



Queensland

State Development and Other Legislation Amendment Act 2006

Act No. 54 of 2006



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Contents

		Page
Part 1	Preliminary	
1	Short title	6
Part 2	Amendment of State Development and Public Works Organisation Act 1971	
2	Act amended in pt 2 and schedule	6
3	Amendment of s 5 (Appointment of Deputy Coordinator-General)	6
4	Amendment of s 6 (Tenure of appointment under ss 4 and 5) . . .	6
5	Amendment of s 8 (Incorporation of Coordinator-General)	7
6	Amendment of s 24 (Definitions for pt 4)	7
7	Insertion of new pt 5A.	7
	Part 5A Prescribed projects	
	Division 1 Preliminary	
	76A Purposes of pt 5A.	7
	76B How the purposes are to be primarily achieved	8
	76C Application of other laws	8
	76D Definitions for pt 5A	9
	Division 2 Declaration of prescribed projects, duty to cooperate and requesting further information	
	76E Declaration of prescribed project	10
	76F When declaration ends.	13
	76G Particular entities to cooperate with Coordinator-General	13
	76H Coordinator-General may seek further information . .	14
	Division 3 Notices about prescribed projects	
	Subdivision 1 Progression notice	
	76I Progression notice	14

*State Development and Other Legislation Amendment No. 54, 2006
Act 2006*

	Subdivision 2	Notice to decide	
	76J	Notice to decide	15
	Subdivision 3	Step in notice	
	76K	Step in notice	17
	76L	When step in notice may be given	17
	76M	Providing assistance or recommendations.	18
	76N	Effects of step in notice	19
	76O	Coordinator-General's decision	21
	76P	Effects of decision	22
	76Q	Notice of decision.	23
	76R	Report about decision	23
	Division 4	Voluntary environmental agreements	
	76S	Entering into agreement.	24
	76T	Content and duration of agreement	25
	76U	Recording of particular agreements	26
	Division 5	Other matters	
	76V	Recovering cost of particular advice or services	27
	76W	Application of Judicial Review Act 1991	27
8		Amendment of s 77 (Declaration of State development areas, variation and termination thereof).	28
9		Amendment of s 82 (Acquisition of land in State development area)	28
10		Amendment of s 109 (Approval of certain works)	29
11		Amendment of s 110 (Coordinator-General to undertake approved works)	30
12		Amendment of s 111 (Delegation of authority of Coordinator-General)	30
13		Amendment of s 140 (Powers in respect of works on foreshore and under waters)	31
13A		Insertion of new pt 6, div 8	31
	Division 8	Easements for critical infrastructure projects	
	153A	Definitions for div 8	31
	153B	Registration of critical infrastructure easement	32
	153F	Amendment of easement	34
	153G	Minister to give notice of registration or amendment .	34
	153H	Application of particular provisions.	35
	153I	Compensation	35
14		Amendment of schedule (Dictionary)	35

*State Development and Other Legislation Amendment No. 54, 2006
Act 2006*

Part 3	Amendment of Integrated Planning Act 1997	
15	Act amended in pt 3	37
16	Amendment of s 3.2.1 (Applying for development approval)	37
17	Amendment of s 3.5.19 (When approval takes effect)	37
18	Amendment of s 3.5.24 (Request to change development approval (other than a change of a condition))	38
19	Amendment of sch 10 (Dictionary)	38
Part 4	Amendment of Judicial Review Act 1991	
20	Act amended in pt 4	39
21	Amendment of sch 1 (Operation of other laws)	39
Part 5	Amendment of Land Act 1994	
22	Act amended in pt 5	39
22A	Amendment of s 296 (Tenure document to be returned to land registry)	39
23	Amendment of s 369 (Public utility easements)	39
Part 6	Amendment of Land Title Act 1994	
24	Act amended in pt 6	40
25	Amendment of s 89 (Easements for public utility providers)	40
25A	Amendment of s 154 (Lodging certificate of title)	41
Part 7	Amendment of Water Act 2000	
26	Act amended in pt 7	41
27	Amendment of s 25L (Relationship with State Development and Public Works Organisation Act 1971)	41
Schedule	Other amendments of the State Development and Public Works Organisation Act 1971	42



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State Development and Other Legislation Amendment Act 2006

Act No. 54 of 2006

***An Act to amend the *State Development and Public Works
Organisation Act 1971*, and for other purposes***

[Assented to 7 December 2006]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *State Development and Other Legislation Amendment Act 2006*.

Part 2 Amendment of State Development and Public Works Organisation Act 1971

2 Act amended in pt 2 and schedule

This part and the schedule amend the *State Development and Public Works Organisation Act 1971*.

3 Amendment of s 5 (Appointment of Deputy Coordinator-General)

(1) Section 5(1), after ‘person’—

insert—

‘or persons’.

(2) Section 5(2), ‘The appointee’—

omit, insert—

‘An appointee’.

4 Amendment of s 6 (Tenure of appointment under ss 4 and 5)

Section 6, ‘the appointee to the office referred’—

omit, insert—

‘an appointee to an office referred’.

5 Amendment of s 8 (Incorporation of Coordinator-General)

(1) Section 8(2), from ‘holds’, first mention—

omit, insert—

‘is the Coordinator-General.’.

(2) Section 8(4), ‘the Deputy Coordinator-General’—

omit, insert—

‘a Deputy Coordinator-General’.

6 Amendment of s 24 (Definitions for pt 4)

(1) Section 24, definitions, *concurrency agency, development approval* and *IDAS*—

omit.

(2) Section 24, definition *proponent*, after ‘project’—

insert—

‘and includes a person who, under an agreement or other arrangement with the person who is the existing proponent of the project, later proposes the project’.

