Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014

Explanatory Notes

Short title

The short title of the Bill is the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014.

Policy objectives and the reasons for them

The Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014 (the Bill) provides for the establishment of a long-term local infrastructure planning and charging framework in Queensland that supports local government and distributor-retailer (local authority) sustainability and development feasibility.

In Queensland, local authorities are responsible for the provision of local infrastructure networks, including: roads; water; wastewater; stormwater; and parks and land for community facilities. However, where a local government is a participating local government of a distributor-retailer they are only responsible for the provision of infrastructure for stormwater, parks and roads, with the distributor-retailer responsible for water and wastewater infrastructure provision. This infrastructure is necessary to manage growth and provide for new development in local communities. Local authorities levy infrastructure charges and impose infrastructure conditions on new development to contribute to the cost of providing this infrastructure.

Since July 2011, an interim infrastructure planning and charging framework ('the maximum charges framework') has been in place under the *Sustainable Planning Act 2009* (SPA). In February 2013, the Queensland Government commenced a review of the maximum infrastructure charges framework in consultation with key local government, distributor-retailer and development industry stakeholders. The purpose of the review was to establish a framework that is equitable, certain and strikes a balance between local authority sustainability and providing confidence to the development industry when planning projects.

The infrastructure charges review was a key part of the Queensland Government's planning reform agenda to build a resilient and competitive Queensland economy.

In this regard, the policy objectives of the Bill are to:

1. Establish a long-term local infrastructure planning and charging framework that is certain, consistent and transparent and which supports local authority sustainability and development feasibility in Queensland.

2. Simplify, streamline and clarify the operation of Chapter 8 of SPA and the supporting appeal and dispute resolution processes for infrastructure charges matters within the SPA.
3. Remove superseded and redundant provisions from Chapter 8 of SPA.
4. Align the distributor-retailer infrastructure charging and planning arrangements under the *South East Queensland Water (Distribution and Retail Restructuring) Act 2009* (SEQ Water Act) with the local government framework under SPA.

Approvals Bilateral – *State Development and Public Works Organisation Act 1971*

Queensland is seeking accreditation of provisions of the *State Development and Public Works Organisation Act 1971* (SDPWO Act) as an authorisation process for the purposes of a proposed approvals bilateral agreement with the Commonwealth Government for environmental assessment and approvals under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).

The objects of the approvals bilateral agreement will be to:

- Ensure Australia complies fully with all its international environmental obligations;
- Ensure matters of national environmental significance (MNES) are protected as required under the EPBC Act;
- Promote the conservation and ecologically sustainable use of natural resources;
- Ensure an efficient, timely and effective process for environmental assessment and approval of actions; and
- Minimise duplication in the environmental assessment and approvals processes of the Commonwealth and Queensland Governments.

Streamlining the environmental approvals process by replacing the current duplicate assessment and approval process by the Commonwealth and the Queensland Governments with a 'one-stop-shop' for Queensland under an approvals bilateral agreement is expected to lead to faster decision timeframes and simpler communication pathways with project proponents and stakeholders, and greater certainty for all parties.

The Commonwealth Government has prepared a document *Standards for Accreditation of Environmental Approvals* under the EPBC Act. The document sets out contextual information about the EPBC Act and the requirements for accrediting approval systems under bilateral agreements. Whilst it is recognised that States should have flexibility in proposing how they would achieve these standards, there are statutory requirements imposed on the Commonwealth under the EPBC Act that must be satisfied.

The Commonwealth Minster has to be satisfied of a number of statutory pre-conditions under the EPBC Act before the State's authorisation process can be accredited, including:

- There will be adequate assessment of the impacts that actions approved in a accordance with the authorisation process have, will have or are likely to have on MNES;

- Actions approved in accordance with the management arrangement or authorisation process will not have unacceptable or unsustainable impacts on MNES; or
- Particular criteria are met for specified MNES as set out in sections 51-55 of the EPBC Act, which generally provides that the authorisation process is not inconsistent with Australia's obligations under various conventions, and that the management of properties and survival/conservation of species will be promoted.

