



Queensland

Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012

Act No. 34 of 2012



Queensland

Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012

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Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012

Act No. 34 of 2012

An Act to amend the Airport Assets (Restructuring and Disposal) Act 2008, the Coastal Protection and Management Act 1995, the Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012, the Fisheries Act 1994, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the Sustainable Planning Act 2009, the Transport Infrastructure Act 1994, the Water Act 2000 and the Water Supply (Safety and Reliability) Act 2008 for particular purposes

[Assented to 22 November 2012]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012*.

2 Commencement

The following provisions of this Act commence on a day to be fixed by proclamation—

- sections 35, 42(1), 43(1), 44(1), 63, 111 to 118 and 123(2) and (4)
- section 122, to the extent it inserts section 944.

Part 2 Amendment of Airport Assets (Restructuring and Disposal) Act 2008

3 Act amended

This part amends the *Airport Assets (Restructuring and Disposal) Act 2008*.

4 Amendment of s 56 (Restriction on application of master plan)

Section 56—

insert—

[s 17]

17 Amendment of s 21 (Content of State planning regulatory provision)

- (1) Section 21(d)(i), ‘stated structure plan within a planning scheme or another’—
omit.
- (2) Section 21(d)(ii)—
omit.
- (3) Section 21(d)(iii)—
renumber as section 21(d)(ii).
- (4) Section 21(e), ‘or master plan applications’—
omit.

18 Insertion of new s 55A

Chapter 2, part 5, division 2—

insert—

‘55A Limited application of s 777 for IPA standard provisions

- ‘(1) This section applies in relation to a local planning instrument to which section 777 applies (an *IPA local planning instrument*) if any provision of the standard planning scheme provisions states that it applies to the IPA local planning instrument.
- ‘(2) The provisions of the standard planning scheme provisions stated to apply to the IPA local planning instrument are the *IPA standard provisions* for the instrument.
- ‘(3) Subsections (4) to (7) apply despite section 777(2), (3) and (7).
- ‘(4) Section 53 applies to the IPA local planning instrument as if a reference in the section to the standard planning scheme provisions were a reference to the IPA standard provisions for the instrument.
- ‘(5) Section 55(1) applies to a local government in relation to its IPA local planning instrument as if a reference in the

provision to the standard scheme provisions were a reference to the IPA standard provisions for the instrument.

- ‘(6) If—
- (a) the standard planning scheme provisions are amended to state that the IPA standard provisions for the IPA local planning instrument apply; or
 - (b) the IPA standard provisions for the instrument are amended;

the local government must amend its planning scheme under the process stated in the guideline mentioned in section 117(1) to reflect the IPA standard provisions, or the IPA standard provisions as amended, for the instrument.

- ‘(7) Section 55(3) and (7) applies to a local government in relation to its IPA local planning instrument as if a reference in the provision to the standard planning scheme provisions as amended were a reference to the IPA standard provisions, or the IPA standard provisions as amended, for the instrument.’.

19 Amendment of s 73 (Effect of draft State planning regulatory provision and draft amendments)

Section 73(2)(b), ‘, structure plan or proposed regional plan or structure plan’—

omit, insert—

‘or proposed regional plan’.

20 Amendment of s 85 (Documents planning scheme may adopt)

- (1) Section 85(1)(b)—

omit.

- (2) Section 85(1)(c) and (d)—

renumber as section 85(1)(b) and (c).

- (3) Section 85(2), definition *documents*, paragraph (b)—

[s 21]

omit.

- (4) Section 85(2), definition *documents*, paragraph (c)—
renumber as paragraph (b).

21 Amendment of s 88 (Key elements of planning scheme)

Section 88(1)(f)—

omit.

22 Replacement of s 107 (Documents temporary local planning instrument may adopt)

Section 107—

omit, insert—

‘107 Temporary local planning instrument may adopt planning scheme policy

‘(1) The only document made by a local government that a temporary local planning instrument of the local government may, under the *Statutory Instruments Act 1992*, section 23, apply, adopt or incorporate is a planning scheme policy.

‘(2) In this section—

document does not include the following—

- (a) a development approval;
(b) an approval for an application mentioned in repealed IPA, section 6.1.26.’.

23 Amendment of s 115 (Planning scheme policy can not adopt particular documents)

(1) Section 115(2), definition *document*, paragraph (b)—
omit.

(2) Section 115(2), definition *document*, paragraph (c)—
renumber as paragraph (b).

-
- 24 Omission of ch 3, pt 5, div 1 (Preliminary)**
Chapter 3, part 5, division 1—
omit.
- 25 Renumbering of ch 3, pt 5, divs 2 and 2A**
Chapter 3, part 5, divisions 2 and 2A—
renumber as chapter 3, part 5, divisions 1 and 2.
- 26 Amendment of s 122A (Definitions for div 2A)**
Section 122A, heading, ‘div 2A’—
omit, insert—
‘**div 2**’.
- 27 Amendment of s 122B (Application of div 2A)**
(1) Section 122B, heading, ‘div 2A’—
omit, insert—
‘**div 2**’.
(2) Section 122B(2), ‘division 2’—
omit, insert—
‘division 1’.
- 28 Amendment of s 126 (Power of Minister to direct local government to take particular action about local planning instrument)**
(1) Section 126(2)(c), example—
omit.
(2) Section 126(4)(c)—
omit.
(3) Section 126(4)(d) and (e)—

[s 29]

renumber as section 126(4)(c) and (d).

29 Omission of ch 4 (Planning partnerships)

Chapter 4—

omit.

30 Amendment of s 207 (Matters the Minister must consider before designating land)

(1) Section 207(2)(e)—

omit.

(2) Section 207(2)(f)—

renumber as section 207(2)(e).

(3) Section 207(3)(e)—

omit.

(4) Section 207(3)(f) and (g)—

renumber as section 207(3)(e) and (f).

31 Amendment of s 232 (Regulation may prescribe categories of development or require code or impact assessment)

(1) Section 232(2), ‘ a preliminary approval to which section 242 applies or a master plan’—

omit, insert—

‘or a preliminary approval to which section 242 applies’.

(2) Section 232(3), note, paragraphs (b) and (c)—

omit.

(3) Section 232(3), note, paragraphs (d) to (f)—

renumber as paragraphs (b) to (d).

32 Amendment of s 235 (Exempt development)

(1) Section 235(2), ‘master plans for declared master planned areas or’—

omit.

(2) Section 235(3), ‘a master plan for a declared master planned area,’—

omit.

33 Amendment of s 242 (Preliminary approval may affect a local planning instrument)

Section 242(1), note—

omit.

34 Omission of s 253 (Exclusion of particular entities as referral agency for a master planned area)

Section 253—

omit.

35 Insertion of new ch 6, pt 1, div 4, sdiv 2A

Chapter 6, part 1, division 4—

insert—

‘Subdivision 2A Chief executive assessing particular applications as assessment manager or referral agency

‘255A Application requiring code assessment

‘(1) This section applies if—

(a) the chief executive is the assessment manager for an application; and

[s 35]

- (b) any part of the application requires code assessment.
- ‘(2) For assessing the part of the application—
 - (a) section 313(2)(c), (4) and (5) does not apply; and
 - (b) the chief executive may have regard, and give the weight the chief executive is satisfied is appropriate, to the matters prescribed under a regulation.

‘255B Application requiring impact assessment

- ‘(1) This section applies if—
 - (a) the chief executive is the assessment manager for an application; and
 - (b) any part of the application requires impact assessment.
- ‘(2) For assessing the part of the application—
 - (a) section 314(2)(c) does not apply; and
 - (b) the chief executive may have regard, and give the weight the chief executive is satisfied is appropriate, to the matters prescribed under a regulation.

‘255C Chief executive assessing application as a referral agency

- ‘(1) This section applies if the chief executive is assessing an application as a referral agency.
- ‘(2) For assessing the application—
 - (a) section 282(1)(c) and (e) does not apply; and
 - (b) the chief executive may have regard, and give the weight the chief executive is satisfied is appropriate, to the matters prescribed under a regulation.

‘255D Chief executive imposes conditions or recommends conditions be imposed on development approval

- ‘(1) Subsection (3) applies if the chief executive—

- (a) is the assessment manager for an application and imposes a condition on the development approval; or
 - (b) is a concurrence agency for an application and, in a concurrence agency's response given under section 285 or 290 or in an amended response given under section 290, tells the assessment manager that a condition must attach to the development approval; or
 - (c) is an advice agency for an application and, in an advice agency's response given under section 291, makes a recommendation to the assessment manager about a condition that should attach to the development approval, and the assessment manager imposes the condition.
- ‘(2) Subsection (3) also applies if—
- (a) the chief executive is a referral agency for a matter within the referral agency's jurisdiction about a development; and
 - (b) the chief executive gives a referral agency's response under section 271 before an application for the development is made that—
 - (i) if the chief executive is a concurrence agency—tells the assessment manager that a condition must attach to any development approval for the application; or
 - (ii) if the chief executive is an advice agency—makes a recommendation to the assessment manager about a condition that should attach to any development approval and the assessment manager imposes the condition on a development approval for the application; and
 - (c) the functions of the chief executive as a referral agency in relation to the application are lawfully devolved or delegated to the assessment manager.
- ‘(3) The chief executive may nominate an entity to be the assessing authority for the development to which the

[s 35]

development approval relates for the administration and enforcement of a matter relating to the condition.