7 Insertion of new pt 5A

After section 76—

insert—

‘Part 5A Prescribed projects

‘Division 1 Preliminary

‘76A Purposes of pt 5A

‘The purposes of this part are as follows—

- (a) to provide for the identification of projects of significance, particularly economically and socially, to the State or a region;
- (b) to facilitate the undertaking of prescribed projects by providing for a scheme to ensure timely decision-making for prescribed decisions and prescribed processes;
- (c) to provide for conditions to be imposed in relation to the undertaking of prescribed projects, having regard to—
 - (i) the nature of the project; and
 - (ii) the proper management of environmental effects of the project; and
 - (iii) the matters prescribed under section 76N(c)(iii);
- (d) to promote the use of voluntary environmental agreements to encourage the conservation, maintenance, rehabilitation or enhancement of the environment.

‘76B How the purposes are to be primarily achieved

‘The purposes of this part are to be primarily achieved by making provision about the following—

- (a) the declaration of particular projects as prescribed projects;
- (b) the giving of notices to decide, progression notices and step in notices by the Coordinator-General;
- (c) the imposition of conditions for a prescribed decision that take account of, for example, the existence of a voluntary environmental agreement relating to the decision.

‘76C Application of other laws

‘This part applies despite any other law.

‘76D Definitions for pt 5A

‘In this part—

applicant, in relation to a prescribed decision or process, means the person seeking the decision or undertaking of the process under the relevant law for the decision or process.

critical infrastructure project means a project the Minister declares, under section 76E(4), to be a critical infrastructure project.

decision maker—

- (a) for a prescribed decision, means the entity that may make the decision under the relevant law for the decision; and

Example of a decision maker for paragraph (a)—

an assessment manager under the Integrated Planning Act

- (b) for a prescribed process, means the entity responsible for undertaking the process under the relevant law for the process.

Examples of a decision maker for paragraph (b)—

- a concurrence agency
- an entity that may give evidence required to be given under the Integrated Planning Act, section 3.2.1(5)

declaration, for a prescribed project, means the declaration for the project made by the Minister under section 76E.

infrastructure facility see section 125(16).

notice to decide see section 76J(1).

prescribed decision—

- 1 A ***prescribed decision*** means a decision, in relation to a prescribed project, required to be made under a law of the State, including, for example, a decision about the construction, undertaking, carrying out, establishment, maintenance or operation of a prescribed project.
- 2 However, a ***prescribed decision*** does not include a decision required to be made by the Governor in Council or a Minister.

Examples of a prescribed decision—

- a decision of an assessment manager under the Integrated Planning Act on an application for a development approval
- a decision about the grant of a water licence under the *Water Act 2000*

prescribed process means a process, in relation to a prescribed project, required to be undertaken under a law of the State, including, for example, a process in a stage of IDAS.

Example of a prescribed process—

the giving of an acknowledgement notice under the application stage of IDAS

prescribed project means a project declared under section 76E to be a prescribed project.

progression notice see section 76I(1).

registered owner see the *Land Title Act 1994*, schedule 2.

relevant law, for a prescribed decision or process, means the law, other than this Act, under which the decision may be made or the process undertaken.

step in notice see section 76K(1).

voluntary environmental agreement see section 76S(1).

‘Division 2 Declaration of prescribed projects, duty to cooperate and requesting further information

‘76E Declaration of prescribed project

‘(1) The Minister may declare any of the following (each a ***project***) to be a prescribed project—

- (a) works a local body, the Coordinator-General or other person is directed to undertake under section 100 or 109;
- (b) a project in a State development area;
- (c) an infrastructure facility;

- (d) a project declared under section 26 to be a significant project;
 - (e) another project the Minister considers—
 - (i) is economically or socially significant to the State or the region in which the project is to be undertaken; or
 - (ii) affects an environmental interest of the State or a region.
- ‘(2) In deciding to declare a project to be a prescribed project, the Minister may have regard to any of the following—
- (a) the public interest or the general welfare of persons in the region in which the project is to be undertaken;
 - (b) whether a voluntary environmental agreement is likely to be entered into in relation to the undertaking of the project;
 - (c) other matters the Minister considers relevant.
- ‘(3) The declaration must be made by gazette notice.
- ‘(4) If the Minister considers the undertaking of the project is critical or essential for the State for economic, environmental or social reasons, the Minister may, in the gazette notice, declare the project to be a critical infrastructure project.
- ‘(5) This section applies subject to section 76EA.

‘76EA Process applying to particular declarations

- ‘(1) This section applies if the Minister intends to declare a project with a capital investment value of not more than \$50 million to be a prescribed project.
- ‘(2) Before making the declaration, the Minister—
- (a) must give each interested person for the project a written notice that—
 - (i) describes the project and the area in which the project is proposed to be undertaken; and

- (ii) states the grounds on which the Minister considers the project should be declared a prescribed project; and
 - (iii) invites the person to give the Minister a submission about the proposed declaration within the period stated in the notice; and
- (b) must consider each properly made submission given to the Minister about the proposed declaration.
- ‘(3) The stated period for subsection (2)(a)(iii) must be at least 10 business days after the interested person is given the notice.
- ‘(4) The Minister must, within 10 business days after making a decision about declaring the project to be a prescribed project, give to each interested person who gave the Minister a properly made submission a written notice stating the Minister’s reasons for the decision.
- ‘(5) In this section—
 - capital investment value***, for a project, includes all costs necessary to establish and operate infrastructure associated with the project, including, for example, the cost of—
 - (a) fixed or mobile plant and equipment; and
 - (b) designing and constructing buildings or other structures; and
 - (c) engaging consultants.
 - interested person***, for a project, means each local government for the area in which the project is proposed to be undertaken.
 - properly made submission*** means a submission that—
 - (a) is in writing and is signed by the local government that made the submission; and
 - (b) is received within the stated period for making the submission; and
 - (c) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

‘76F When declaration ends

- ‘(1) A declaration for a prescribed project ends on the later of the following—
 - (a) 2 years after the day the declaration is made;
 - (b) if the declaration states a time for it to end—the stated time.
- ‘(2) Before a declaration ends under subsection (1), the Minister may, by gazette notice, extend the time when the declaration ends if satisfied the extension is necessary or desirable to achieve the purposes of this part.
- ‘(3) However, the extension may not be for a period longer than the initial period of the declaration.