The definition of 'authorisation process' also requires that the accredited process is set out in the law of the State under which actions are authorised.

To give effect to the 'one-stop-shop' Memorandum of Understanding (MOU) between the Australian and Queensland Governments, amendments are required to the SDPWO Act to provide the basis for an accredited authorisation process for the purposes of an approvals bilateral agreement.

Achievement of policy objectives

The policy objectives of the Bill are achieved through the following key elements:

Process for converting non-trunk infrastructure to trunk infrastructure

Local authorities currently identify trunk infrastructure through their priority infrastructure plan (PIP) or, for local government's without a PIP, their adopted infrastructure charges resolution. A distributor-retailer will identify trunk infrastructure in their schedule of works from 1 July 2014 which will then be included in their Water Netserv Plan from 1 October 2014. The identification of infrastructure as trunk infrastructure has implications for a local authority's ability to levy an infrastructure charge (i.e. charges cannot be levied for non-trunk infrastructure) and the rules for conditioning, offsets and charge limitations. However, local authorities cannot foresee all development scenarios or trunk infrastructure requirements when preparing their long-term infrastructure plans and therefore are unable to identify all future trunk infrastructure. As a result, at the time of development or connection assessment, it is often necessary for infrastructure that is not identified through a local authority planning, but which serves a trunk infrastructure function, to be required.

The Bill provides that an applicant (for a development approval or water approval) may apply to the relevant local authority to have non-trunk infrastructure the subject of a development approval condition converted to trunk infrastructure.

Infrastructure Planning

The unamended SPA requires all local governments to adopt a PIP in their planning scheme. PIPs include detailed plans for the provision of infrastructure; the costs of that infrastructure; and supporting information used to draft a PIP (e.g. design standards and population growth projections). Additionally, PIPs form the basis for conditioning practices in the SPA.

The Bill includes amendments that maintain the formal 5 yearly review of PIPs which, when coupled with a less onerous amendment process in the plan making statutory guideline, will provide local governments with a simpler and more efficient infrastructure plan preparation,

amendment and management processes. The Bill also amends the name of these plans from PIP to Local Government Infrastructure Plan (LGIP) to more accurately reflect the purpose of the plan.

For the period between 1 July 2014 and 30 June 2016 the Bill removes the requirement that all local governments include an LGIP or PIP in their planning schemes. From 1 July 2016 onwards, any local government that intends to levy an infrastructure charge or impose a condition about trunk infrastructure, will only be able to do so after it has adopted an LGIP in its planning scheme.

Improving the clarity of conditions, offsets and refunds

In addition to levying an infrastructure charge, a local authority can condition a development approval or water approval to supply essential infrastructure or provide land. Infrastructure conditions are a mechanism through which the impacts of unplanned or out-of-sequence development on existing and future infrastructure networks are managed. The Bill provides for local authorities to give notice regarding the legislative provision under which a condition is made. This reform is expected to increase certainty and transparency for the development industry without significantly increasing the administrative burden for local authorities.

The Bill also improves the certainty and consistency of the charges framework by clarifying the requirements for a local authority in regards to providing an offset or refund in particular circumstances (for example, where a development or water approval has been conditioned to provide trunk infrastructure) and include a process for determining the value of offsets and refunds in a local governments infrastructure charges resolution or a distributor-retailers board decision. Previously, the value of offsets and refunds have been determined through a negotiation process and set out in an infrastructure agreement, with no requirement to provide offsets or refunds for unidentified infrastructure.

Adoption of infrastructure charges

Infrastructure includes both 'trunk infrastructure' (that is, higher-level infrastructure that is shared between multiple developments) and 'non-trunk infrastructure' (that is, infrastructure that is generally not shared with other developments and is generally internal to a development site).

Local governments currently adopt infrastructure charges for trunk infrastructure through a resolution with the charges taking effect from the date the resolution is made. Similarly a distributor-retailer adopts infrastructure charges through a board decision with the charges taking effect from the day of the decision. The Bill amends these requirements to provide that adopted infrastructure charges do not take effect until the charges are uploaded to the local governments or distributor-retailers website. If the resolution or board decision on the website states that the charges take effect on a later date, then the charges commence from that date.