- ‘(4) If the chief executive nominates an entity under subsection (3), the chief executive must give the entity a written notice to that effect.

‘255E Relationship with other Acts

- ‘(1) This section applies to an application if—
- (a) under another Act, had the application been made before the commencement of this section, an entity (a *relevant entity*) other than the local government would have been the assessment manager, or a referral agency that has particular jurisdiction, for the application; and
 - (b) the other Act imposes requirements on the relevant entity assessing the application as the assessment manager or a referral agency; and
 - (c) under this Act, on or after the commencement the chief executive becomes the assessment manager, or a referral agency that has the same or substantially the same jurisdiction, for the application.
- ‘(2) If there is an inconsistency between this subdivision and the other Act, this subdivision prevails to the extent of the inconsistency.
- ‘(3) Subsection (2) applies despite express words or an implied intention to the contrary in the other Act.
- ‘(4) Without limiting subsections (2) and (3)—
- (a) a provision of the other Act stating that matters referred to in that Act to which the relevant entity in assessing the application must or may have regard does not apply to the chief executive in assessing the application; and
 - (b) for assessing the application, the chief executive may under section 255A(2)(b), 255B(2)(b) or 255C(2)(b) have regard, and give the weight the chief executive considers appropriate, to the matters prescribed under a

regulation for that section, despite any provision in the other Act that states the relevant entity must or may have regard to other particular matters.

- ‘(5) Subsection (6) applies if, under the other Act, a function is conferred on the relevant entity for assessing a matter as the assessment manager or a referral agency for the application.
- ‘(6) For assessing the matter—
- (a) the function is conferred on the chief executive; and
 - (b) the chief executive may, but is not required to, have regard to the other Act’s purpose.
- ‘(7) If a provision of the other Act states that the relevant entity may impose particular conditions on any development approval for the application—
- (a) the provision does not apply to the chief executive for imposing conditions on the development approval; but
 - (b) any condition the chief executive imposes on the development approval must comply with section 345.
- ‘(8) If a provision of the other Act states that the relevant entity would be, or would be taken to be, the assessment manager or a referral agency for assessing a matter for the application, the chief executive is, or is taken to be, the assessment manager or the referral agency for assessing the matter.
- ‘(9) Subsection (10) applies if a provision of the other Act (a ***stated provision***) requires the applicant to give the relevant entity a document relating to the application.
- ‘(10) Despite the stated provision, the applicant must give the chief executive the document.
- ‘(11) In this section—
- application*** includes part of an application.
- assessing***, an application or a matter, includes deciding the application or the matter.
- function*** includes power.
- must have regard to*** includes must comply with.’

[s 36]

- 36 Omission of ch 6, pt 1, div 6 (Application of IDAS in declared master planned areas)**
Chapter 6, part 1, division 6—
omit.
- 37 Renumbering of ch 6, pt 1, div 7 (Giving notices electronically)**
Chapter 6, part 1, division 7—
renumber as chapter 6, part 1, division 6.
- 38 Amendment of s 260 (Applying for development approval)**
Section 260(1)(f)—
omit.
- 39 Amendment of s 261 (When application is a *properly made application*)**
Section 261, from ‘if—’—
omit, insert—
‘only if—
(a) the application complies with section 260(1) and (3); or
(b) the assessment manager for the application—
(i) is satisfied the application complies with section 260(1)(a), (b), (d) and (e) and (3); and
(ii) receives and, after considering any noncompliance with section 260(1)(c), accepts the application.’.
- 40 Amendment of s 263 (When owner’s consent is required for application)**
(1) Section 263(2)(b) and (c)—
omit.

- (2) Section 263(2)(d)—
renumber as section 263(2)(b).

41 Omission of s 264 (Development involving a State resource)

Section 264—
omit.

42 Amendment of s 282 (Referral agency assesses application)

- (1) Section 282(1)—
insert—
Note—
However, if the chief executive is a referral agency for the application, see section 255C.’.
- (2) Section 282(2)(c) and (d)—
omit.
- (3) Section 282(2)(e) to (h)—
renumber as section 282(2)(c) to (f).

43 Amendment of s 313 (Code assessment—generally)

- (1) Section 313(2)(c)—
insert—
Note—
However, if the chief executive is the assessment manager for the application, see section 255A.’.
- (2) Section 313(2)(e)(i) and (ii)—
omit.
- (3) Section 313(2)(e)(iii) to (v)—
renumber as section 313(2)(e)(i) to (iii).

[s 44]

- (4) Section 313(2), note, ‘chapters 2 to 4’—
omit, insert—
‘chapters 2 and 3’.

44 Amendment of s 314 (Impact assessment—generally)

- (1) Section 314(2)(c)—

insert—

Note—

However, if the chief executive is the assessment manager for the application, see section 255B.’.

- (2) Section 314(2)(e) and (f)—

omit.

- (3) Section 314(2)(g) to (k)—

renumber as section 314(2)(e) to (i).

- (4) Section 314(2), note, ‘chapters 2 to 4’—

omit, insert—

‘chapters 2 and 3’.

45 Amendment of s 316 (Assessment for s 242 preliminary approvals that affect a local planning instrument)

Section 316(4)(c)(iv) and (v)—

omit.

46 Omission of s 322 (Decision-making period suspended until approval of master plan)

Section 322—

omit.

47 Amendment of s 324 (Decision generally)

(1) Section 324(4) and (5)—

omit.

(2) Section 324(6)—

renumber as section 324(4).

48 Amendment of s 331 (Deemed approval of applications)

Section 331(7), ‘section 324(6)(a)’—

omit, insert—

‘section 324(4)(a)’.

49 Amendment of s 339 (When approval takes effect)

Section 339(2), ‘section 263(2)(d)’—

omit, insert—

‘section 263(2)(b)’.

50 Amendment of s 340 (When development may start)

Section 340(3)—

omit.

51 Omission of s 365 (Giving new regulated State infrastructure charges notice)

Section 365—

omit.

52 Amendment of s 370 (Notice of request)

(1) Section 370(3) and (4)—

omit.

(2) Section 370(5)—

[s 53]

renumber as section 370(3).

53 Amendment of s 371 (When owner's consent required for request)

Section 371(a), 'section 263(2)(d)'—

omit, insert—

'section 263(2)(b)'.

54 Amendment of s 380 (Restriction on making request)

Section 380(2)(c)—

omit.

55 Amendment of s 383 (Request to extend period in s 341)

Section 383(3)(e)—

omit.

56 Amendment of s 393 (Purpose of compliance stage)

(1) Section 393(c)—

omit.

(2) Section 393(d) and (e)—

renumber as section 393(c) and (d).

57 Amendment of s 397 (Nominating a document or work for compliance assessment—generally)

(1) Section 397(2)(b) and (c)—

omit.

(2) Section 397(2)(d) to (f)—

renumber as section 397(2)(b) to (d).

58 Amendment of s 398 (Nominating document or work for compliance assessment—condition of development approval or compliance permit)

Section 398(3)(g)—

omit.

60 Amendment of s 456 (Court may make declarations and orders)

Section 456(1)(b), ‘and master plans under this Act and guidelines made under section 117, 145’—

omit, insert—

‘under this Act and guidelines made under section 117’.

61 Amendment of s 457 (Costs)

(1) Section 457(3) to (9)—

renumber as section 457(10) to (16).

(2) Section 457(1) and (2)—

omit, insert—

‘(1) Costs of a proceeding or part of a proceeding, including an application in a proceeding, are in the discretion of the court.

‘(2) In making an order for costs, the court may have regard to any of the following matters—

- (a) the relative success of the parties in the proceeding;
- (b) the commercial interests of the parties in the proceeding;
- (c) whether a party commenced or participated in the proceeding for an improper purpose;
- (d) whether a party commenced or participated in the proceeding without reasonable prospects of success;
- (e) if the proceeding is an appeal against a decision on a development application and the court decides the

[s 61]

decision conflicts with a relevant instrument as defined under section 326(2) or 329(2), whether the matters mentioned in section 326(1) or 329(1) have been satisfied;

- (f) if the proceeding is an appeal to which section 495(2) applies and there is a change to the application on which the decision being appealed was made, the circumstances relating to making the change and its effect on the proceeding;
- (g) whether the proceeding involves an issue that affects, or may affect, a matter of public interest, in addition to any personal right or interest of a party to the proceeding;
- (h) whether a party has acted unreasonably leading up to the proceeding, including, for example, if the proceeding is an appeal against a decision on a development application, the party did not, in responding to an information request, give all the information reasonably requested before the decision was made;
- (i) whether a party has acted unreasonably in the conduct of the proceeding, including, for example—
 - (i) by not giving another party reasonable notice of the party's intention to apply for an adjournment of the proceeding; or
 - (ii) by causing an adjournment of the proceeding because of the conduct of the party;
- (j) whether a party has incurred costs because another party has introduced, or sought to introduce, new material;
- (k) whether a party has incurred costs because another party has not complied with, or has not fully complied with, a provision of this Act or another Act relating to a matter the subject of the proceeding;
- (l) whether a party has incurred costs because another party has defaulted in the court's procedural requirements;
- (m) whether a party should have taken a more active part in a proceeding and did not do so.