‘76G Particular entities to cooperate with Coordinator-General

- ‘(1) It is the duty of an entity mentioned in section 13(1) to give to the Coordinator-General the information, documents or assistance the Coordinator-General requires to assess matters relating to a prescribed project.
- ‘(2) Without limiting subsection (1), the Coordinator-General may require the entity to give to the Coordinator-General—
 - (a) an application for a prescribed decision or a document relating to the application or a prescribed process for the application, including, for example, correspondence between the applicant and the decision maker for the decision or the prescribed process; or
 - (b) information to help the Coordinator-General evaluate a prescribed project; or
 - (c) if a process of public consultation has happened for an aspect of a prescribed project—any submissions received by the entity under the process and any responses given by the entity to the submissions.
- ‘(3) This section does not limit section 13.

‘76H Coordinator-General may seek further information

- ‘(1) The Coordinator-General may ask a relevant person for a prescribed decision to give the Coordinator-General information the Coordinator-General reasonably requires—
- (a) to decide whether to give a progression notice, a notice to decide or a step in notice for the decision; or
 - (b) to make an assessment and a decision about the prescribed decision under this part; or
 - (c) to undertake a prescribed process.
- ‘(2) The relevant person must comply with a request under subsection (1).
- ‘(3) In this section—
- relevant person*, for a prescribed decision, means the applicant for the decision or another entity the Coordinator-General reasonably considers has information that may help the Coordinator-General act on the matters mentioned in subsection (1)(a) or (b).

‘Division 3 Notices about prescribed projects

‘Subdivision 1 Progression notice

‘76I Progression notice

- ‘(1) The Coordinator-General may, by written notice (a *progression notice*) given to the decision maker for a prescribed process, require the decision maker to undertake, within the period stated in the notice, administrative processes required to complete the process.
- ‘(2) The progression notice must—
- (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed process relates; and

- (b) identify the process, including, for example, a process under a stage of IDAS; and
 - (c) state the decision maker must—
 - (i) undertake the process within the stated period; and
 - (ii) inform the Coordinator-General of the completion of the process within 5 business days after it is completed.
- ‘(3) On receiving the progression notice, the decision maker must—
- (a) subject to subsection (5), undertake the prescribed process within the period stated in the notice for that purpose; and
 - (b) inform the Coordinator-General of the completion of the process within 5 business days after it is completed.
- ‘(4) The Coordinator-General may, by written notice given to the decision maker and without the decision maker’s agreement, extend the period for undertaking the prescribed process, having regard to the nature of the prescribed project to which the process relates.
- ‘(5) If the Coordinator-General extends the period for undertaking the prescribed process under subsection (4), the decision maker must undertake the process within the extended period.
- ‘(6) Before giving a progression notice for a prescribed process the Coordinator-General must have regard to the requirements, if any, under the relevant law for the undertaking of the process.
- ‘(7) Subject to this section, the relevant law for the prescribed process continues to apply to the undertaking of the process.

‘Subdivision 2 **Notice to decide**

‘76J **Notice to decide**

- ‘(1) The Coordinator-General may, by written notice (a *notice to decide*) given to the decision maker for a prescribed decision,

require the decision maker to make the decision within the period stated in the notice.

- ‘(2) The stated period must be at least—
 - (a) 20 business days after the notice is given; or
 - (b) if, under the relevant law for the prescribed decision, the decision maker would, other than for this section, be required to make the decision within a period that is less than the period mentioned in paragraph (a)—the lesser period.
- ‘(3) The notice to decide must—
 - (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed decision relates; and
 - (b) identify the decision; and
 - (c) state the decision maker must—
 - (i) make the decision within the stated period; and
 - (ii) inform the Coordinator-General of the decision within 5 business days after it is made.
- ‘(4) On receiving the notice to decide, the decision maker must—
 - (a) subject to subsection (6), make the prescribed decision within the period stated in the notice for that purpose; and
 - (b) inform the Coordinator-General of the decision within 5 business days after it is made.
- ‘(5) The Coordinator-General may, by written notice given to the decision maker and without the decision maker’s agreement, extend the period for making the prescribed decision, having regard to the nature of the prescribed project to which the decision relates.
- ‘(6) If the Coordinator-General extends the period for making the prescribed decision under subsection (5), the decision maker must make the decision within the extended period.
- ‘(7) If the prescribed decision relates to an application for a development approval, the notice to decide may be given to

the decision maker only after the decision stage for the application starts.

- ‘(8) Before giving a notice to decide for a prescribed decision, other than a decision mentioned in subsection (7), the Coordinator-General must have regard to the requirements, if any, under the relevant law for the decision about public notification of information or other matters in relation to the decision.
- ‘(9) Subject to this section, the relevant law for the prescribed decision continues to apply to the making of the decision.