The Bill also provides for a participating local government and distributor-retailer to enter into an agreement, 'a break-up agreement', about how the maximum infrastructure charge will be apportioned to each entity. Each entity can adopt independently of the other, infrastructure charges up to their proportion. Additionally, for transparency and

accountability the local government and distributor-retailer must each publish the proportional splits for each infrastructure charge adopted.

Charges limitation

In most circumstances, land to which an infrastructure charge applies will have existing development rights. That is, a particular type and intensity of development is possible without the need for a further payment of infrastructure charges. Currently:

- Local authorities have the ability to choose whether or not, when levying an infrastructure charge, to adjust the amount of the charge payable to account for this existing development right; and
- No consistent methodology is provided for calculating the amount.

The current approach provides limited certainty and transparency to the development industry. The Bill addresses this issue by introducing mandatory credits for lawful use rights that are in existence prior to a development or water approval.

Appeals and dispute resolution

The Bill provides new appeal rights, to both the Planning and Environment Court and the Building and Development Dispute Resolution Committees, regarding the conversion of non-trunk infrastructure to trunk infrastructure. The Bill also clarifies the scope of existing appeal rights, including in relation to an infrastructure charges notice levied by a local authority, offsets and refunds.

The amendments will provide certainty and clarity regarding the scope of infrastructure matters that may be subject to appeal, however, will ensure the amount of the maximum charge and infrastructure charges included in a local government resolution or a distributor-retailer charges schedule continue to be unable to be appealed.

State infrastructure provider conditions

The Bill removes the ability for State infrastructure providers to levy additional cost conditions and, for the Department of Transport and Main Roads, to levy local function charges. These amendments are anticipated to have minimal impact on State infrastructure providers as additional cost conditions have rarely been used since they were introduced and local function charges were discontinued in 2011. These amendments will simplify the legislative framework and better align State agency conditioning and charging mechanisms with the local infrastructure planning and charging framework.

Infrastructure agreements

Infrastructure agreements are used by local authorities and proponents as a flexible vehicle through which to negotiate specific arrangements outside of the maximum charges framework, such as: infrastructure charge contributions; for an applicant to provide infrastructure instead of paying a charge; and offset and refund arrangements. Infrastructure agreements have always been intended to be voluntary agreements negotiated between parties with no obligation on any party to reach agreement. To confirm this, the Bill places a

limitation on local authorities from conditioning a development approval or water approval to require the negotiation of an infrastructure agreement.

Other legislation amendments

A range of other amendments will improve the overall operation and clarity of the framework, including the simplification of terminology and improvements to the structure, functionality and usability of Chapter 8 of SPA.

A number of existing definitions have been amended to more clearly and accurately capture the meaning of these terms, including: establishment cost, priority infrastructure area and local government infrastructure plan.

Transitional provisions

The Bill contains transitional provisions for key elements of the framework, including the current State planning regulatory provision (adopted charges), infrastructure charges notices and infrastructure agreements entered into prior to the commencement of the new framework.

The Bill also provides appropriate transitional periods for the development of LGIPs and existing infrastructure charges resolutions. Local governments without an LGIP will continue, until 30 June 2016, to have the ability to use their infrastructure charges resolution to:

- Identify plans for trunk infrastructure;
- Include standards of service for the trunk infrastructure; and
- Include the cost of the identified infrastructure.

Approvals Bilateral – SDPWO Act

The Bill amends the SDPWO Act to facilitate the implementation of the proposed bilateral agreement between the Queensland and Commonwealth Governments. The amendments to the SDPWO Act adopt Commonwealth EPBC Act responsibilities and enable the Coordinator-General to assess and authorise projects that may impact on EPBC Act protected matters.

The Bill inserts a new Part 4A in the SDPWO Act for coordinated projects that are to proceed through the accredited authorisation process. The amendments enable the Coordinator-General to make an additional declaration where a 'coordinated project' declaration has been made. The Part 4A declaration would initiate the Coordinator-General's assessment of MNES and enable an environmental approval to be issued that replaces the need for an approval under the EPBC Act. The assessment requirements contained in Part 4 of the SDPWO Act would continue to apply.

