoration of natural areas; or (e) the use of premises for forest practices.
For removing quarry material	
10	Operational work for removing quarry material from a State forest, timber reserve, forest entitlement area or Crown land as defined under the *Forestry Act 1959*.

Table 5: All aspects of development

Mining and petroleum activities	
1	Development for an activity authorised under— (a) the *Mineral Resources Act 1989*, including an activity for the purpose of 1 or more of the following Acts— • *Alcan Queensland Pty. Limited Agreement Act 1965* • *Aurukun Associates Agreement Act 1975* • *Central Queensland Coal Associates Agreement Act 1968* • *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957* • *Mount Isa Mines Limited Agreement Act 1985* • *Queensland Cement & Lime Company Limited Agreement Act 1977* • *Queensland Nickel Agreement Act 1970* • *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*; or (b) the *Petroleum Act 1923* (other than an activity relating to the construction and operation of an oil refinery); or (c) the *Petroleum (Submerged Lands) Act 1982*; or (d) the *Offshore Minerals Act 1998.*
2	All aspects of development for a mining activity to which an environmental authority (mining activities) under the *Environmental Protection Act 1994* applies.
3	All aspects of development for a petroleum activity as defined in the *Environmental Protection Act 1994*, section 75.
Directed under a notice, order or direction under a State law	
4	All aspects of development a person is directed to carry out under a notice, order or direction made under a State law.
Community infrastructure activities	
5	All aspects of development for community infrastructure prescribed under a regulation.
South Bank	
6	Development within the meaning of the *South Bank Corporation Act 1989*, but only until the development completion date under that Act.'.

110 Amendment of sch 10 (Dictionary)

(1) Schedule 10, definitions "accrediting body" and "properly made application"—

omit.

(2) Schedule 10, definitions "minor amendment" and "public sector entity"—

omit.

(3) Schedule 10—

insert—

' **"administering authority"** has the meaning given by the *Environmental Protection Act 1994*.

"ancillary works and encroachments" see the *Transport Infrastructure Act 1994*, schedule 3.

"area of high nature conservation value" means an area of high nature conservation value as defined under the *Vegetation Management Act 1999*.

"area of unlawfully cleared vegetation" means an area of unlawfully cleared vegetation as defined under the *Vegetation Management Act 1999*.

"area vulnerable to land degradation" means an area vulnerable to land degradation as defined under the *Vegetation Management Act 1999*.

"artificial waterway" means an artificial waterway as defined under the *Coastal Protection and Management Act 1995*, section 5B.

"business day" does not include a day between 26th December of a year and 1 January of the following year.

"coastal dune" means a ridge or hillock of sand or other material—

(a) on the coast; and

(b) built up by the wind.

"coastal management district" means a coastal management district under the *Coastal Protection and Management Act 1995*, other than an area declared as a coastal management district under section 47(2) of that Act.

"EIS" means a document the chief executive is satisfied—

(a) addresses the terms of reference; and

(b) without limiting paragraph (a)—

(i) describes the development in sufficient detail to establish its likely environmental effects; and

(ii) identifies the likely beneficial and adverse environmental effects of the development; and

(iii) states the ways any adverse environmental effects may be mitigated; and

(iv) has been prepared using current information, and methodologies that represent best environmental practice.

"EIS assessment report" see section 5.7A.10.

"erosion prone area" see the *Coastal Protection and Management Act 1995*.

"essential management" means clearing native vegetation—

(a) for establishing or maintaining a fire break sufficient to protect a building, property boundary or paddock; or

(b) that is likely to endanger the safety of a person or property on the land because the vegetation is likely to fall; or

(c) for maintaining an existing fence, stock yard, shed, road or other built infrastructure; or

(d) for maintaining a garden or orchard.

"high-water mark" see the *Coastal Protection and Management Act 1995*.

"non-urban area" means an area other than an urban area.

"ponded pasture" means a permanent or periodic pondage of water in which the dominant plant species are pasture species used for grazing or harvesting.

"port authority" see the *Transport Infrastructure Act 1994*, schedule 3.