‘Subdivision 3 Step in notice

‘76K Step in notice

- ‘(1) The Coordinator-General may, with the approval of the Minister, give to the decision maker and applicant for a prescribed decision or a prescribed process a written notice (a *step in notice*) advising the decision maker and applicant that the Coordinator-General is to make an assessment and a decision about the prescribed decision or process under this part.
- ‘(2) The step in notice must—
 - (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed decision or process relates; and
 - (b) identify the decision or process; and
 - (c) state the Coordinator-General is the decision maker for the prescribed decision or process from the time the notice is given until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process.

‘76L When step in notice may be given

- ‘(1) Subject to subsection (3), the Coordinator-General may give a step in notice for a prescribed decision or process only after a

progression notice or notice to decide has been given for the process or decision.

- ‘(2) If a progression notice or notice to decide has been given for a prescribed process or decision, the step in notice may be given—
- (a) at any time after the Coordinator-General is satisfied the decision maker has not complied with the progression notice or notice to decide, but before the decision maker has undertaken the process or made the decision; or
 - (b) if the decision maker has complied with the progression notice or notice to decide—only if the applicant, by written notice given to the Coordinator-General within 10 business days after the applicant is notified of the decision, asks the Coordinator-General to give a step in notice for the decision.
- ‘(3) A step in notice may be given for a prescribed decision at any time after the decision is made until 10 business days after—
- (a) if an appeal against the decision has been started under the relevant law for the decision—the start of the appeal; or
 - (b) otherwise—the expiry of the period, under the relevant law for the decision, for starting an appeal against the decision.
- ‘(4) For subsection (2)(b), the step in notice must be given to the decision maker within a reasonable period after the Coordinator-General receives the request.
- ‘(5) In this section—
- appeal* includes review.

‘76M Providing assistance or recommendations

- ‘(1) The decision maker for the prescribed decision or process must give the Coordinator-General all reasonable assistance or materials the Coordinator-General requires to act under this part, including—

- (a) all material about the prescribed decision or process the decision maker had before the step in notice was given; and
 - (b) any material received about the prescribed decision or process by the decision maker after the step in notice was given.
- ‘(2) Without limiting subsection (1), the Coordinator-General may, by written notice, require the decision maker to give the Coordinator-General within the reasonable period stated in the notice a written report containing—
- (a) an assessment of matters, stated in the notice, relevant to the prescribed decision or process; or
 - (b) recommendations about the assessment mentioned in paragraph (a), including, for example, recommendations about proposed conditions relevant to the prescribed decision or process.
- ‘(3) Subsection (4) applies if, other than for the giving of the step in notice, under the relevant law for the prescribed decision a local government could have imposed a condition, in relation to the decision, for infrastructure to which the Integrated Planning Act, chapter 5, part 1, applies.
- ‘(4) The local government may, before the Coordinator-General makes a decision under section 76O about the prescribed decision, give the Coordinator-General a written recommendation to impose the condition.

‘76N Effects of step in notice

‘If the Coordinator-General gives a step in notice for a prescribed decision or process—

- (a) the Coordinator-General is the decision maker under the relevant law for the prescribed decision or process from the time the step in notice is given until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process; and

- (b) for making the decision, the Coordinator-General has all the powers of the decision maker under the relevant law for the prescribed decision or process; and
- (c) for making the decision, the Coordinator-General must consider the following—
 - (i) the criteria, if any, for making the prescribed decision under the relevant law for the decision or process;
 - (ii) the purposes of this part under section 76A(b), (c)(i) and (ii), and (d);
 - (iii) the matters relevant to the undertaking of a prescribed project and prescribed under a regulation;
 - (iv) another matter relevant to the prescribed decision or process, or the prescribed project to which the decision or process relates, and prescribed under a regulation; and
- (d) if the prescribed decision or process relates to an application for a development approval—the assessment manager and each concurrence agency for the application is taken to be an advice agency for the application until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process; and
- (e) if an appeal was made or a review was started in relation to the prescribed decision or process under the relevant law for the decision or process—the appeal or review is of no further effect; and
- (f) despite paragraph (a), the Coordinator-General's decision about the prescribed decision or process is taken to be the exercise of a power or performance of a function or duty of the Coordinator-General under this Act.

'760 Coordinator-General's decision

- '(1) After making an assessment about the prescribed decision or process, the Coordinator-General may—
- (a) if the decision had not been made or the process had not been undertaken by the decision maker—
 - (i) make the decision or undertake the process; or
 - (ii) send back the decision or process, with or without conditions, to the decision maker under the relevant law for the decision or process; or
 - (iii) decide aspects of the decision and send back undecided aspects of the decision, with or without conditions, to the decision maker under the relevant law for the decision; or
 - (b) otherwise—
 - (i) confirm or amend the decision; or
 - (ii) cancel the decision and substitute a new decision.
- '(2) In acting under subsection (1), the Coordinator-General may, in relation to the prescribed decision, impose conditions the Coordinator-General considers necessary or desirable having regard to—
- (a) the nature of the prescribed project to which the decision relates; and
 - (b) whether the applicant for the decision has entered into a voluntary environmental agreement for the undertaking of the project; and
 - (c) the matters mentioned in section 76N(c) the Coordinator-General considered for the decision.
- '(3) Without limiting subsection (2), the Coordinator-General may impose a condition requiring the applicant to carry out an activity or works that—
- (a) prevent, control or mitigate detrimental environmental effects that may arise because of the undertaking of the prescribed project; or

- (b) restore or enhance aspects of the environment that may be affected by the undertaking of the prescribed project to which the decision relates.
- ‘(4) For subsection (3), an activity or works mentioned in the subsection may be required to be carried out on land on which the prescribed project is being undertaken or on other land in another part of the State.
- ‘(4A) If the Coordinator-General receives a recommendation under section 76M(4) to impose a condition in relation to the prescribed decision, the Coordinator-General must impose the condition unless the Minister directs otherwise.
- ‘(4B) The Coordinator-General’s decision to impose a condition under subsection (4A) is taken to be a decision for the purposes of the Integrated Planning Act, section 5.1.8(2)(b).
- ‘(5) For a condition imposed under this section, the Coordinator-General may nominate an entity that is to have jurisdiction, under the relevant law for the prescribed decision, for the condition.
- ‘(6) An entity may be nominated for 1 or more of the conditions.
- ‘(7) If the Coordinator-General nominates an entity under subsection (5), the Coordinator-General must give each of the following written notice of the nomination—
 - (a) the entity;
 - (b) the decision maker and the applicant for the prescribed decision.
- ‘(8) Subject to this part, the relevant law for the prescribed decision or process applies to the making of the Coordinator-General’s decision under this section.