-
- ‘(3) Subsection (2) does not limit the matters to which the court may have regard in making an order as to costs.
- ‘(4) Despite subsection (1), if—
- (a) early in a proceeding the parties to the proceeding participate in a dispute resolution process under the ADR provisions or the *Planning and Environment Court Rules 2010*; and
 - (b) the proceeding is resolved during the dispute resolution process or soon after it has been finalised;
- each party to the proceeding must bear the party’s own costs for the proceeding unless the court orders otherwise.
- ‘(5) If the parties to a proceeding under this part participate in a dispute resolution process under the ADR provisions or the *Planning and Environment Court Rules 2010* and the proceeding is not resolved, the costs of the proceeding include the costs of the dispute resolution process.
- ‘(6) Also, the costs of a proceeding include investigation costs for the following—
- (a) a declaration under section 456(1)(e);
 - (b) an order made by the court under section 456(7) about a declaration made by the court;
 - (c) an appeal against the giving of an enforcement notice under section 473(1);
 - (d) a proceeding mentioned in section 601(1).
- ‘(7) Investigation costs for subsection (6) include costs the court decides were reasonably incurred by a party to the proceeding relating to investigations or gathering of evidence for the making of the declaration or order, the giving of the enforcement notice or the bringing of the proceeding.
- ‘(8) Subsections (9) to (15) apply to a proceeding despite subsection (1).
- ‘(9) Costs of a proceeding mentioned in section 601, including an application in a proceeding mentioned in that section, are in

[s 62]

the discretion of the court but follow the event, unless the court orders otherwise.’.

- (3) Section 457(16), as renumbered—

insert—

Note—

See section 491B(3) for when a party to a proceeding must bear the party’s own costs.’.

62 Amendment of s 460 (Evidence of local planning instruments or master plans)

- (1) Section 460, heading, ‘or master plans’—

omit.

- (2) Section 460(1), ‘or master plan, or a part of the local planning instrument or master plan’—

omit, insert—

‘, or a part of the local planning instrument’.

- (3) Section 460(2), ‘or master plan, or part of the instrument or plan’—

omit, insert—

‘or part of the instrument’.

63 Amendment of s 463 (Additional and extended appeal rights for submitters for particular development applications)

- (1) Section 463(2), ‘prescribed’—

omit.

- (2) Section 463(3)(a), ‘if the prescribed concurrence agency is the chief executive (environment)—’—

omit.

- (3) Section 463(3)(b), ‘if the prescribed concurrence agency is the chief executive (fisheries)—’—

omit.

- (4) Section 463(4)(a), ‘(fisheries)’—

omit.

64 Omission of s 471 (Appeal by applicant for approval of a proposed master plan)

Section 471—

omit.

65 Amendment of s 478 (Appeals about particular charges for infrastructure)

- (1) Section 478(1)(a), ‘, adopted infrastructure charges notice or regulated State infrastructure charges notice’—

omit, insert—

‘or adopted infrastructure charges notice’.

- (2) Section 478(1)(b), ‘, negotiated adopted infrastructure charges notice or negotiated regulated State infrastructure charges notice’—

omit, insert—

‘or negotiated adopted infrastructure charges notice’.

- (3) Section 478(4)(a), ‘, State infrastructure provider or coordinating agency’—

omit, insert—

‘or State infrastructure provider’.

- (4) Section 478(5), ‘, regulated infrastructure charges schedule or regulated State infrastructure charges schedule’—

omit, insert—

‘or regulated infrastructure charges schedule’.

[s 66]

66 Amendment of s 484 (Notice of appeal to other parties—other matters)

- (1) Section 484(1)(a)—
omit.
- (2) Section 484(1)(b) to (i)—
renumber as section 484(1)(a) to (h).

67 Insertion of new ch 7, pt 1, div 12A

Chapter 7, part 1—

insert—

‘Division 12A ADR registrar

‘491A Definition for div 12A

‘In this division—

ADR registrar means a registrar or court officer of the District Court appointed as an ADR registrar of the court by the principal registrar of the court, in consultation with the Chief Judge of the District Court.

‘491B Power of ADR registrar

- ‘(1) The Chief Judge of the District Court may issue directions about the matters in which the ADR registrar may exercise a power of the court under this part.
- ‘(2) The court may direct the ADR registrar in a particular matter to hear and decide a proceeding started under this part.
- ‘(3) Despite section 457(1), (4) and (9) to (14), if the court directs the ADR registrar under subsection (2) and the ADR registrar decides the proceeding, each party to the proceeding bears the party’s own costs for the proceeding.
- ‘(4) In exercising a power of the court under this division, the ADR registrar must act as quickly, and with as little formality

and technicality, as is consistent with a fair and appropriate consideration of the issues.

- ‘(5) A decision, direction or act of the ADR registrar made, given or done under this part, may be reviewed by the court.
- ‘(6) An application for the review of a decision, direction or act of the ADR registrar made, given or done under this part, must be made within—
 - (a) 21 days after the decision, direction or act complained of is made, given or done; or
 - (b) any further period allowed by the court.

‘491C Reference by ADR registrar

- ‘(1) If a proceeding before the ADR registrar appears to the ADR registrar to be proper for the decision of the court, the ADR registrar may refer the matter to the court.
- ‘(2) If the ADR registrar refers a matter to the court, the court may dispose of the matter or refer it back to the ADR registrar with any direction that the court considers appropriate.’

68 Amendment of s 493 (Who must prove case)

Section 493(1), ‘or a person who has applied for approval of a proposed master plan,’—

omit.

69 Amendment of s 495 (Appeal by way of hearing anew)

- (1) Section 495(2), ‘or is a person who has applied for approval of a proposed master plan,’—

omit.

- (2) Section 495(5)—

omit.

- (3) Section 495(6)—

[s 70]

renumber as section 495(5).

70 Amendment of s 510 (Declaration about whether development application is properly made)

Section 510(4), from ‘about—’—

omit, insert—

‘about whether a development application includes or is supported by the written consent of the owner of the land the subject of the application.’.

71 Amendment of s 535 (Appeals about charges for infrastructure)

- (1) Section 535(1)(a)(i), ‘, adopted infrastructure charges notice or regulated State infrastructure charges notice’—

omit, insert—

‘or adopted infrastructure charges notice’.

- (2) Section 535(1)(a)(ii), ‘, negotiated adopted infrastructure charges notice or negotiated regulated State infrastructure charges notice’—

omit, insert—

‘or negotiated adopted infrastructure charges notice’.

- (3) Section 535(4), ‘, regulated infrastructure charges schedule or regulated State infrastructure charges schedule’—

omit, insert—

‘or regulated infrastructure charges schedule’.

72 Omission of s 583 (Compliance with master plans)

Section 583—

omit.

73 Amendment of s 584 (General exemption for emergency development or use)

Section 584(1), ‘, 582 and 583’—

omit, insert—

‘and 582’.

74 Amendment of s 587 (False or misleading document or declaration)

(1) Section 587(2)(c)—

omit.

(2) Section 587(2)(d) and (e)—

renumber as section 587(2)(c) and (d).

75 Amendment of s 592 (Specific requirements of enforcement notice)

(1) Section 592(1)(e), ‘, a code or a master plan’—

omit, insert—

‘or a code’.

(2) Section 592(1)(f), ‘or make a master plan application’—

omit.

(3) Section 592(2)(a), ‘, a code or a master plan’—

omit, insert—

‘or a code’.

76 Amendment of s 595 (Processing application or request required by enforcement notice or show cause notice)

Section 595, ‘a master plan application or’—

omit.

[s 77]

77 Amendment of s 599 (Magistrates Court may make orders)

- (1) Section 599(3)(d), ‘, a code or a master plan’—
omit, insert—
‘or a code’.
- (2) Section 599(3)(e), ‘or make a master plan application’—
omit.

78 Amendment of s 623 (Evidentiary aids generally)

- (1) Section 623(d)—
omit.
- (2) Section 623(e) to (g)—
renumber as section 623(d) to (f).

79 Amendment of s 625 (Purpose of pt 1)

Section 625, note—
omit.

80 Amendment of s 648D (Local government may decide matters about charges for infrastructure under State planning regulatory provision)

- (1) Section 648D(8)—
omit.
- (2) Section 648D(9) to (11)—
renumber as section 648D(8) to (10).

81 Amendment of s 648E (When adopted infrastructure charge can not be levied)

Section 648E(c)—
omit.

82 Amendment of s 648F (Adopted infrastructure charges notices)

Section 648F(1)(e), ‘section 648D(10)(b)’—

omit, insert—

‘section 648D(9)(b)’.

83 Amendment of s 648HA (Special provision about increase in adopted infrastructure charge by local government)

Section 648HA(2), ‘section 648D(10)(b)’—

omit, insert—

‘section 648D(9)(b)’.

84 Amendment of s 648K (Agreements about, and alternatives to, paying adopted infrastructure charge)

Section 648K(5), ‘section 648D(10)(b)’—

omit, insert—

‘section 648D(9)(b)’.

85 Amendment of s 661 (Content of infrastructure agreements)

(1) Section 661(2), from ‘may—’—

omit, insert—

‘may include matters that are not within the jurisdiction of a public sector entity that is a party to the agreement.’.

(2) Section 661(3)—

omit.