"prescribed tidal work" means work prescribed under a regulation under this or another Act.

"properly made application" see section 3.2.1(7).

"quarry material", for schedule 8, part 1, table 4, item 6, means quarry material as defined under the *Coastal Protection and Management Act 1995*.

"regional ecosystem map" means a regional ecosystem map as defined under the *Vegetation Management Act 1999*.

"remnant endangered regional ecosystem" means a remnant endangered regional ecosystem as defined under the *Vegetation Management Act 1999*.

"remnant vegetation" means remnant vegetation as defined under the *Vegetation Management Act 1999*.

"routine management" means clearing native vegetation—

(a) to the extent necessary for establishing a necessary fence, road or other built infrastructure that is on less than 5 ha; or

(b) that is not remnant vegetation; or

(c) for sustainable harvesting of fodder for stock, in drought conditions only.

"State coastal land" means State coastal land as defined under the *Coastal Protection and Management Act 1995*, section 12A.

"strategic port land" see the *Transport Infrastructure Act 1994,* section 171(5).

"subscriber connection" means an installation for the sole purpose of connecting a building, structure, caravan or mobile home to a line that forms part of an existing telecommunications network.

"supporting material" means any material (including site plans, elevations and supporting reports) about the aspect of the application assessable against or having regard to the planning scheme that—

(a) was given to the assessment manager by the applicant; and

(b) is in the assessment manager's possession when the request to inspect and purchase is made.

"tidal area", for a local government—

1. "Tidal area", for a local government, means—

(a) to the extent both banks of a tidal river or estuarine delta are in the local government's area, the part of the river or delta below high-water mark that is—

(i) from the mouth of the river or delta as far up the river or delta as the spring tides ordinarily flow and reflow; and

(ii) adjacent to the local government's area; and

(b) to the extent 1 bank of a tidal river or estuarine delta is in the local government's area, the part of the river or delta between high-water mark and the middle of the river or delta that is—

(i) from the mouth of the river or delta as far up the river or delta as the spring tides ordinarily flow and reflow; and

(ii) adjacent to the local government's area; and

(c) if the boundary of the local government's area is the high-water mark or is seaward of the high-water mark—the area that is seaward and within 50 m of the high-water mark.

2. "Tidal area", for a local government, does not include a tidal area for strategic port land.

"tidal area", for strategic port land, means—

(a) to the extent both banks of a tidal river or estuarine delta are part of the strategic port land, the part of the river or delta below high-water mark that is—

(i) from the mouth of the river or delta as far up the river or delta as the spring tides ordinarily flow and reflow; and

(ii) adjacent to the strategic port land; and

(b) to the extent 1 bank of a tidal river or estuarine delta is part of the strategic port land, the part of the river or delta between high-water mark and the middle of the river or delta that is—

(i) from the mouth of the river or delta as far up the river or delta as the spring tides ordinarily flow and reflow; and

(ii) adjacent to the strategic port land; and

(c) if the boundary of the strategic port land is the high-water mark or is seaward of the high-water mark—the area that is seaward and within 50 m of the high-water mark.

"tidal water" see the *Coastal Protection and Management Act 1995*.

"tidal works"—

1. "Tidal works" means work in, on or above land under tidal water, or land that will or may be under tidal water because of development on or near the land.
2. "Tidal works" includes the construction of a basin, boat ramp, breakwater, bridge, dam, dock, dockyard, embankment, groyne, jetty, pipeline, pontoon, power line, seawall, slip, small craft facility, training wall or wharf and works in tidal water necessarily associated with the construction.
3. "Tidal works" does not include—
   (a) erecting a sign or other structure, including, for example, a navigational aid or sign for maritime navigation, under a direction made under another Act; or
   (b) building a drain that—
      (i) is less than 1 m deep; and
      (ii) has a cross sectional area less than 2.5 m^2; or
   (c) assessable development under schedule 8, part 1, table 4, item 5(b); or
   (d) removing quarry material that has accumulated within the boundaries of, or in an area adjoining, a previously approved tidal work to allow the work to be used for the function for which it was approved; or
   (e) removing quarry material from land under tidal water, if the removal is for no other purpose than the sale of the material.