‘76P Effects of decision

- ‘(1) The Coordinator-General’s decision under section 76O about the prescribed decision or process, including a decision to impose a condition—
 - (a) is taken to be a decision of the decision maker (the *original decision maker*) under the relevant law for the

prescribed decision or process but a person may not appeal against the Coordinator-General's decision under this Act or the relevant law; and

- (b) takes effect when the applicant for the prescribed decision or process and the original decision maker are given notice, under section 76Q, of the Coordinator-General's decision.
- '(2) A condition imposed by the original decision maker in relation to the prescribed decision is of no effect to the extent it is inconsistent with a condition imposed by the Coordinator-General.
- '(3) If the original decision maker makes another prescribed decision for the prescribed project to which the step in notice relates, the other prescribed decision must not be inconsistent with the Coordinator-General's decision.

'76Q Notice of decision

- '(1) The Coordinator-General must give written notice of the Coordinator-General's decision under section 76O about the prescribed decision or process to—
- (a) the applicant and decision maker for the prescribed decision or process; and
 - (b) each entity nominated by the Coordinator-General to have jurisdiction for a condition in relation to the prescribed decision or process.
- '(2) The notice must include—
- (a) the reasons for the Coordinator-General's decision; and
 - (b) the conditions, if any, imposed under section 76O(2) in relation to the decision.

'76R Report about decision

- '(1) The Coordinator-General must prepare a report about each step in notice given for a prescribed decision or process.
- '(2) The Coordinator-General must include the following in the report—

- (a) a copy of the step in notice;
 - (b) details of each entity nominated, under section 76O(5), to have jurisdiction for a condition in relation to the prescribed decision or process;
 - (c) a copy of the notice, under section 76Q, of the Coordinator-General's decision;
 - (d) other details about the Coordinator-General's decision required by the Minister.
- ‘(3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after notice is given under section 76Q of the Coordinator-General's decision.

‘Division 4 **Voluntary environmental agreements**

‘76S **Entering into agreement**

- ‘(1) The Coordinator-General may, with the approval of the Minister, enter into an agreement (a ***voluntary environmental agreement***) with an applicant for a prescribed decision, or the applicant and another person, about—
- (a) preventing, controlling or mitigating detrimental environmental effects of a prescribed project; or
 - (b) conserving, maintaining, rehabilitating or enhancing aspects of the environment.
- ‘(2) However, if the rights of any of the following persons will be materially affected by the agreement, the Coordinator-General must not enter into it without that person's written consent—
- (a) if the applicant is not the registered owner of land to which the agreement relates—the registered owner of the land;
 - (b) if land to which the agreement relates is subject to a lease or other interest—the lessee or interest holder.

‘76T Content and duration of agreement

- ‘(1) A voluntary environmental agreement in relation to land may contain terms that are binding on the registered owner of the land and the registered owner’s successors in title and other persons who have an interest in the land.
- ‘(2) Without limiting subsection (1), a voluntary environmental agreement may contain terms—
 - (a) requiring the applicant to provide financial or other assistance; or
 - (b) requiring the applicant to provide financial assurance to the State; or
 - (c) requiring the applicant to provide technical advice or carry out stated activities; or
 - (d) prohibiting a stated use of land to which the agreement relates; or
 - (e) restricting the use or management of land mentioned in paragraph (d); or
 - (f) requiring the applicant to permit or restrict access to land mentioned in paragraph (d) by stated persons; or
 - (g) requiring the applicant to refrain from, or not to permit, stated activities; or
 - (h) stating the way in which amounts provided by the applicant under the agreement are to be applied by the State or the applicant; or
 - (i) providing for other matters relating to the matters mentioned in section 76S(1).
- ‘(3) Subsections (1) and (2) do not limit the terms the voluntary environmental agreement may contain.
- ‘(4) A voluntary environmental agreement has effect until it ends under its terms.

‘76U Recording of particular agreements

- ‘(1) The Coordinator-General must, within 14 days after entering into a recorded voluntary environmental agreement in relation to land, give the registrar written notice of the agreement.
- ‘(2) The notice must include particulars of the land to which the agreement relates.
- ‘(3) The registrar must keep records that—
 - (a) show the land to which the agreement relates is the subject of a recorded voluntary environmental agreement; and
 - (b) state the places where particulars of the agreement may be inspected.
- ‘(4) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land will show the existence of the recorded voluntary environmental agreement.
- ‘(5) As soon as practicable after the recorded voluntary environmental agreement ends—
 - (a) the Coordinator-General must give the registrar written notice of its ending; and
 - (b) the registrar must remove the particulars of the agreement from the registrar’s records.
- ‘(6) While the recorded voluntary environmental agreement has effect and is recorded by the registrar under this section, the agreement is binding on—
 - (a) the successors in title to a registered owner who entered into the agreement or consented, under section 76S(2), to the agreement; and
 - (b) persons who have an interest in the land.
- ‘(7) In this section—

recorded voluntary environmental agreement, in relation to land, means a voluntary environmental agreement expressed to be binding on the successors in title to the registered owner of the land and other persons who have an interest in the land.

registrar means the registrar of titles or another person responsible for keeping a register for dealings in land.