The amendments to the SDPWO Act will:

- Create a new authorisation process for the taking of an action for the purposes of the approvals bilateral agreement;

- Implement the decision making criteria of which the Commonwealth Minister must be satisfied under the EPBC Act to accredit the process;
- Provide a conditioning power for impacts on MNES;
- Provide for amendment, cancellation and compliance functions in relation to an environmental approval, and
- Provide an expanded regulation-making power with respect to the authorisation process.

SDPWO Act as authorisation process for the purposes of EPBC Act

In order to be accredited, the relevant law of the State must authorise an action. Under the SDPWO Act, the Coordinator-General may evaluate the environmental effects of the project and any other related matters, state conditions, make recommendations and impose conditions. However, the Coordinator-General's evaluation report is not an expressed authorisation or approval, and is not an authority for development to proceed. Typically, the project is 'authorised' by subsequent statutory approvals under the SPA or the *Environmental Protection Act 1994*. This Bill supports legislative amendments to the SDPWO Act that expressly provide an authorisation under State law of an action for the purposes of the EPBC Act.

EPBC Act criteria

The EPBC Act provides the minimum standards that must be met for both the bilateral agreement and the accreditation of the authorisation process specific to: world heritage properties; national heritage places; 'Ramsar wetlands'; listed threatened species; ecological communities; migratory species; and nuclear actions.

The Coordinator-General is currently directed to ensure that, in any development, proper account is taken of the environmental effects. The SDPWO Act does not currently contain criteria or outcomes that must be achieved by the Coordinator-General through the evaluation report. While environmental effects have to be evaluated, there is no requirement that the relevant conventions be considered or the decision not be inconsistent with those conventions, nor that outcomes such as prohibiting 'unsustainable or unacceptable impacts' be achieved.

This Bill provides decision-making criteria to be prescribed for a decision on protected matters specified by the bilateral agreement that aims to meet the requirements of the EPBC Act.

Coordinator-General conditioning powers for MNES

This Bill proposes that the Coordinator-General is able to impose conditions on projects under Part 4A that are broadly equivalent with the EPBC Act. Under the EPBC Act, conditions may be 'necessary or convenient' to protect an accredited MNES, or repair or mitigate damage to an MNES for which the approval has effect. Specific powers are included in the Bill to allow the Coordinator-General to impose conditions for offsets, bonds, audits and the duration of the approval. Consistent with the powers in relation to imposed

conditions, it is intended that the Coordinator-General may nominate an entity that is to have jurisdiction for the condition.

Expanded regulation-making power in respect of approvals bilateral

This Bill amends section 173(1)(g) to expand the regulation-making power to clarify that a regulation can be made for the SDPWO Act in respect of the approvals bilateral.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the intended reforms to the local infrastructure planning and charging framework. However, the local infrastructure planning and charging framework will continue to rely upon the use of statutory planning instruments (for example, the maximum adopted charges will continue to be set through a State planning regulatory provision) and statutory guidance (for example, in relation to the preparation of LGIPs) as appropriate.

It is possible to provide for elements of the framework addressed through the SPA, or other statutory mechanisms, through non-statutory guidance and advice. However, such an approach would limit the certainty, transparency and consistency of the framework and produce suboptimal outcomes for local government and the development industry.

Approvals Bilateral – SDPWO Act

The Bill provides the necessary statutory framework to enable the accreditation of the SDPWO Act environmental impact statement (EIS) process under an approvals bilateral agreement with the Commonwealth. There are no other viable alternatives that would achieve the Queensland Government's policy objectives.

Estimated cost for government implementation

Some costs may be incurred by the Queensland Government through the establishment of a clearer and extended jurisdiction for appeals regarding infrastructure charges matters, which may have the effect of increasing the number of appeals heard by the Planning and Environment Court and the Building and Development Dispute Resolution Committees. Some of these costs will be recovered through application and court fees under the existing Planning and Environment Court and the Building and Development Dispute Resolution Committees arrangements. It is proposed to include new fees for the hearing of an infrastructure matter by the Building and Development Dispute Resolution Committees within SPA.