86 Amendment of s 664 (Exercise of discretion unaffected by infrastructure agreements)

(1) Section 664(a) and (b)—

[s 87]

omit.

(2) Section 664(c) and (d)—

renumber as section 664(a) and (b).

87 Amendment of s 665 (Infrastructure agreements prevail if inconsistent with particular instruments)

(1) Section 665(1), ‘, master plan’—

omit.

(2) Section 665(2)(d)—

omit.

88 Omission of ch 8, pt 3 (Funding of State infrastructure in master planned areas)

Chapter 8, part 3—

omit.

89 Amendment of s 675 (Definition for pt 4)

Section 675, definition *relevant appeal period*, ‘, adopted infrastructure charges notice or regulated State infrastructure charges notice’—

omit, insert—

‘or adopted infrastructure charges notice’.

90 Amendment of s 676 (Application of pt 4)

Section 676, ‘, adopted infrastructure charges notice or regulated State infrastructure charges notice’—

omit, insert—

‘or adopted infrastructure charges notice’.

91 Amendment of s 678 (Consideration of representations)

Section 678, ‘, adopted infrastructure charges notice or regulated State infrastructure charges notice’—

omit, insert—

‘or adopted infrastructure charges notice’.

92 Amendment of s 679 (Decision about representations)

(1) Section 679(1)(d)—

omit.

(2) Section 679(2) and (3), ‘, negotiated adopted infrastructure charges notice or negotiated regulated State infrastructure charges notice’—

omit, insert—

‘or negotiated adopted infrastructure charges notice’.

93 Amendment of s 680 (Suspension of relevant appeal period)

(1) Section 680(1), ‘, adopted infrastructure charges notice or regulated State infrastructure charges notice’—

omit, insert—

‘or adopted infrastructure charges notice’.

(2) Section 680(4)(c), ‘, negotiated adopted infrastructure charges notice or negotiated regulated State infrastructure charges notice’—

omit, insert—

‘or negotiated adopted infrastructure charges notice’.

94 Amendment of s 684 (New planning instruments can not affect existing development approvals or compliance permits)

Section 684(2), note—

[s 95]

omit.

95 Amendment of s 688 (When EIS process applies)

Section 688(c)—

omit.

96 Amendment of s 689 (Purpose of EIS process)

(1) Section 689(g)—

omit.

(2) Section 689(h) and (i)—

renumber as section 689(g) and (h).

97 Amendment of s 690 (Applying for terms of reference)

(1) Section 690(4)—

omit.

(2) Section 690(5), ‘subsections (3) and (4)’—

omit, insert—

‘subsection (3)’.

(3) Section 690(5)—

renumber as section 690(4).

98 Amendment of s 691 (Draft terms of reference for EIS)

Section 691(9)(c)—

omit.

99 Amendment of s 692 (Terms of reference for EIS)

Section 692(5)(c)—

omit.

100 Amendment of s 694 (Public notification of draft EIS)

Section 694(1)(d)—

omit.

101 Amendment of s 696 (Chief executive evaluates draft EIS, submissions and other relevant material)

Section 696(1), ‘, (c) and (d)’—

omit, insert—

‘and (c)’.

102 Amendment of s 700 (Who the chief executive must give EIS and other material to)

(1) Section 700(d)—

omit.

(2) Section 700(e)—

renumber as section 700(d).

103 Amendment of s 706 (Limitations on compensation under ss 704 and 705)

Section 706(1)(j)—

omit.

104 Amendment of s 714 (Local government may take or purchase land)

(1) Section 714(1)(a), ‘or to achieve any of the outcomes in a structure plan made by the local government’—

omit.

(2) Section 714(1)(b), ‘, master plan’—

omit.

(3) Section 714(1)(b)(ii), ‘or the approval of the master plan’—

[s 105]

omit.

105 Amendment of s 724 (Documents local government must keep available for inspection and purchase—general)

- (1) Section 724(1)(b) and (c), ‘, including an amendment to include a structure plan’—

omit.

- (2) Section 724(1)(c), ‘or 145’—

omit.

- (3) Section 724(1)(o) and (p)—

omit.

- (4) Section 724(1)(q) to (zf)—

renumber as section 724(1)(o) to (zd).

- (5) Section 724(5), ‘subsection (1)(za) to (zf)’—

omit, insert—

‘subsection (1)(y) to (zd)’.

- (6) Section 724(6), ‘subsection (1)(ze)’—

omit, insert—

‘subsection (1)(zc)’.

- (7) Section 724(8), definition *designated type of copy*, paragraph (a), ‘subsection (1)(a) to (z)’—

omit, insert—

‘subsection (1)(a) to (x)’.

106 Omission of s 725 (Documents local government must keep available for inspection and purchase—master plan applications)

Section 725—

omit.

107 Amendment of s 727 (Documents local government must keep available for inspection only)

(1) Section 727(1)(c), (2) and (3)—

omit.

(2) Section 727(4)—

renumber as section 727(2).

108 Amendment of s 732 (Documents chief executive must keep available for inspection and purchase)

(1) Section 732(1)(i)—

omit.

(2) Section 732(1)(q), ‘145,’—

omit.

(3) Section 732(1)(j) to (t)—

renumber as section 732(1)(i) to (s).

109 Amendment of s 739 (Standard planning and development certificates)

(1) Section 739(f) and (g)—

omit.

(2) Section 739(k), ‘, a condition included in the master plan’—

omit.

(3) Section 739(n), ‘, including an amendment to include a structure plan’—

omit.

(4) Section 739(h) to (n)—

renumber as section 739(f) to (l).

[s 110]

110 Amendment of s 740 (Full planning and development certificates)

- (1) Section 740(1)(b)—
omit.
- (2) Section 740(1)(c) and (d)—
renumber as section 740(1)(b) and (c).
- (3) Section 740(3), ‘subsection (1)(c)’—
omit, insert—
‘subsection (1)(b)’.

111 Amendment of s 744 (When notification stage under pt 7 applies)

- Section 744(1)(a)—
omit, insert—
‘(a) for which the chief executive is the assessment manager or a concurrence agency; and’.

112 Amendment of s 745 (When can notification stage start)

- Section 745(2)(b), ‘each prescribed’—
omit, insert—
‘any’.

113 Amendment of s 749 (Notice of compliance to be given to assessment manager and concurrence agency)

- (1) Section 749(1)(a), ‘each prescribed’—
omit, insert—
‘any’.
- (2) Section 749(1)(b)—
omit, insert—

‘(b) if there is a concurrence agency for the application—give the assessment manager written notice that the applicant has given the concurrence agency the notice mentioned in paragraph (a).’.

(3) Section 749(2), ‘each prescribed’—

omit, insert—

‘any’.

114 Amendment of s 750 (Assessment manager may assess and decide application if some requirements not complied with)

Section 750(b), ‘each prescribed’—

omit, insert—

‘any’.

115 Amendment of s 751 (Making submissions)

(1) Section 751(4)(a), ‘each prescribed’—

omit, insert—

‘any’.

(2) Section 751(4)(b), ‘the prescribed’—

omit, insert—

‘any’.

116 Amendment of s 753 (When does notification stage end)

Section 753, ‘each prescribed’—

omit, insert—

‘any’.

[s 117]

117 Amendment of s 754 (Referral agency must not respond before notification stage ends)

Section 754(1), ‘chief executive (environment) or chief executive (fisheries)’—

omit, insert—

‘chief executive’.

118 Amendment of s 755 (Adjusted referral agency’s assessment period)

Section 755(1), ‘chief executive (environment) or chief executive (fisheries)’—

omit, insert—

‘chief executive’.

119 Amendment of s 756 (Giving electronic submissions)

Section 756(1)(a), ‘a master plan application,’—

omit.

120 Amendment of s 759 (Minister may make guidelines)

Section 759(4), ‘145,’—

omit.

121 Insertion of new ss 761A and 761B

After section 761—

insert—

‘761A Special requirement to amend or make planning scheme

‘(1) This section applies to a local government that has a declared master planned area in its local government area.

-
- ‘(2) The local government must amend its planning scheme, other than an IPA planning scheme, within 3 years after the commencement—
- (a) for each of the local government’s declared master planned areas that has a structure plan for the area—to incorporate the structure plan in the planning scheme; or
 - (b) for each of the local government’s declared master planned areas that does not have a structure plan for the area—to address the matters mentioned in subsection (4) for the area in the planning scheme by following the process stated in the guideline mentioned in section 117(1).
- ‘(3) However, if on the commencement the local government’s planning scheme is an IPA planning scheme, the local government must—
- (a) make a planning scheme under this Act within 3 years after the commencement; and
 - (b) either—
 - (i) for each of the local government’s declared master planned areas that has a structure plan for the area—incorporate the structure plan in the planning scheme; or
 - (ii) for each of the local government’s declared master planned areas that does not have a structure plan for the area—address the matters mentioned in subsection (4) for the area in the planning scheme by following the process stated in the guideline mentioned in section 117(1).
- ‘(4) For subsections (2)(b) and (3)(b)(ii), the matters are all of the following—
- (a) set out the broad environmental, infrastructure and development intent to guide detailed planning for the area;
 - (b) appropriately reflect the standard planning scheme provisions;

[s 121]

- (c) include a code that—
 - (i) states the development entitlements and development obligations for the area; and
 - (ii) includes a map that gives a spatial dimension to the matters the subject of the code;
- (d) for development in the area—
 - (i) state development that is—
 - (A) exempt development; and
 - (B) self-assessable development; and
 - (C) development requiring compliance assessment; and
 - (D) assessable development requiring code or impact assessment, or both code and impact assessment; and
 - (ii) identify or include codes for the development.