‘Division 5 Other matters

‘76V Recovering cost of particular advice or services

- ‘(1) This section applies if, in making an assessment under this part about a prescribed decision or process, the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to make the assessment.
- ‘(2) The Coordinator-General may recover from the applicant for the prescribed decision or process as a debt the reasonable cost of obtaining the advice or services.

‘76W Application of Judicial Review Act 1991

‘The *Judicial Review Act 1991*, parts 3 and 5, other than section 41(1), do not apply to—

- (a) a decision of the Minister to declare a project to be—
- (i) a critical infrastructure project; or
 - (ii) a prescribed project if the project is a critical infrastructure project; or
- (b) a decision of the Coordinator-General to give a progression notice, notice to decide or a step in notice for a critical infrastructure project; or
- (c) the Coordinator-General’s decision under section 76O about a prescribed decision or process for a critical infrastructure project; or
- (d) a decision or conduct leading up to or forming part of the process of making a decision mentioned in paragraph (a), (b) or (c).

Editor’s note—

The *Judicial Review Act 1991*, part 3 deals with statutory orders of review, and part 5 deals with prerogative orders and injunctions.’

8 Amendment of s 77 (Declaration of State development areas, variation and termination thereof)

Section 77—

insert—

- ‘(3) In considering whether the public interest or general welfare of persons requires the declaration of a State development area under subsection (1), the Governor in Council may have regard to—
- (a) the purposes for taking or acquiring land under section 82(1); and
 - (b) other matters the Governor in Council considers relevant.’.

9 Amendment of s 82 (Acquisition of land in State development area)

(1) Section 82(4)—

renumber as section 82(8).

(2) Section 82—

insert—

- ‘(4) The power to take or acquire land in a State development area for a purpose (the *primary purpose*) includes power to take at any time land in the area either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.
- ‘(5) As well as land granted in fee simple, the Coordinator-General may take or acquire land that is held from the State for an estate or interest less than fee simple for any of the purposes stated in subsection (1).
- ‘(6) The following provisions apply with the stated changes to the taking or acquisition of land in a State development area—
- (a) section 125(7) applies as if the reference in the subsection to subsection (1) were a reference to section 82(1);

- (b) section 125(11) and (13) apply as if the reference in the subsections to subsection (10) were a reference to section 82(5);
 - (c) section 125(12) applies as if the reference in the subsection to the land were a reference to land taken under section 82(5);
 - (d) section 125(14) applies as if the reference in the subsection to subsections (7) to (13) were a reference to a taking or acquisition of land under section 82;
 - (e) section 125(15) applies as if the reference in the subsection to this section were a reference to section 82;
 - (f) section 125A applies as if—
 - (i) a reference in the section to section 125 were a reference to section 82; and
 - (ii) the reference in the section to section 125(1) were a reference to section 82(1);
 - (g) section 127 applies as if—
 - (i) the reference in the section to section 125(10) were a reference to section 82(5); and
 - (ii) the reference in the section to section 125(13) were a reference to section 125(13) as it has effect under paragraph (b);
 - (h) section 129 applies as if a reference in the section to section 125 were a reference to section 82.
- ‘(7) Subsection (6) applies subject to section 83.’.

10 Amendment of s 109 (Approval of certain works)

- (1) Section 109, heading, ‘Approval of certain’—
omit, insert—
‘Direction about particular’.
- (2) Section 109, from ‘approve’ to ‘undertake’—
omit, insert—
‘direct the Coordinator-General or other person to undertake’.

11 Amendment of s 110 (Coordinator-General to undertake approved works)

(1) Section 110, heading—

omit, insert—

‘110 Undertaking particular works’.

(2) Section 110(1), ‘approval is granted’—

omit, insert—

‘a regulation is made’.

(3) Section 110(1), ‘approved’—

omit, insert—

‘directed’.

(4) Section 110(1), ‘the approval’—

omit, insert—

‘the regulation’.

(5) Section 110(2), ‘approved by the Governor in Council’—

omit, insert—

‘directed by the regulation’.

12 Amendment of s 111 (Delegation of authority of Coordinator-General)

(1) Section 111(2), ‘reason of an approval of the Governor in Council’—

omit, insert—

‘a regulation’.

(2) Section 111(5), ‘an approval’—

omit, insert—

‘a regulation’.

13 Amendment of s 140 (Powers in respect of works on foreshore and under waters)

(1) Section 140, heading, before ‘works’—

insert—

‘particular’.

(2) Section 140(1)(b)—

omit, insert—

‘(b) direct that the taking and use of the sand, stone, gravel and other material for the works is exempt development under the Integrated Planning Act.’.

(3) Section 140(3) and (4)—

omit, insert—

‘(3) For the *Coastal Protection and Management Act 1995*, section 101, an authorisation under this section to take sand, stone, gravel and other material is taken to be an allocation notice under the Act for the removal of the sand, stone, gravel and other material.’.

13A Insertion of new pt 6, div 8

Before part 7—

insert—

‘Division 8 Easements for critical infrastructure projects

‘153A Definitions for div 8

‘In this division—

appropriate register means the appropriate register under the *Land Act 1994* or the *Land Title Act 1994*.

critical infrastructure easement means an easement registered under section 153B.

easement holder, in relation to a critical infrastructure easement, means—

- (a) the Coordinator-General; or
- (b) if the easement is transferred to another entity—the entity to which it is transferred.

registrar means the registrar of titles or another person responsible for keeping a register for dealings in land.

relevant public utility easement means an easement registered as a public utility easement under the *Land Act 1994*, chapter 6, part 4, division 8, or the *Land Title Act 1994*, part 6, division 4, or that would have been registered as a public utility easement under those provisions if it had been registered after the provisions commenced.