The Queensland Government will also have an ongoing role in the monitoring and enforcement of the infrastructure planning framework. These costs will be funded out of the Department of State Development, Infrastructure and Planning's budget. The option of a 'user pays' infrastructure plan approval system for local governments is being investigated and would be implemented through the statutory plan making process (Statutory Guideline 02/12 Making and Amending Local Planning Instruments).

There will be administrative costs to government in the implementation of the Bill, including:

- Costs for local government associated with amending existing statutory guidelines on the preparation of LGIPs;
- Costs for State government associated with the preparation of materials and delivery of training to support the use of the new framework by local government and development industry stakeholders; and
- Costs for local governments associated with the preparation of LGIPs and infrastructure charges resolutions.

It is anticipated that these administrative costs will be offset by efficiency benefits associated with a simpler, more certain and consistent framework. For example, the Bill will enable new infrastructure charges notices to be issued in relation to a permissible change to a development approval, rather than resolve the discrepancy through an infrastructure agreement or new development approval.

Approvals Bilateral – SDPWO Act

The implementation of the proposed approvals bilateral agreement under the EPBC Act will introduce new legislative obligations for the State. Management of the approvals step for MNES under the SDPWO Act will result in additional costs to the Department of State Development, Infrastructure and Planning.

The Office of the Coordinator-General recently conducted a comprehensive review of fees and charges for services delivered under the SDPWO Act. Following the full implementation of the recommendations of that review, the Coordinator-General will manage additional costs resulting from the implementation of the approvals bilateral agreement by imposing an additional fee for each project subject to that agreement and implement further EIS process efficiencies. This fee will be prescribed in the State Development and Public Works Organisation Regulation 2010 (SDPWO Regulation), along with other fees charged under Part 4 of the SDPWO Act.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Legislation should be consistent with the principles of natural justice:

- Section 633 (for SPA) and section 99BRCH (for the SEQ Water Act) of the Bill provides that a local government infrastructure charges resolution or distributor-retailer board decision must, for the purpose of working out an offset or refund, include a method for working out the cost of the infrastructure the subject of the offset or refund. In this way the Bill allows for the recipient of an infrastructure charges notice to elect (in accordance with section 657 (for SPA) or section 99BRDC (for the SEQ Water Act)) not to accept the planned cost of infrastructure within a LGIP or water Netserv plan and determine the value through a procurement process established by the local government or distributor-retailer. There is no appeal right to

the determination of the infrastructure value in accordance with the process established under sections 633 and 657 (for SPA) or sections 99BRCH and 99BRDC (for the SEQ Water Act). However, it is an applicant's decision to pursue the determination of value of an offset or refund in this way and the Bill separately provides for the appeal of an offset or refund generally; and

- There is also no appeal right for the planned values outlined in an LGIP or distributor-retailers water Netserv plan. However, LGIP's and water Netserv plans are required to undergo a robust review process prior to being adopted, including public consultation on the value of infrastructure. The public have an opportunity to challenge the accuracy of the values in a LGIP or water Netserv plan at this stage. Additionally, the methodology process mentioned in 657 (for SPA) and section 99BRDC (for the SEQ Water Act) provides an additional avenue to test the accuracy of the value of infrastructure in a LGIP. As the methodology process itself is a testing of the original value it would be inefficient to then provide for an appeal to test this value again.

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively:

- The Bill contains no provisions with direct retrospective affect, however, transitional provisions in the Bill include arrangements that:
    - support the continuation of infrastructure charges resolutions (to the extend they are consistent with the State planning regulatory provision) in place before the commencement of the amending legislation; and
    - ensure that infrastructure charges notices, infrastructure conditions and infrastructure agreements lawfully existing prior to the commencement of the amending legislation continue to be lawful.
- Additionally, the majority of reforms introduced through the Bill will only apply to development approvals given after the day the new charging framework commences. In certain circumstances, parts of the new framework will apply to applications decided prior to the commencement of the reforms, for example in relation to permissible change. These arrangements are considered necessary to support a smooth and efficient transition to the new framework.