‘(5) In this section—

commencement means the commencement of this section.

declared master planned area means an area identified as a master planned area in a declaration made under the unamended Act, section 133 and in force on the commencement.

structure plan, for a declared master planned area, means the structure plan for the area made under the unamended Act and in effect on the commencement.

unamended Act means this Act as in force immediately before the commencement.

‘761B Review of operation of s 761A

‘The Minister must review the operation of section 761A before 3 years after the date of assent of the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012*.’.

122 Insertion of new ch 10, pt 6

Chapter 10—

insert—

**‘Part 6 Transitional provisions for
Sustainable Planning and
Other Legislation Amendment
Act (No. 2) 2012**

‘Division 1 Preliminary

‘893 Definitions for pt 6

‘In this part—

amending Act means the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012*.

commencement means the commencement of the provision in which the term is used.

declared master planned area see section 761A(5).

former, in relation to a provision, means the provision as in force immediately before the repeal or amendment of the provision under the amending Act.

master planned area means an area identified under former section 132 as a master planned area in a local government’s planning scheme.

structure plan, for a master planned area, means the structure plan for the area made under the unamended Act and in effect on the commencement.

structure plan guideline means the guideline in force under former section 145 immediately before the commencement.

unamended Act means this Act as in force before the commencement.

[s 122]

‘894 References to former provisions

‘If this part states that a former provision continues to apply—

- (a) the provision applies as if the amending Act had not been enacted; and
- (b) any other former provision mentioned in the provision, or necessary to give effect to the provision, continues to apply unless otherwise stated.

‘Division 2 Provisions for former chapter 4

‘Subdivision 1 Preliminary

‘895 Operation of div 2

- ‘(1) This division provides for transitional matters relating to the omission of chapter 4 and the continued operation of former provisions about master planned areas under the division.
- ‘(2) If a provision in this division uses a term defined under the unamended Act, other than a term defined under section 893, the term has the same meaning as it had under the unamended Act unless otherwise stated.

‘Subdivision 2 State planning instruments and local planning instruments

‘896 State planning regulatory provisions relating to master planning

- ‘(1) This section applies in relation to the making of a State planning regulatory provision after the commencement.
- ‘(2) Section 16 applies as if section 16(1)(a) included a reference to providing regulatory support for master planning.
- ‘(3) Section 20 applies as if—

- (a) section 20(1)(a) included a reference to implementing a structure plan for a declared master planned area; and
 - (b) section 20(1)(b) included a reference to the implementation of a structure plan for a master planned area.
- ‘(4) Former section 21 continues to apply in relation to the making of the State planning regulatory provision.
- ‘(5) Section 73 applies as if section 73(2)(b) included a reference to increasing the risk of compromising the implementation of a structure plan.

‘897 Adoption of documents by local planning instruments

- ‘(1) Despite sections 85(1) and 107(1), a planning scheme or a temporary local planning instrument of a local government may, under the *Statutory Instruments Act 1992*, section 23, apply, adopt or incorporate the following documents made by the local government—
- (a) a structure plan;
 - (b) a master plan.
- ‘(2) Despite section 115(1), a planning scheme policy of a local government may, under the *Statutory Instruments Act 1992*, section 23, apply, adopt or incorporate a master plan.

‘Subdivision 3 Structure plans

‘898 General matters about structure plans

- ‘(1) Subject to subsection (5), a structure plan for a master planned area of a local government continues in effect for this Act and any other Act—
- (a) as if former chapter 4 had not been repealed; and
 - (b) until the local government amends its planning scheme, or makes a planning scheme, under section 761A.

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- ‘(2) To the extent a structure plan is inconsistent with a regulation made under section 232(1) or (2), the structure plan is of no effect.
- ‘(3) If there is an inconsistency between a structure plan and a State planning instrument, the State planning instrument prevails to the extent of the inconsistency.
- ‘(4) A structure plan may state that development is prohibited development, but only if the standard planning scheme provisions state the development may be prohibited development.
- ‘(5) The following provisions of a structure plan for a master planned area are of no effect—
 - (a) the identification of any master planning requirements under former section 141(2)(b);
 - (b) a provision that states a master plan may identify alternative levels of assessment under former section 141(3)(b);
 - (c) a provision under former section 141(3)(c) that states development can not be carried out in the area until there is a master plan for the area;
 - (d) a provision that states a development application for a preliminary approval to which section 242 applies can not be made for development in the area.

‘899 Changes to restrictions on, and notification requirements for, particular development applications in master planned area

- ‘(1) This section applies to a development application for a preliminary approval to which section 242 applies that is made after the commencement for a master planned area.
- ‘(2) To remove any doubt, it is declared that—
 - (a) despite former section 134, the development application can seek to vary the effect of the structure plan area code identified or included in the structure plan for the area; and

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- (b) if the development application seeks to vary the effect of the structure plan area code, chapter 6, part 4 applies to the application.
- ‘(3) Despite section 295(1), the notification stage does not apply to the development application if—
- (a) the development for which the application is made is substantially consistent with—
 - (i) the structure plan area code identified or included in the structure plan for the area; and
 - (ii) any master plan area code included in a master plan that applies to land or part of the land in the area; and
 - (b) the application does not seek to change the type of assessment for the development or, if it does, it seeks to change it in a way mentioned in section 295(3)(b).

‘900 Amendments of planning scheme to include structure plans

‘For amending a planning scheme to include a structure plan, section 117 applies as if a reference in that section to amending a planning scheme included a reference to amending a planning scheme to include a structure plan.

‘901 Agreements to fund structure plans

- ‘(1) This section applies if—
- (a) before the commencement, a local government entered into an agreement under former section 143 to fund the preparation of a structure plan for a declared master planned area; and
 - (b) on the commencement—
 - (i) the agreement is in force; and
 - (ii) the structure plan is not in effect for the area.

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- ‘(2) Subject to subsections (3) and (4), the agreement continues in force and is binding on the parties to the agreement.
- ‘(3) The local government must, as required under section 761A, amend its planning scheme or make a planning scheme instead of preparing the structure plan.
- ‘(4) The planning scheme amended or made under subsection (3) must be consistent with the policy the local government adopted under former section 143(2) about providing funding for preparing the structure plan.

‘Subdivision 4 Master plans

‘902 Existing master plans

- ‘(1) For this Act and any other Act, a master plan in force at the commencement continues in force—
 - (a) as if former chapter 4 had not been repealed; and
 - (b) until it would have ceased to have effect under section 907.
- ‘(2) A provision of a master plan that requires later master plans for the master planning unit is of no effect.

‘903 Relationship with regulation under s 232

- ‘(1) A master plan, whether it takes effect before or after the commencement, must be consistent with a regulation made under section 232(1) or (2).
- ‘(2) To the extent a master plan is inconsistent with a regulation made under section 232(1) or (2), the master plan is of no effect.

‘904 Relationship with other planning instruments

- ‘(1) If there is an inconsistency between a master plan and a State planning instrument, the State planning instrument prevails to the extent of the inconsistency.
- ‘(2) To the extent a master plan is, by doing either or both of the following things for development in the master planning unit for the plan, different from a local planning instrument, the master plan prevails—
 - (a) stating whether the development is—
 - (i) exempt development; or
 - (ii) self-assessable development; or
 - (iii) development requiring compliance assessment; or
 - (iv) assessable development requiring code or impact assessment, or both code and impact assessment;
 - (b) identifying or including codes for the development.
- ‘(3) Subsection (1) is subject to section 905.

‘905 New planning instruments can not affect approved master plan

‘If, after a master plan is approved, a new planning instrument or an amendment of a planning instrument commences, neither the planning instrument nor the amendment can change or otherwise affect the master plan.

‘906 Master plan attaches to land in master planning unit

- ‘(1) A master plan attaches to all land in the master planning unit for the plan, and binds the owner, the owner’s successors in title and any occupier of the land.
- ‘(2) To remove any doubt, it is declared that subsection (1) applies even if later development, including reconfiguring a lot, is carried out or approved for the land, or the land is reconfigured.

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‘907 When master plan ceases to have effect

‘A master plan ceases to have effect—

- (a) at the time stated in the plan as the time by which development in the master planning unit for the plan must be completed, whether or not the development has been completed; or
- (b) the earlier time when all development in the master planning unit has been carried out in accordance with the master plan.

‘908 Existing applications for approval of master plans

- ‘(1) This section applies to a master plan application made but not decided before the commencement.
- ‘(2) The application must be decided under the unamended Act.
- ‘(3) For dealing with and deciding the application, former section 155 and former chapter 4, part 3, division 3, and any other former provisions necessary to give effect to the decision, continue to apply.
- ‘(4) However, despite former section 155 continuing to apply to a master plan, a master plan may not—
 - (a) require later master plans for the master planning unit; or
 - (b) state requirements with which a later master plan must comply.

‘909 Applications for amendment or cancellation of master plans

- ‘(1) This section applies to an application to amend or cancel a master plan for a declared master planned area that is made but not decided before the commencement or made after the commencement.
- ‘(2) The application must be decided under the unamended Act.