‘153B Registration of critical infrastructure easement

- ‘(1) This section applies to land that—
 - (a) is the subject of a critical infrastructure project; and
 - (b) is burdened by a relevant public utility easement.
- ‘(2) On receiving an instrument of easement for the land, the registrar must record the particulars of the easement in the appropriate register if—
 - (a) the instrument—
 - (i) relates only to the land affected by the relevant public utility easement; and
 - (ii) is signed by the Minister; and
 - (b) the easement is in favour of the Coordinator-General.
- ‘(3) Despite the *Land Act 1994*, section 363 or the *Land Title Act 1994*, section 83, the easement may be registered under the Acts—
 - (a) without the instrument being signed by a person other than the Minister; and
 - (b) for an easement under the *Land Act 1994*—without the approval of the Minister under that Act.
- ‘(4) The easement is taken to be a public utility easement under the *Land Act 1994*, chapter 6, part 4, division 8, or the *Land Title Act 1994*, part 6, division 4.

‘153C Terms of easement

‘A critical infrastructure easement may include the following terms—

- (a) the easement holder, or a person employed, engaged or authorised in writing by the holder, may construct, maintain, repair, renew, replace or operate infrastructure in or on land burdened by the easement;
- (b) the easement holder is the owner of the infrastructure mentioned in paragraph (a);
- (c) other terms the Minister considers necessary to facilitate the construction, maintenance, repair, renewal, replacement or operation of the infrastructure.

‘153D Effect of registration of easement

- ‘(1) The registration of a critical infrastructure easement over land under section 153B does not extinguish a relevant public utility easement.
- ‘(2) However, the grantee of the relevant public utility easement can not, without the consent of the easement holder for the critical infrastructure easement, exercise any rights in relation to the relevant public utility easement to the extent the exercise of the rights would interfere with the exercise of rights under the critical infrastructure easement.

‘153E Transfer of easement

- ‘(1) With the Minister’s written approval, a critical infrastructure easement may be transferred to—
 - (a) another public utility provider; or
 - (b) a person approved by the Minister as suitable to provide a public utility service in relation to the critical infrastructure easement.
- ‘(2) On receiving an instrument evidencing the transfer, the registrar must record the transfer in the appropriate register.
- ‘(3) The transfer may be recorded in the appropriate register—

- (a) without the approval of a person other than the Minister; and
 - (b) if the appropriate register is a register under the *Land Act 1994*—without the approval of the Minister under that Act.
- ‘(4) A person approved by the Minister under subsection (1)(b) is taken to be a public utility provider for the purposes of the critical infrastructure easement.
- ‘(5) In this section—
- public utility provider*** means a public utility provider under—
- (a) the *Land Act 1994*, chapter 6, part 4, division 8; or
 - (b) the *Land Title Act 1994*, part 6, division 4.

‘153F Amendment of easement

- ‘(1) A critical infrastructure easement may, with the Minister’s written approval, be amended under, as appropriate—
- (a) the *Land Act*, section 370; or
 - (b) the *Land Title Act*, section 91.
- ‘(2) However, the amendment may be registered—
- (a) without the instrument of amendment being signed by a person other than the easement holder; and
 - (b) for an amendment under the *Land Act 1994*—without the approval of the Minister under that Act.

‘153G Minister to give notice of registration or amendment

- ‘(1) The Minister must, as soon as practicable after a critical infrastructure easement is registered or amended under this division, give written notice of the registration or amendment to each person who has an interest in land the subject of the easement.
- ‘(2) The notice must include all of the following—
- (a) for registration of an easement—particulars of the easement;

- (b) for amendment of an easement—particulars of the amendment;
- (c) information about the person’s right to claim compensation under section 153I, and the process for claiming the compensation.

‘153H Application of particular provisions

‘To remove any doubt, it is declared that sections 153C to 153G continue to apply to a critical infrastructure easement even if the land the subject of the easement is no longer the subject of a critical infrastructure project.

‘153I Compensation

- ‘(1) Subsection (2) applies to a person who has an interest in land burdened by a critical infrastructure easement—
 - (a) when it is registered under section 153B; or
 - (b) when its terms are amended under section 153F.
- ‘(2) The person has a right to claim compensation under the *Acquisition of Land Act 1967* in relation to the extent to which the person’s interest is affected by the registration or amendment.
- ‘(3) For claiming the compensation, the process stated in the *Acquisition of Land Act 1967* for the payment of compensation for land taken under that Act applies with any necessary changes as if the registration or amendment were a taking of land under that Act by the State.
- ‘(4) Other than as stated in this section, a person has no right to compensation for the registration or amendment of a critical infrastructure easement under this division.’.

14 Amendment of schedule (Dictionary)

- (1) Schedule, definitions, *concurrency agency*, *development approval* and *IDAS*—
omit.

(2) Schedule—

insert—

‘advice agency means an advice agency under the Integrated Planning Act.

applicant, for part 5A, see section 76D.

appropriate register, for part 6, division 8, see section 153A.

concurrence agency means a concurrence agency under the Integrated Planning Act.

critical infrastructure easement, for part 6, division 8, see section 153A.

critical infrastructure project see section 76D.

decision maker, for part 5A, see section 76D.

declaration, for part 5A, see section 76D.

development approval means a development approval under the Integrated Planning Act.

easement holder, for part 6, division 8, see section 153A.