The Bill is considered consistent with fundamental legislative principles in respect to other matters and does not:

- Provide for the reversal of onus of proof in criminal proceedings;
- Contain powers of entry, search or seizure;
- Affect existing protections against self-incrimination; and
- Confer immunity from proceeding or prosecution.

Approvals Bilateral – SDPWO Act

The provisions of the Bill relating to the SDPWO Act have been drafted to be consistent with fundamental legislative principles.

Consultation

The *Discussion paper: Infrastructure planning and charging framework review* was available for public consultation from 1 July until 9 August 2013. Eighty-five submissions from local authorities, the development industry, peak bodies and other stakeholders were received. Feedback contained in these submissions informed the refinement and finalisation of the Queensland Government's preferred policy position that is reflected in the Bill.

Additionally, between February 2013 and April 2014, the Department of State Development, Infrastructure and Planning held 13 workshops with key stakeholders to discuss issues and options for reform. Feedback received from these workshops informed the content of the discussion paper and the refinement of preferred reform options.

Approvals Bilateral – SDPWO Act

The Office of the Coordinator-General consulted with Industry, local government and key conservation groups between 28 February– 31 March 2014 on a range of proposed SDPWO Act legislative amendments (including those contained within this Bill). Consultation on the SDPWO Act amendments included the proposed amendment to Part 4 of the SDPWO Act and the SDPWO Regulation to facilitate accreditation of the EIS process. Industry and local government groups supported amendments to the SDPWO Act for an approvals bilateral. No comments were received from the key environmental groups.

Consistency with legislation of other jurisdictions

The Bill is specific to Queensland and is not uniform with related legislation in other State jurisdictions. Local infrastructure planning and charging, through infrastructure charges and development conditions, is carried out independently across all State jurisdictions and there is no consistency between these approaches.

The Department of State Development, Infrastructure and Planning has investigated the alternative approaches as part of the infrastructure planning and charging review.

Approvals Bilateral – SDPWO Act

All States and Territories have signed a MOU with the Commonwealth Government to develop a 'one-stop shop' for environmental assessment and approvals. Queensland was the first to sign the MOU with the Commonwealth (October 2013) and is expected to be the first to enter into an approvals bilateral agreement. Queensland is leading the way with regard to legislative reform to facilitate the approvals bilateral agreement and it is anticipated other States and Territories will follow.

Notes on provisions

Part 1 Preliminary

Clause 1 Short title

Clause 1 establishes the short title of the Bill as the *Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014*.

Clause 2 Commencement

Clause 2 provides that the Bill, other than Part 3, Division 2, commences on a day to be fixed by proclamation.

Part 2 Amendment of Sustainable Planning Act 2009

Clause 3 Act amended

Clause 3 provides that the Part 2 of the Bill and Schedule 1 amend the *Sustainable Planning Act 2009* (SPA).

Clause 4 Replacement of ch 3, pt 2, div 4, hdg

Clause 4 replaces the heading of Chapter 3, Part 2, Division 4 'Reviewing planning schemes' with new division and subdivision headings.

Clause 5 Insertion of new ch 3, pt 2, div 4, sdiv 2

Clause 5 inserts a new subdivision 2 'LGIP Review' into Chapter 3, Part 2, Division 4 of SPA. New subdivision 2 provides for section 94A (Requirement to review LGIP), which is a requirement for local governments to review their local government infrastructure plan (LGIP) every 5 years. The review must be undertaken in consultation with the entities who participated in preparing the LGIP and for participating local governments, the relevant distributor-retailer.

Proposed subsection (3) is intended to ensure that distributor-retailers are provided written notice about any amendments to the LGIP prior to a local government making an amendment to their LGIP. Section 94A replaces existing section 628 of SPA and has been relocated to Chapter 3 of SPA.

Clause 6 Amendment of s 117 (Process for making or amending local planning instruments)

Clause 6 amends the heading of existing section 117 and renumbers section 117(2) as 117(3).