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- ‘(3) For dealing with and deciding the application, former section 155 and former chapter 4, part 3, divisions 3 and 4, and any other former provisions necessary to give effect to the decision, continue to apply.
 - ‘(4) However, despite former section 155 continuing to apply to a master plan, a master plan may not—
 - (a) require later master plans for the master planning unit; or
 - (b) state requirements with which a later master plan must comply.

‘Subdivision 5 Designation of land for community infrastructure

‘910 Minister must consider master plans before designating land

- ‘(1) This section applies in relation to a Minister designating land under chapter 5 for community infrastructure prescribed under a regulation for section 200.
- ‘(2) Section 207 applies to designating the land as if—
 - (a) section 207(2) included a requirement for the Minister to consider any master plans for land in a declared master planned area; and
 - (b) section 207(3) included a reference to carrying out public notification for a structure plan for a declared master planned area that includes the community infrastructure, under the guideline in force under former section 145 immediately before the commencement.

‘Subdivision 6 Matters relating to IDAS

‘911 Categories of development for master plans

- ‘(1) Subsection (2) applies to a regulation in force immediately before the commencement that prescribes development that a master plan can not declare to be self-assessable development, development requiring compliance assessment, assessable development or prohibited development.
- ‘(2) The regulation continues in force for a master plan until the master plan ceases to have effect.
- ‘(3) A regulation may, from the commencement, prescribe development that a master plan can not declare to be self-assessable development, development requiring compliance assessment, assessable development or prohibited development.

‘912 Exempt development in master planned areas

‘Section 235 applies to a master plan as if—

- (a) section 235(2) included a reference to exempt development not needing to comply with master plans for declared master planned areas; and
- (b) section 235(3) included a reference to section 235(2) as applied under paragraph (a) not stopping a master plan for a declared master planned area affecting exempt development in the circumstances mentioned in section 235(3)(a) and (b).

‘913 Exclusion of particular entities as referral agency for a master planned area

- ‘(1) This section applies to a development application for land in a declared master planned area, whether made before or after the commencement.
- (2) Despite sections 250 and 251, to the extent an entity has exercised a coordinating agency’s or participating agency’s

jurisdiction for the structure plan or a master plan for the master planned area, the entity is a referral agency for the application only if a regulation for this subsection provides that the entity is a referral agency for the application.

- ‘(3) However, if—
- (a) the structure plan for the declared master planned area requires 1 or more master plans for all or part of the land; and
 - (b) not all the master plans are in effect;
- the coordinating agency and the participating agencies identified in the structure plan are referral agencies for the application to the extent of the jurisdiction or jurisdictions identified in the structure plan for the coordinating agency and each participating agency.
- ‘(4) Also, if the application is a development application for a preliminary approval to which section 242 applies, subsection (2) applies only if—
- (a) the development for which the application is made is substantially consistent with the structure plan area code identified or included in the structure plan for the area; and
 - (b) the development for which the application is made is substantially consistent with any master plan area code included in a master plan that applies to the land or part of the land; and
 - (c) the application does not seek to change the type of assessment for the development or, if it does, it seeks to change it in a way mentioned in section 295(3)(b).

‘914 Exclusion of particular provisions about making development application for declared master planned area

- ‘(1) This section applies to the making of a development application, or proposed application, for development in a declared master planned area, whether made before and not

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decided on the commencement or made after the commencement.

- ‘(2) The following do not apply to the making of the application or proposed application—
 - (a) section 239, to the extent the development includes prohibited development under schedule 1;
 - (b) a provision of any other Act that imposes a requirement for, or a restriction on, the making of the application.
- ‘(3) This section applies despite any other Act and prevails to the extent of any inconsistency with another provision of chapter 6.

‘915 Referral agency assesses application

- ‘(1) This section applies to a referral agency assessing a development application for land in a declared master planned area, whether made before and not decided on the commencement or made after the commencement.
- ‘(2) Section 282 applies to the assessment of the application as if section 282(2) included a reference to assessing the application with regard to—
 - (a) the structure plan for the area; and
 - (b) the master plan for the area.
- ‘(3) However, if—
 - (a) the chief executive is a referral agency for the application; and
 - (b) the application is made after the commencement of the amending Act, section 35;section 255C also applies for assessing the application.

‘916 Code and impact assessment and particular s 242 preliminary approval assessment

- ‘(1) Subsections (2) and (3) apply if any part of a development application for a master planned area requires code assessment.
- ‘(2) On the commencement, section 313 applies to the application as if section 313(2)(e) included a reference to assessing the part of the application against any applicable codes in a structure plan or master plan for the area.
- ‘(3) However, if—
- (a) the chief executive is the assessment manager for the application; and
 - (b) the application is made after the commencement of the amending Act, section 35;
- section 255A also applies for assessing the part.
- ‘(4) Subsections (5) and (6) apply to any part of a development application for a master planned area requiring impact assessment.
- ‘(5) On the commencement, section 314 applies to the application as if section 314(2) included a reference to assessing the part of the application against each of the following matters or things to the extent the matter or thing is relevant to the development—
- (a) a structure plan;
 - (b) all master plans for the area.
- ‘(6) However, if—
- (a) the chief executive is the assessment manager for the application; and
 - (b) the application is made after the commencement of the amending Act, section 35;
- section 255B also applies for assessing the part.

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- ‘(7) Subsection (8) applies to a development application for a preliminary approval mentioned in section 242 for a master planned area.
- ‘(8) On the commencement, section 316 applies to the application as if section 316(4) included a reference to assessing the part of the application having regard to both of the following to the extent they are relevant to the application—
 - (a) the structure plan for the area;
 - (b) a master plan for the area.

‘917 Continued application of former provisions relating to decision for and approval of application

- ‘(1) Subsection (2) applies if—
 - (a) a development application relates to land in a declared master planned area; and
 - (b) the structure plan for the master planned area requires a master plan for the land; and
 - (c) a proposed master plan has not been approved; and
 - (d) a master plan application has been made but not decided before the commencement.
- ‘(2) Until the master plan application has been decided—
 - (a) the assessment manager’s decision can not be made; and
 - (b) the decision-making period for the application is suspended.
- ‘(3) Subsection (4) applies for the assessment manager deciding under section 324 an application for development in a master planned area if the structure plan for the area requires a master plan for the development.
- ‘(4) If a master plan application for the master plan is refused, the development application must be refused.

‘918 Compliance assessment of development application

- ‘(1) On the commencement, section 397 applies as if section 397(2) provided that the following may state that a document or work is a document or work requiring compliance assessment—
- (a) a structure plan;
 - (b) a master plan.
- ‘(2) Subsection (3) applies if—
- (a) a condition of a development approval states that a document or work is a document or work requiring compliance assessment; and
 - (b) the development approval relates to an application for development in a declared master planned area, whether made before or after the commencement.
- ‘(3) Section 398 applies as if section 398(3) provided that the condition may require the document or work to be assessed for compliance with a matter or thing stated in a structure plan or master plan for the area.

‘Subdivision 7 Appeals, offences and enforcement

‘919 Court matters relating to master plans and the structure plan guideline

- ‘(1) A person may bring a proceeding in the court for a declaration under section 456 about the construction of master plans under this Act and the structure plan guideline.
- ‘(2) Section 460 applies to a proceeding as if section 460(1) provided for a local government to certify a copy of a master plan, or a part of the master plan, under that subsection.

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‘920 Appeals to court relating to master plans

- ‘(1) This section applies in relation to a person who has applied for approval of a proposed master plan if the application was decided, or made but not decided, before the commencement.
- ‘(2) The person may appeal to the court under former section 471 against—
 - (a) the refusal, or the refusal in part, to give the approval of the master plan; or
 - (b) a matter stated in the notice of decision about the application; or
 - (c) a deemed refusal of the master plan application.
- ‘(3) Former section 471(2) and (3) continues to apply to an appeal under subsection (2).
- ‘(4) Section 484 applies to the appellant as if section 484(1) included a reference to giving written notice of the appeal to the local government and coordinating agency for the application for approval of the master plan.
- ‘(5) Section 493 applies in an appeal as if section 493(1) included a reference to a person who has applied for approval of a proposed master plan.
- ‘(6) Section 495 applies in an appeal as if section 495(2) applied to a person who has applied for approval of a proposed master plan.
- ‘(7) In an appeal, the court is not prevented from considering and making a decision about a ground of appeal (based on any coordinating agency’s response) merely because this Act required the local government to refuse the application or include conditions in any approval of a master plan.

‘921 Compliance with master plans

- ‘(1) This section is subject to section 584, as applied under subsection (2), and chapter 9, part 1.

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- ‘(2) For this section, section 584 applies as if section 584(1) provided that this section did not apply to a person in the circumstances mentioned in section 584(1).
 - ‘(3) This section does not apply to development carried out on designated land in accordance with the relevant designation.
 - ‘(4) A person must not carry out development in a declared master planned area if the carrying out of the development is contrary to a master plan for the area.
Maximum penalty—1665 penalty units.
 - ‘(5) A person must not carry out development in a declared master planned area if the structure plan for the area requires that the development can not be carried out in the master planned area until there is a master plan for the development.
Maximum penalty—1665 penalty units.
 - ‘(6) An offence against subsection (4) or (5) is taken to be a development offence.