"watercourse", for schedule 8, part 1, table 4, item 5(b)(iv), means a river, creek or stream in which water flows permanently or intermittently—

(a) in a natural channel, whether artificially improved or not; or

(b) in an artificial channel that has changed the course of the watercourse.

"urban area" means an area identified on a map in a planning scheme as an area for urban purposes, including rural residential purposes and future urban purposes.'.

(4) Schedule 10—

insert—

‘ **“minor amendment”**, of a planning instrument, means an amendment correcting or changing—

(a) an explanatory matter about the instrument; or

(b) the format or presentation of the instrument; or

(c) a grammatical or mapping error in the instrument; or

(d) a factual matter incorrectly stated in the instrument; or

(e) redundant or outdated terms.

“preliminary consultation period” see schedule 1, section 5(1)(e).

“public sector entity”—

1. “Public sector entity” means—

(a) a department or part of a department; or

(b) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose.

2. “Public sector entity” includes a government owned corporation.’.

(5) Schedule 10, definition “properly made submission”, paragraph (b)—

omit, insert—

‘(b) is received—

(i) if the submission is about a draft EIS or a designation—on or before the last day for making the submission; or

(ii) if the submission is about a development application—during the notification period; or

(iii) in any other case—during the consultation period or preliminary consultation period; and’.

111 Act repealed

The *Integrated Planning and Other Legislation Amendment Act 2001* is repealed.

PART 3—AMENDMENT OF BUILDING ACT 1975

112 Act amended in pt 3

This part amends the *Building Act 1975*.

113 Omission of s 46A (Fees for statutory functions)

Section 46A—

omit.

PART 4—AMENDMENT OF COASTAL PROTECTION AND MANAGEMENT ACT 1995

114 Act amended in pt 4

This part amends the *Coastal Protection and Management Act 1995*.

115 Amendment of s 43B (Relationship of coastal plans with Integrated Planning Act 1997)

Section 43B(2)(c)—

omit, insert—

'(c) section 2.6.7.'.

PART 5—AMENDMENT OF COASTAL PROTECTION AND MANAGEMENT AND OTHER LEGISLATION AMENDMENT ACT 2001

116 Act amended in pt 5

This part amends the *Coastal Protection and Management and Other Legislation Amendment Act 2001*.

117 Amendment of s 15 (Insertion of new ch 2, pt 3, div 4, and pts 4–7)

(1) Section 15, inserted section 61ZJ(1)—

omit, insert—

'**(1)** In assessing the application the chief executive must—

(a) if the chief executive is the assessment manager—consider the potential impact of the development on coastal management; or

(b) if the chief executive is a concurrence agency—consider the potential impact of the development on coastal management excluding amenity or aesthetic significance or value.'.

(2) Section 15, inserted section 61ZJ(2), all words before paragraph (a)—

omit, insert—

'**(2)** Without limiting subsection (1), if the chief executive is the assessment manager, the chief executive must consider the following—'.

(3) Section 15, inserted section 61ZJ—

insert—

'**(2A)** Without limiting subsection (1), if the chief executive is a concurrence agency, the chief executive must consider the matters mentioned in subsection (2) other than amenity or places or objects that have aesthetic significance or value.'.

(4) Section 15, inserted section 61ZZC(1)—

insert—

'(c) the land is freehold land, including inundated land; or

(d) the land is a reserve under the *Land Act 1994*.'.

118 Amendment of s 19 (Insertion of new ch 6, pt 2)

Section 19, after inserted section 120—

insert—

'Division 7—Coastal management plans under Beach Protection Act

'121 Transition of coastal management plans

'**(1)** This section applies to a coastal management plan approved under the Beach Protection Act, section 38 and in force immediately before the commencement of this section.

'**(2)** From the commencement, the plan continues in force as if the Beach Protection Act had not been repealed until a regional coastal management plan, replacing the coastal management plan, takes effect.'.