Subsection 3 requires that a LGIP must be prepared, made and amended in accordance with a statutory guideline made by the Planning Minister and prescribed by regulation. This amendment replaces existing section 627 and has been relocated to Chapter 3 of SPA, which provides a head of power for the making of statutory guidelines.

Clause 7 Amendment of s 335 (Content of decision notice)

Clause 7 amends section 335 to require each condition imposed under chapter 8 to reference the provision under which it was imposed. This amendment is intended to provide greater clarity on an applicant's entitlement to an offset or refund under Division 2 of Chapter 8 or the need for a conversion application under Division 3 of Chapter 8.

Clause 8 Amendment of s 347 (Conditions that can not be imposed)

Clause 8 amends section 347 to provide greater clarity on what can not be conditioned under the general conditioning powers of SPA. The amendment to subsection 347(1)(b) is intended to clarify that conditioning for infrastructure is to, principally, be imposed under the provisions in Chapter 8.

Subclause (2) inserts a new subsection 347(1)(f) to clarify that a condition must not require an applicant to enter into an infrastructure agreement. This amendment simply clarifies the intention of current arrangements in the Act and supports the use of an infrastructure agreement as a voluntary agreement process. Subclause (3) omits sections 347(2) and (3) as these sections will be replaced by proposed new section 666.

Clause 9 Replacement of s 478 (Appeals about particular charges for infrastructure)

Clause 9 replaces existing section 478 with new sections 478 and 478A.

New section 478 Appeals about infrastructure charges notice
Clause 9 replaces section 478 and provides for a recipient of an infrastructure charges notice to appeal to the Planning and Environment Court about the decision in the notice.

Section 478 is intended to provide greater clarity in regards to what an infrastructure charges appeal may be about and provides for appeals about the application of new section 636 of the SPA.

Subsection (1) establishes that the recipient of an infrastructure charges notice may appeal to the Court against the notice. Subsections (2) and (3) define the matters about which an appeal can and cannot be made. Subsection 478(2)(a) allows appeals about the reasonableness of the levied charges. This might include matters such as the apportionment of the cost of the infrastructure between existing and future users (for example, has the cost of the infrastructure been correctly apportioned between existing and future users taking into account the anticipated usage of the infrastructure or the capacity of the infrastructure allocated to developments).

Subsection (2)(b)(i) allows appeals about the application of the relevant adopted charges resolution in determining a levied charge. This might include matters such as:

- the calculation of gross floor area (GFA) for a proposed development and converting the GFA into an adopted infrastructure charge;
- applying an incorrect use category to the type of development proposed in the development application (for example, imposing a charge based on the 'commercial – bulky goods' adopted charge rate when the development application is for a 'commercial – retail' development);
- levying a charge where a charge is not appropriate (e.g. imposing a charge where the development does not result in additional demand on the infrastructure networks); and
- errors in the mathematical calculation of the charge.

Subsection (2)(b)(ii) allows appeals about the working out, for section 636, of additional demand. This might include matters such as:

- the calculation of additional demand when the demand for the existing lawful uses have been subtracted (e.g. where an applicant is reconfiguring one lot into three and there was an existing house on the original lot, the levied charge must be for the two new lots only); and
- where there is a development approval for a site however the development approval has not been acted on and a new development approval is issued for the site, in working out the infrastructure charge it must be assumed that the development the subject of the original approval is existing on the site.

Subsection (2)(b)(iii) allows appeals about a decision on offsets and refunds and subsection (2)(c) allows for an appeal where a decision about an offset or refund has not been made.

Subsection (3) clarifies the scope of appeal rights under the new section 478 and confirms that an appeal must not be about the value of the infrastructure charge adopted by a local government in its resolution. Local governments have the ability to adopt infrastructure charges at any amount equal to or less than the maximum. For a decision about an offset or refund, subsection (3)(b) confirms the appeal cannot be about the establishment cost of infrastructure in a LGIP or the value of the infrastructure determined using a methodology included in a charges resolution.