‘922 False or misleading document relating to master plan application

‘Section 587 applies to a person as if section 587(2) included a reference to the person giving a local government to which a master plan application has been made but not decided before the commencement a document containing information that the person knows is false or misleading in a material particular.

‘923 Enforcement notices and orders relating to master plans and master plan applications

- ‘(1) Subsection (2) applies to an enforcement notice given after the commencement.
- ‘(2) Section 592 applies for giving the notice as if—
 - (a) section 592(1)(e) included a reference to the notice requiring a person to do, or not to do, another act to ensure development complies with a master plan; and

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- (b) section 592(2)(a) included a reference to the notice requiring a person to demolish or remove a work only if the assessing authority reasonably believes it is not possible and practical to take steps to make the work comply with a master plan.
- ‘(3) Subsection (4) applies if a person has brought a proceeding in a Magistrates Court on a complaint to prosecute another person for an offence against chapter 7, part 3, whether before or after the commencement.
- ‘(4) Section 599 applies to the proceeding as if section 599(3)(d) provided that an order of the Magistrates Court may require the defendant to do, or not to do, another act to ensure development or use of the premises complies with a master plan.

‘924 Evidentiary aids relating to master plan application

- ‘(1) This section applies to a certificate purporting to be signed by the chief executive officer, however called, of an assessing authority stating that a particular matter is evidence of the matter.
- ‘(2) Section 623 applies to the certificate as if the section provided the certificate may state that, on a stated day, or during a stated period—
 - (a) there was or was not a master plan for stated land or development; or
 - (b) a stated condition was included in a master plan.

‘Subdivision 8 Funding for infrastructure

‘925 Adopted infrastructure charges

- ‘(1) Subsection (2) applies to a local government making an adopted infrastructure charges resolution under section 648D, whether before or after the commencement.

- ‘(2) The local government may, under its adopted infrastructure charges resolution, state whether or not an adopted infrastructure charge may be levied for development in a declared master planned area of the local government.
- ‘(3) An adopted infrastructure charge must not be levied for development in a declared master planned area in the local government’s area, unless an adopted infrastructure charges resolution of the local government states the charge applies for development in the declared master planned area.

‘926 Infrastructure agreements

- ‘(1) An infrastructure agreement relating to the following and in force immediately before the commencement continues to have effect and is binding on the parties to the agreement as if the amending Act had not been enacted—
 - (a) the making of a structure plan for a declared master planned area;
 - (b) master plans for a master planned area.
- ‘(2) Subsections (3) to (5) apply to an infrastructure agreement, whether entered into before or after the commencement.
- ‘(3) Section 664 applies to the agreement as if the section provided that an infrastructure agreement is not invalid merely because its fulfilment depends on the exercise of a discretion by a public sector entity about—
 - (a) a structure plan; or
 - (b) a master plan or an application for approval of a master plan.
- ‘(4) To the extent the infrastructure agreement is inconsistent with a master plan, the agreement prevails.
- ‘(5) To the extent the infrastructure agreement is inconsistent with a regulated State infrastructure charges notice or negotiated regulated State infrastructure charges notice, the agreement prevails.

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‘927 Regulated State infrastructure charges schedule for master planned area

- ‘(1) A regulated State infrastructure charges schedule for a master planned area continues in effect as if the amending Act had not been enacted.
- ‘(2) A State planning regulatory provision may provide for a regulated State infrastructure charges schedule for a master planned area.
- ‘(3) The Minister may seek advice or comment from the Queensland Competition Authority about a regulated State infrastructure charges schedule for a master planned area.
- ‘(4) A regulated State infrastructure charges schedule for a master planned area must state—
 - (a) the infrastructure network that services, or is planned to service, the area; and
 - (b) a charge for the supply of the State infrastructure for the area; and
 - (c) the development for which the charge may be levied.
- ‘(5) A regulated State infrastructure charges schedule may also state a matter related to a matter mentioned in subsection (4).

‘928 Regulated State infrastructure charges notice

- ‘(1) The unamended Act continues to apply to a person who has been given a regulated State infrastructure charges notice before the commencement.
- ‘(2) A regulated State infrastructure charges notice may be given after the commencement.
- ‘(3) A regulated State infrastructure charges notice must state each of the following—
 - (a) the amount of the regulated State infrastructure charge under the notice;
 - (b) the land to which the charge applies;
 - (c) when the charge is payable;

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- (d) the State infrastructure network for which the charge has been stated.
- ‘(4) If the notice is given as a result of a development approval—
- (a) the relevant State infrastructure provider must give the notice to the applicant for the development approval at the same time as the concurrence agency’s response is given to the assessment manager; and
 - (b) the charge is not recoverable unless the entitlements under the development approval are exercised; and
 - (c) the notice lapses if the approval stops having effect.
- ‘(5) If the notice is not given as a result of a development approval, the relevant State infrastructure provider must give the notice to the owner of the land to which the charge applies.
- ‘(6) The amount of a regulated State infrastructure charge must take account of any relevant infrastructure charge for State infrastructure.

Example—

an infrastructure charge relating to the local function of State-controlled roads

‘929 Giving new regulated State infrastructure charges notice

- ‘(1) This section applies if the development approved by a negotiated decision notice, whether given before or after the commencement, is different from the development approved in the decision notice or deemed approval in a way that affects the amount of a regulated State infrastructure charge.
- ‘(2) The relevant State infrastructure provider may give the applicant for the development approval a new regulated State infrastructure charges notice under section 928 to replace the original notice.

‘930 When regulated State infrastructure charge is payable

‘A regulated State infrastructure charge is payable—

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- (a) if the charge applies to reconfiguring a lot that is assessable development—before the local government approves the plan of subdivision for the reconfiguration; 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 of use happens; or
- (d) otherwise—on the day stated in the regulated State infrastructure charges notice or negotiated regulated State infrastructure charges notice.

‘931 Application of regulated State infrastructure charges

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

‘932 Accounting for regulated State infrastructure charges

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

‘933 Infrastructure agreements about, and alternatives to, paying regulated State infrastructure charges

- ‘(1) Despite sections 928 and 930, a person to whom a regulated State infrastructure charges notice or a negotiated regulated State infrastructure charges notice has been given and the State infrastructure provider may, after the commencement, enter into an infrastructure agreement for the charge, including, for example, that—
 - (a) the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments; or

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- (b) whether the State infrastructure may be supplied instead of paying all or part of the charge; or
 - (c) land in fee simple may be given instead of paying the charge or part of the charge; or
 - (d) other infrastructure, or contributions to other infrastructure, may be provided instead of paying the charge or part of the charge.
- ‘(2) An agreement entered into under former section 673 and in force immediately before the commencement continues in force and is binding on the parties to the agreement as if the amending Act had not been enacted.

‘934 Recovery of regulated State infrastructure charges

‘Former section 674 continues to apply in relation to a regulated State infrastructure charge, whether levied before or after the commencement.

‘935 Appeals about charges for infrastructure

- ‘(1) Subsection (2) applies to a person who has been given, whether before or after the commencement, and is dissatisfied with—
- (a) a regulated State infrastructure charges notice; or
 - (b) a negotiated regulated State infrastructure charges notice.
- ‘(2) Section 478 applies to the person as if—
- (a) section 478(4)(a) included a reference to a coordinating agency imposing a charge in the notice; and
 - (b) section 478(5) included a reference to the methodology used to establish a regulated State infrastructure charges schedule.
- ‘(3) Subsection (4) applies to a person who—
- (a) has been given, whether before or after the commencement—

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- (i) a regulated State infrastructure charges notice; or
 - (ii) a negotiated regulated State infrastructure charges notice; and
 - (b) is dissatisfied with the calculation of a charge in the notice.
- ‘(4) Section 535 applies to the person as if section 535(4) included a reference to the methodology used to establish a regulated State infrastructure charges schedule.

‘Subdivision 9 Miscellaneous

‘936 Limitations on compensation under ss 704 and 705 relating to structure plan

- ‘(1) This section applies to an owner of an interest in land who is entitled under section 704 or 705 to be paid reasonable compensation by a local government because a change reduces the value of the interest.
- ‘(2) Section 706 applies in relation to the compensation as if section 706(1) included a reference to compensation not being payable if the change is about any of the matters comprising a structure plan for a declared master planned area.

‘937 Local government may take or purchase land in master planned area

‘Section 714 applies to the taking of land in a master planned area as if—

- (a) section 714(1)(a) included a reference to a local government being satisfied the taking of the land would help to achieve any of the outcomes in a structure plan made by the local government; and
- (b) section 714(1)(b) included a reference to a master plan having taken effect; and

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- (c) section 714(1)(b)(ii) included a reference to the applicant for the approval of the master plan having taken reasonable measures to obtain the agreement of the owner of the land to actions that would facilitate the construction of the infrastructure or the carriage of the drainage, but has not been able to obtain the agreement.

‘938 Documents local government or chief executive must keep available for inspection and purchase—general

- ‘(1) Section 724 applies to a local government as if section 724(1) included a reference to keeping available the original or the designated type of copy of each of the following—
 - (a) each amendment of the local government’s planning scheme to include a structure plan;
 - (b) if the structure plan guideline requires public notification of an amendment proposed to be made to the planning scheme to include a structure plan—each proposed amendment;
 - (c) each master planned area declaration for the local government’s planning scheme area;
 - (d) each master plan for declared master planned areas in its planning scheme area.
- ‘(2) Section 732 applies to the chief executive as if section 732(1) included a reference to keeping available the original or the designated type of copy of master planned area declarations.