119 Amendment of s 21 (Amendment of sch 8 (Assessable, self-assessable and exempt development))

Section 21(3), definition "tidal works"—

omit, insert—

' **"tidal works"—**

1. "Tidal works" means work in, on or above land under tidal water, or land that will or may be under tidal water because of development on or near the land.
2. "Tidal works" includes the construction of a basin, boat ramp, breakwater, bridge, dam, dock, dockyard, embankment, groyne, jetty, pipeline, pontoon, power line, seawall, slip, small craft facility, training wall or wharf and works in tidal water necessarily associated with the construction.
3. "Tidal works" does not include—
   (a) erecting a sign or other structure, including, for example, a navigational aid or sign for maritime navigation, under a direction made under another Act; or
   (b) building a drain that—
      (i) is less than 1 m deep; and
      (ii) has a cross sectional area less than 2.5 m^2; or

(c) assessable development under schedule 8, part 1, table 4, item 5(b); or

(d) removing quarry material that has accumulated within the boundaries of, or in an area adjoining, a previously approved tidal work to allow the work to be used for the function for which it was approved; or

(e) removing quarry material from land under tidal water, if the removal is for no other purpose than the sale of the material.'.

120 Amendment of sch (Minor amendments)

Schedule, item 30, definition "tidal works"—

omit, insert—

' **"tidal works"**—

1. "Tidal works" means work in, on or above land under tidal water, or land that will or may be under tidal water because of development on or near the land.

2. "Tidal works" includes the construction of a basin, boat ramp, breakwater, bridge, dam, dock, dockyard, embankment, groyne, jetty, pipeline, pontoon, power line, seawall, slip, small craft facility, training wall or wharf and works in tidal water necessarily associated with the construction.

3. "Tidal works" does not include—

(a) erecting a sign or other structure, including, for example, a navigational aid or sign for maritime navigation, under a direction made under another Act; or

(b) building a drain that—

(i) is less than 1 m deep; and

(ii) has a cross sectional area less than 2.5 m^2; or

(c) assessable development under schedule 8, part 1, table 4, item 5(b); or

(d) removing quarry material that has accumulated within the boundaries of, or in an area adjoining, a previously

approved tidal work to allow the work to be used for the function for which it was approved; or

(e) removing quarry material from land under tidal water, if the removal is for no other purpose than the sale of the material.'.

PART 6—AMENDMENT OF LAND SALES ACT 1984

121 Act amended in pt 6

This part amends the *Land Sales Act 1984*.

122 Amendment of s 6 (Definitions)

(1) Section 6, definition "subdivision application"—

omit.

(2) Section 6—

insert—

' **"development permit"** see *Integrated Planning Act 1997*, schedule 10.

"operational work" see *Integrated Planning Act 1997*, section 1.3.5.

"reconfiguring a lot" see *Integrated Planning Act 1997*, section 1.3.5.'.

123 Amendment of s 8 (Restriction on selling)

Section 8(1)(a), (b) and (c)—

omit, insert—

'(a) if there is no operational work for the proposed allotment—there is an effective development permit for reconfiguring a lot for the allotment; or

(b) if paragraph (a) does not apply—there is an effective development permit for the operational work associated with reconfiguring a lot for the allotment.'.

124 Amendment of s 9 (Identification of land)

(1) Section 9(2)(a)—

omit, insert—

'(a) a copy of any plan for reconfiguring a lot for the allotment forming part of a development permit mentioned in section 8(1)(a);'.

(2) Section 9(3)(d)—

omit, insert—

'(d) if a development permit mentioned in section 8(1)(a) is subject to conditions—the conditions;'.

125 Amendment of s 10A (Purchaser must be given registrable instrument of transfer and other documents)

Section 10A(3)(b)—

omit, insert—

'(b) for operational work mentioned in section 8(1)(b)—a copy of a plan showing the constructed works (the **"as constructed plan"**);'.