IDAS see the Integrated Planning Act, schedule 10.

notice to decide, for part 5A, see section 76D.

prescribed decision, for part 5A, see section 76D.

prescribed process, for part 5A, see section 76D.

prescribed project, for part 5A, see section 76D.

progression notice, for part 5A, see section 76D.

referral coordination means referral coordination under the Integrated Planning Act

registered owner, for part 5A, see section 76D.

registrar, for part 6, division 8, see section 153A.

relevant law, for part 5A, see section 76D.

relevant public utility easement, for part 6, division 8, see section 153A.

step in notice, for part 5A, see section 76D.

voluntary environmental agreement, for part 5A, see section 76D.’.

Part 3 Amendment of Integrated Planning Act 1997

15 Act amended in pt 3

This part amends the *Integrated Planning Act 1997*.

16 Amendment of s 3.2.1 (Applying for development approval)

(1) Section 3.2.1(3), ‘subsection (12)’—

omit, insert—

‘subsections (12) and (13)’.

(2) Section 3.2.1—

insert—

‘(13) The consent of the owner of the land is not required to the extent—

(a) the land, the subject of the application, is acquisition land; and

(b) the application relates to the purpose for which the land is to be taken or acquired.’.

17 Amendment of s 3.5.19 (When approval takes effect)

(1) Section 3.5.19(2) and (3)—

renumber as section 3.5.19(3) and (4).

(2) Section 3.5.19—

insert—

‘(2) However, if the approval relates to land that was acquisition land to which section 3.2.1(13) applied when the application

was made, the development approval does not have effect until the later of the following—

- (a) the day the land is taken or acquired under the *State Development and Public Works Organisation Act 1971* or *Acquisition of Land Act 1967*;
- (b) the time the development approval would, other than for this subsection, have effect.’.

18 Amendment of s 3.5.24 (Request to change development approval (other than a change of a condition))

Section 3.5.24(3), after ‘consent’—

insert—

‘unless the approval relates to land that was acquisition land to which section 3.2.1(13) applied when the application for the approval was made’.

19 Amendment of sch 10 (Dictionary)

Schedule 10—

insert—

‘*acquisition land* means land—

- (a) proposed to be taken or acquired under the *State Development and Public Works Organisation Act 1971* or *Acquisition of Land Act 1967*; and
- (b) in relation to which a notice of intention to resume under the *Acquisition of Land Act 1967* has been served, and the proposed taking or acquisition has not been discontinued; and
- (c) that has not been taken or acquired.’.

Part 4 Amendment of Judicial Review Act 1991

20 Act amended in pt 4

This part amends the *Judicial Review Act 1991*.

21 Amendment of sch 1 (Operation of other laws)

Schedule 1, part 1—

insert—

‘*State Development and Public Works Organisation Act 1971*, section 76W’.

Part 5 Amendment of Land Act 1994

22 Act amended in pt 5

This part amends the *Land Act 1994*.

22A Amendment of s 296 (Tenure document to be returned to land registry)

Section 296(2)—

insert—

‘(d) a request to register a dealing under the *State Development and Public Works Organisation Act 1971*, part 6, division 8.’.

23 Amendment of s 369 (Public utility easements)

(1) Section 369(2)—

insert—

‘(e) an infrastructure corridor;

- (f) a purpose mentioned in the *State Development and Public Works Organisation Act 1971*, section 125(1).’.
- (2) Section 369(4)(b)(ii)—
renumber as section 369(4)(b)(iii).
- (3) Section 369(4)(b)—
insert—
‘(ii) cyclists;’.
- (4) Section 369(8)—
insert—
‘*infrastructure corridor* means an infrastructure corridor under the *State Development and Public Works Organisation Act 1971*, section 82(8).’.

Part 6 Amendment of Land Title Act 1994

24 Act amended in pt 6

This part amends the *Land Title Act 1994*.

25 Amendment of s 89 (Easements for public utility providers)

- (1) Section 89(2)(a)(iv)—
omit, insert—
‘(iv) water storage;
(v) an infrastructure corridor;
(vi) a purpose mentioned in the *State Development and Public Works Organisation Act 1971*, section 125(1).’.
- (2) Section 89(3)(b)(ii)—

renumber as section 89(3)(b)(iii).

(3) Section 89(3)(b)—

insert—

‘(ii) cyclists;’.

(4) Section 89(7)—

insert—

‘*infrastructure corridor* means an infrastructure corridor under the *State Development and Public Works Organisation Act 1971*, section 82(8).’.

25A Amendment of s 154 (Lodging certificate of title)

Section 154(2)—

insert—

‘(i) a request to register a dealing under the *State Development and Public Works Organisation Act 1971*, part 6, division 8.’.

Part 7 Amendment of Water Act 2000

26 Act amended in pt 7

This part amends the *Water Act 2000*.

27 Amendment of s 25L (Relationship with State Development and Public Works Organisation Act 1971)

Section 25L(2)(c), from ‘approving’—

omit, insert—

‘under section 109 directing works be undertaken; and’.

Schedule **Other amendments of the State
Development and Public
Works Organisation Act 1971**

section 2

- 1** **Section 108, heading, ‘certain’—**
omit, insert—
‘particular’.
- 2** **Section 128(1), ‘taken by the Coordinator-General’—**
omit, insert—
‘taken by the Coordinator-General under this Act’.
- 3** **Section 130(1), ‘Coordinator-General or’—**
omit, insert—
‘Coordinator-General under this Act or’.
- 4** **Section 132, ‘Coordinator-General and’—**
omit, insert—
‘Coordinator-General under this Act and’.
- 5** **Section 133, ‘Coordinator-General was’—**
omit, insert—
‘Coordinator-General under this Act was’.