‘939 Documents local government must keep available for inspection and purchase—master plan applications

‘For keeping documents about master plan applications available for inspection and purchase, former section 725 continues to apply to a local government.

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‘940 Documents local government must keep available for inspection only

- ‘(1) Section 727 applies to a local government as if section 727(1) included a reference to keeping available a register of all master plan applications made to the local government.
- ‘(2) However, subsection (1) does not apply for a master plan 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) Former section 727(3) continues to apply to a local government for the register mentioned in subsection (1).

‘941 Standard planning and development certificates and full planning and development certificates

- ‘(1) Subsection (2) applies to a standard planning and development certificate.
- ‘(2) Section 739 applies to the certificate as if the section included a reference to the certificate containing or being accompanied by the following information for premises—
 - (a) a copy of each master plan applying to the premises;
 - (b) a copy of every notice of decision or negotiated notice about a master plan application for a master plan, given under this Act or repealed IPA, in force for the planning scheme area for the premises;
 - (c) a copy of any judgment or order of the court or a building and development committee about a condition included in the master plan;
 - (d) a description of each amendment, proposed to be made by the local government to its planning scheme to include a structure plan, that has not yet been made at the time the certificate is given.

- ‘(3) Subsection (4) applies to a full planning and development certificate if there is a master plan that applies to premises that includes conditions, including conditions of a type mentioned in section 740(1)(a).
- ‘(4) Section 740 applies to the certificate as if section 740(1) included a reference to the certificate for the premises containing or being accompanied by a statement about the fulfilment or non-fulfilment of each condition, at a stated day after the day the certificate was applied for.

‘942 Electronic submissions about master plan applications

‘Section 756 applies to an entity giving a submission under this Act as if section 756(1)(a) included a reference to a notice relating to a master plan application.

‘943 Continued application of particular transitional provisions relating to master planned areas

- ‘(1) Despite the enactment of the amending Act, the following provisions continue to apply for master planned areas—
 - (a) sections 777, 789 to 797, 819(5) to (8), 820, 841 and 856;
 - (b) chapter 10, part 2, division 11.
- ‘(2) However, if a provision of this Act as amended under the amending Act, other than this section, is inconsistent with subsection (1), the provision as amended prevails to the extent of the inconsistency.
- ‘(3) To remove any doubt, it is declared that section 871, to the extent it provides for matters relating to former chapter 4, continues to apply for master planned areas.

‘Division 3 Other provisions

‘944 Chief executive assessing particular applications as assessment manager or referral agency

‘A development application made but not decided on the commencement must be dealt with and decided from the commencement as if the amending Act, section 35 had not commenced.

Note—

The amending Act, section 35 inserts chapter 6, part 1, division 4, subdivision 2A (Chief executive assessing particular applications as assessment manager or referral agency).

‘945 Costs for existing court proceedings

- ‘(1) Former section 457 continues to apply to a proceeding in the court that has been brought before the commencement.
- ‘(2) For subsection (1), a proceeding in the court (the *originating proceeding*) includes any interlocutory proceeding relating to the originating proceeding that is brought after the commencement.

‘946 Declaration about whether development application involving particular State resource is properly made

‘Former section 510(4) continues to apply to a person seeking a declaration under the section about whether a development application made before the commencement is a properly made application.’.

123 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *coordinating agency, coordinating agency assessment period, coordinating agency conditions, declared master planned area, impact report, local government, making, master plan, master plan application, master planned area, master planned area declaration,*

master planning unit, negotiated notice, negotiated regulated State infrastructure charges notice, panel report, participating agency, proposed iconic place structure plan, regulated State infrastructure charge, regulated State infrastructure charges notice, regulated State infrastructure charges schedule, request for information, structure plan and structure plan guideline—

omit.

- (2) Schedule 3, definitions *chief executive (environment), chief executive (fisheries), code assessment, impact assessment and prescribed concurrence agency—*

omit.

- (3) Schedule 3—

insert—

'ADR provisions see section 491(1).

ADR registrar, for chapter 7, part 1, division 12A, see section 491A.

impact report, for chapter 3, part 5, division 2, see section 122C(1).

local government—

(a) for chapter 3, part 5, division 2, see section 122A; or

(b) for chapter 9, part 7B, see section 755X.

panel report for chapter 3, part 5, division 2, see section 122E(1).'

- (4) Schedule 3—

insert—

'code assessment means the assessment of development by the assessment manager under section 313 or, if the chief executive is the assessment manager, by the chief executive under sections 255A and 313.

impact assessment means the assessment of the following by the assessment manager under section 314 or, if the chief

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executive is the assessment manager, by the chief executive under sections 255B and 314—

- (a) the environmental effects of proposed development;
 - (b) the ways of dealing with the effects.’.
- (5) Schedule 3, definition *applicant*, paragraph (a)—
omit.
- (6) Schedule 3, definition *applicant*, paragraphs (b) and (c)—
renumber as paragraphs (a) and (b).
- (7) Schedule 3, definition *applicant’s appeal period*, paragraph (b)—
omit.
- (8) Schedule 3, definition *applicant’s appeal period*, paragraphs (c) to (e)—
renumber as paragraphs (b) to (d).
- (9) Schedule 3, definition *assessable development*, paragraph 3(c)—
omit.
- (10) Schedule 3, definition *assessable development*, paragraph 3(d)—
renumber as paragraph 3(c).
- (11) Schedule 3, definition *assessing authority*, paragraph (k)—
omit, insert—
‘(k) for development under a development approval for which the chief executive is the assessment manager or a referral agency and has, under section 255D, nominated an entity to be the assessing authority for the development for the administration and enforcement of a matter relating to a condition of the development approval—the entity; or’.
- (13) Schedule 3, definition *code*, paragraph (c)—
omit.

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- (14) Schedule 3, definition *code*, paragraph (d)—
renumber as paragraph (c).
- (15) Schedule 3, definition *consultation period*, paragraph (c), ‘, other than an amendment to include a structure plan’—
omit.
- (16) Schedule 3, definition *consultation period*, paragraphs (d) and (e)—
omit.
- (17) Schedule 3, definition *consultation period*, paragraph (f)—
renumber as paragraph (d).
- (18) Schedule 3, definition *deemed refusal*, paragraph (d)—
omit.
- (19) Schedule 3, definition *deemed refusal*, paragraph (e)—
renumber as paragraph (d).
- (20) Schedule 3, definition *development offence*, ‘, 582 or 583’—
omit, insert—
‘or 582’.
- (21) Schedule 3, definition *development offence*—
insert—
‘*Note*—
See also section 921.’.
- (22) Schedule 3, definition *Minister*, paragraph (a)—
omit, insert—
‘(a) in chapter 2, part 2 or 3 and chapter 6, part 11, means—
(i) generally—the Minister administering the part; or
(ii) for a matter the regional planning Minister is satisfied relates to chapter 2, part 2 or 3—the regional planning Minister for the region; and’.

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- (23) Schedule 3, definition *prohibited development*, paragraph 3(a), ‘, including a structure plan’—
omit.
- (24) Schedule 3, definition *properly made submission*, paragraph (e)(xi)—
omit.
- (25) Schedule 3, definition *properly made submission*, paragraph (e)(xii)—
renumber as paragraph (e)(xi).
- (26) Schedule 3, definition *regional planning Minister*, ‘or chapter 4,’—
omit.
- (27) Schedule 3, definition *scheme guideline*, ‘division 2A’—
omit, insert—
‘division 2’.
- (28) Schedule 3, definition *self-assessable development*, paragraph 3(c)—
omit.
- (29) Schedule 3, definition *self-assessable development*, paragraph 3(d)—
renumber as paragraph 3(c).
- (30) Schedule 3, definition *TLPI guideline*, ‘division 2A’—
omit, insert—
‘division 2’.

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omit, insert—

‘967 Development under Sustainable Planning Act 2009 relating to taking or interfering with water’.

(2) Section 967(3) and (4)—

omit, insert—

‘(3) The development permit for works associated with the taking or interfering with water authorises a person to carry out development under the approval only if the person is authorised under this Act to take or interfere with the water.’.

(3) Section 967(5) to (7)—

renumber as section 967(4) to (6).

129 Replacement of s 969 (Development applications for the removal of quarry material)

Section 969—

omit, insert—

‘969 Development applications for the removal of quarry material

‘A development application for the removal of quarry material from land leased under the *Land Act 1994* must be supported by—

- (a) the written consent of the lessee of the land to arrangements about the route the applicant may use across the lessee’s land for the removal of the quarry material; or
- (b) if the lessee and the applicant can not agree on arrangements—the arrangements decided by a Magistrates Court.’.

Part 10 **Amendment of Water Supply (Safety and Reliability) Act 2008**

130 Act amended

This part amends the *Water Supply (Safety and Reliability) Act 2008*.

131 Amendment of s 561 (Development applications for referable dams)

Section 561(2), from ‘by—’—

omit, insert—

‘by evidence that the chief executive has accepted a failure impact assessment of the dam.’.