PART 7—AMENDMENT OF LOCAL GOVERNMENT ACT 1993

126 Act amended in pt 7

This part amends the *Local Government Act 1993.*

127 Amendment of s 854 (Local laws and subordinate local laws about development)

(1) Section 854—

insert—

'**(1A)** Subsection (1) does not apply for local laws about the following until the local government makes a decision under the *Integrated Planning Act 1997*, schedule 1, section 1, to prepare its second IPA planning scheme—

(a) gates and grids;

(b) levees;

(c) advertising devices;

(d) roadside dining.'.

(2) Section 854(5)—

omit.

128 Insertion of new s 919A

After section 919—

insert—

'919A Assessment of impacts on roads from certain activities

'**(1)** This section applies if—

(a) a local government considers the carrying on of an activity prescribed under a regulation is having, or will have, a significant adverse impact on a road under its control; and

(b) the activity is not for—

(i) a significant project under the *State Development and Public Works Organisation Act 1971*; or

(ii) development declared under its planning scheme under the *Integrated Planning Act 1997* to be assessable development.

'**(2)** The local government may require the entity carrying out the activity to provide information, within a reasonable time, that will enable the local government to assess the impact.

'**(3)** After assessing the impact, the local government may decide to do 1 or more of the following—

(a) give the entity a direction about the use of the road to lessen the impact; or

(b) require the entity—

(i) to carry out works to lessen the impact; or

(ii) to pay an amount as compensation for the impact.

'**(4)** The local government may require the works to be carried out or the amount to be paid before the impact commences or intensifies.

'**(5)** The amount required to be paid under subsection (3)(b)(ii) is a debt payable to the local government and may be recovered in a court of competent jurisdiction.

'**(6)** The regulation mentioned in subsection (1)(a)—

(a) must contain a process under which the local government's decision may be reviewed; and

(b) may contain a process for enforcing the decision.'.

129 Amendment of s 1071A (Power to fix regulatory fees)

(1) Section 1071A(1)—

insert—

'(e) the performance of a function, other than a function mentioned in paragraphs (a) to (d), imposed on the local government under the *Building Act 1975* or the *Integrated Planning Act 1997*, chapter 5, part 3.[39]'.

(2) Section 1071A—

insert—

'**(5)** A local law or resolution for subsection (1)(e) must state—

(a) the person liable to pay the regulatory fee; and

(b) the period within which the fee must be paid.'.

130 Amendment of s 1071E (Register of regulatory fees)

Section 1071E(3)(b)—

insert—

39 *Integrated Planning Act 1997*, chapter 5 (Miscellaneous), part 3 (Private certification)

(iv) section 1071A(1)(e)—the provision of the *Building Act 1975* or the *Integrated Planning Act 1997* under which the function is imposed.'.

131 Insertion of new ch 19, pt 9

Chapter 19—

insert—

'PART 9—TRANSITIONAL PROVISION FOR INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 2003

'1272 Continuation of former fees fixed by local laws or resolutions

'The following fees, relating to a function mentioned in section 1071A(1)(e),[40] are taken to be regulatory fees fixed under section 1071A—

(a) a fee fixed under the *Building Act 1975*, section 46A before the commencement of this section;

(b) a fee fixed under the *Integrated Planning Act 1997*, section 5.3.5(8) before the commencement of this section.'.

PART 8— AMENDMENT OF PLUMBING AND DRAINAGE ACT 2002

132 Act amended in pt 8

This part amends the *Plumbing and Drainage Act 2002*.

40 Section 1071A (Power to fix regulatory fees)

133 Insertion of new s 86A

After section 86—

insert—

'86A Process for assessing certain regulated work in remote areas

'**(1)** Subsection (2) applies for regulated work—

(a) to be carried out in an area prescribed under a regulation as a remote area; and

(b) the local government has, by resolution, declared it is satisfied that in the absence of assessment of the work at the stages prescribed under a regulation by an inspector will not adversely affect public health or safety.

'**(2)** A request for compliance assessment of the work must be—

(a) in the approved form; and

(b) made to the local government; and

(c) accompanied by the fee fixed by resolution of the local government.

'**(3)** After the work has been completed the local government—

(a) must be given a notice stating that the work complies with the requirements of the Standard Plumbing and Drainage Regulation; and

(b) may ask the person who made the request to provide a plan of the completed work.

'**(4)** The request must be decided within 3 business days—

(a) if the local government has not requested a plan of the work—after receiving the notice; or

(b) if the local government has requested a plan of the work—after receiving the plan.

'**(5)** The local government must in deciding the request—

(a) give the person making the request a compliance certificate; or

(b) refuse to give a compliance certificate.

'**(6)** If the local government gives a compliance certificate, the local government must also give a copy of the certificate to the owner of the premises to which the certificate relates.

'**(7)** If the local government does not decide the request within the time stated in subsection (4), the request is taken to have been refused.

'**(8)** If the local government refuses to give a compliance certificate, the local government must give the person who made the request an information notice about the decision.[41]

'**(9)** If a local government makes a resolution for subsection (1), the local government must—

(a) give a copy of the resolution to the chief executive; and

(b) ensure a copy of it is open to inspection under the *Local Government Act 1993*.'.

134 Amendment of s 87 (Minor work)

Section 87(1)—

omit, insert—

'**(1)** Subsection (1A) applies if a person carries out minor work prescribed under the Standard Plumbing and Drainage Regulation as notifiable minor work.

'**(1A)** The person must, within 20 business days after carrying out the work, give written notice in the approved form to the local government stating the work has been completed.

Maximum penalty for subsection (1A)—10 penalty units.'.

135 Amendment of s 90 (Standard Plumbing and Drainage Regulation may prescribe additional requirements and actions)

Section 90(a)—

41 For appeals against the decision, see the *Integrated Planning Act 1997*, chapter 4 (Appeals, offences and enforcement), part 2 (Building and development tribunals), divisions 4 to 6.

omit, insert—

'(a) requirements for a plan mentioned in section 85, 86 or 86A; or'.

136 Amendment of s 161 (Amendment of s 3 (Definitions))

Section 161(2), definition "self-assessable development"—

omit.

137 Amendment of s 187 (Replacement of ss 40 and 41)

Section 187, inserted section 40—

insert—

' '**(10)** In this section—

"self-assessable development" means all development declared under a local planning instrument to be self-assessable development.'.

138 Omission of s 189 (Amendment of s 46A (Fees for statutory functions))

Section 189—

omit.

139 Amendment of s 196 (Insertion of new s 4.2.12A)

Section 196, inserted section 4.2.12A(1)(a), '85 or 86'—

omit, insert—

'85, 86 or 86A'.

140 Replacement of s 198 (Amendment of s 5.3.5 (Private certifier may decide certain development applications and inspect and certify certain works))

Section 198—

omit, insert—

'198 Amendment of s 5.3.5 (Private certifier may decide certain development applications and inspect and certify certain works)

'Section 5.3.5(4)(c)—

omit.'.

141 Omission of s 199 (Amendment of sch 8 (Assessable, self-assessable and exempt development))

Section 199—

omit.

142 Amendment of s 207 (Amendment of s 5.3.5 (Private certifier may decide certain development applications and inspect and certify certain works))

Section 207(5)—

omit.

143 Omission of pt 13 (Amendment of Integrated Planning and Other Legislation Amendment Act 2001)

Part 13—

omit.

PART 9—AMENDMENT OF QUEENSLAND INTERNATIONAL TOURIST CENTRE AGREEMENT ACT REPEAL ACT 1989

144 Act amended in pt 9

This part amends the *Queensland International Tourist Centre Agreement Act Repeal Act 1989*.

145 Omission of pt 2 (Repeal of act and validation of uses)

Part 2—

omit.

PART 10—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994

146 Act amended in pt 10

This part amends the *Transport Infrastructure Act 1994.*

147 Insertion of new s 46A

Chapter 5, part 5, division 1, after section 46—

insert—

'46A Assessment of impacts on State-controlled roads from certain activities

'**(1)** This section applies if—

(a) the chief executive considers the carrying on of an activity prescribed under a regulation is having, or will have, a significant adverse impact on a State-controlled road; and

(b) the activity is not for—

(i) a significant project under the *State Development and Public Works Organisation Act 1971*; or

(ii) development declared under a planning scheme under the *Integrated Planning Act 1997* to be assessable development.

'**(2)** The chief executive may require the entity carrying out the activity to provide information, within a reasonable time, that will enable the chief executive to assess the impact.

'**(3)** After assessing the impact, the chief executive may decide to do 1 or more of the following—

(a) give the entity a direction about the use of the road to lessen the impact; or

(b) require the entity—

(i) to carry out works to lessen the impact; or

(ii) to pay an amount as compensation for the impact.

'**(4)** The chief executive may require the works to be carried out or the amount to be paid before the impact commences or intensifies.

'**(5)** The amount required to be paid under subsection (3)(b)(ii) is a debt payable to the chief executive and may be recovered in a court of competent jurisdiction.

'**(6)** The regulation mentioned in subsection (1)(a)—

(a) must contain a process under which the chief executive's decision may be reviewed; and

(b) may contain a process for enforcing the decision.'.

PART 11—AMENDMENT OF VEGETATION MANAGEMENT ACT 1999

148 Act amended in pt 11

This part amends the *Vegetation Management Act 1999.*

149 Amendment of s 21 (Modifying effect on development applications)

Section 21(4), (5) and (6)—

omit, insert—

'**(4)** For the aspect of the application relating to the clearing of vegetation—

(a) section 3.5.13 of that Act does not apply; and

(b) the assessment manager's decision must comply with the applicable code.'.

PART 12—AMENDMENT OF WATER ACT 2000

150 Act amended in pt 12

This part amends the *Water Act 2000.*

151 Amendment of s 967 (IPA approval for development is subject to approval under this Act)

Section 967(6), 'item 9A(a)'—

omit, insert—

'table 4, item 1(a)'.

SCHEDULE

MINOR AMENDMENTS OF INTEGRATED PLANNING ACT 1997

section 3

1 Section 2.6.20, 2.6.21(a), 2.6.23(1)(a) and (b) and 2.6.23(2) 'interest'—

omit, insert—

'nominated interest'.

2 Section 2.6.21, 'interest,'—

omit, insert—

'nominated interest,'.

3 Section 2.6.21(b) and (c) and 2.6.23(1)(c), 'interest'—

omit, insert—

'designated interest'.

4 Section 3.5.33(7A), 'assessment manager'—

omit, insert—

'entity'.

5 Section 4.3.2A, 'or 3.1.6(6)'—

omit.

SCHEDULE (continued)

6 Section 4.3.13(1)(a), (d) and (e), first mention, 'a development'

omit, insert—

'development'.

7 Section 5.7.5(3), 'The register must include,'—

omit, insert—

'The register must include the following'.

8 Section 5.7.5(3)(a), (b), (c), (d) and (e)(v), '; and'

omit, insert—

';'.

9 Section 5.7.6(e)(iii), '; and"

omit, insert—

';'.

10 Section 5.8.5 (Delegation by Minister)—

relocate and *renumber* as section 5.8.1A.

11 After section 5.8.8—

insert—

'5.8.9 Numbering and renumbering of ch 5, pts 7A and 8

'In the next reprint of this Act, chapter 5, parts 7A and 8 must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.'.

SCHEDULE (continued)

12 Section 6.1.1, definition "assessable development", paragraph (b), after 'schedule 8'—

insert—

'or schedule 9'.

13 Section 6.1.1, definition "self-assessable development", paragraph (b), after 'schedule 8'—

insert—

'or schedule 9'.

14 Section 6.1.41—

omit.

15 Section 6.1.44(2)(c), 'the entity that'—

omit, insert—

'if the entity'.

16 Section 6.1.51A(2), '1.4.6'—

omit, insert—

'1.4.1'.

17 Schedules 1, 2 and 3, ', by resolution,'—

omit.

SCHEDULE (continued)

18 Schedule 3, section 7(1)(d), 'resolution'—

omit, insert—

'resolution.'.