Subsection (4) requires that an appeal under this section be initiated within 20 business day after the day the notice was given to the recipient.

New section 478A Appeals against refusal of conversion application
This section provides that an applicant for a conversion application under new section 659 may appeal to the Planning and Environment Court against a refusal or deemed refusal to make the conversion of non-trunk infrastructure into trunk infrastructure.

Clause 10 Replacement of ss 502-504

Clause 10 replaces existing sections 502 to 504 with the following new sections.

New section 502 Committee membership
Clause 10 replaces section 502 to allow for the nomination of up to five referees as members of a building and development committee. Members are appointed from a pool of referees.

When nominating suitable referees, the matters with which the committee must deal should be considered. Multi-member committees are sometimes necessary in order to establish a committee that comprises of members with varying expertise. Appeals to committees deal with a range of highly technical matters, sometimes requiring the nomination of multiple referees, each with different technical expertise, so that the matters in dispute may be adequately dealt with.

Subsection (2) provides that the chairperson of the committee must be an architect if the committee is established only to hear an appeal against a referral agency's response decision about the amenity and aesthetic impact of a building or structure.

Subsection (3) provides that a lawyer must be appointed as the chairperson of the committee if the committee is established to hear an appeal about–

- an infrastructure charges notice; or
- a conversion application (to convert infrastructure to trunk infrastructure).

Appeals relating to infrastructure charges are often complex and technical, involving both questions of fact and law, so it is appropriate to have a lawyer as the chairperson. Referees with expertise in infrastructure planning and charging would be appropriate to appoint as additional committee members for the range and scope of technical matters of appeals in subsection (3).

New section 503 Membership continuity for proceeding
Section 503 requires that a committee consist of the same members to hear a proceeding, except if the committee membership is changed under section 554B.

Clause 11 Amendment of s 505 (Referee with conflict of interest not to be member of committee)

Section 505 establishes conflict of interest criteria for referees appointed to building and development committees. Subclause (2) clarifies that subclause (1) does not apply merely because a referee has previously acted in relation to the preparation of a relevant local planning instrument. For example, a conflict may not arise where a professional is involved in the preparation of a local government planning instrument that does not provide detailed information about the premises which are the subject of the appeal. A determination about whether there is a conflict of interest must be made on a case-by-case basis.

Clause 12 Replacement of s 535 (Appeals about charges for infrastructure)

Clause 12 replaces existing section 535 with new sections 535 and 535A.

New Section 535 Appeals about infrastructure charges decisions
New section 535 provides for a recipient of an infrastructure charges notice to appeal to the building and development committee about the decision in the notice. Section 535 is intended to provide greater clarity in regards to the infrastructure charges matters that may be appealed to the building and development committee and provides for appeals about the application of new section 636 of the SPA.

Subsection (1) establishes that the recipient of an infrastructure charges notice may appeal to a building and development committee against the notice. Subsections (2) and (3) define the matters about which an appeal can and cannot be made. Subsection 535(2)(a)(i) allows appeals about the application of the relevant adopted charge. This might include matters such as:

- calculation of additional gross floor area (GFA) which will result from the proposed development and converting the additional GFA into an adopted infrastructure charge;
- applying an incorrect use category to the type of development proposed in the development application (e.g. imposing a charge based on the 'commercial – bulky goods' adopted charge rate when the development application is for a 'commercial – retail' development);
- levying a charge where a charge is not appropriate (e.g. imposing a charge where the development does not result in additional demand on the infrastructure networks); and
- errors in the mathematical calculation of the charge.

Subsection (2)(a)(ii) allows for appeals about the working out of additional demand, which might include matters such as:

- the calculation of additional demand when the demand for the existing lawful uses have been subtracted (e.g. where an applicant is reconfiguring one lot into three and there was an existing house on the original lot, the levied charge must be for the two new lots only).

Subsection (2)(a)(iii) allows appeals about a decision on offsets and refunds and subsection (2)(b) allows for an appeal where a decision about an offset or refund has not been made.

Subsection (3) clarifies the scope of appeal rights under the new section 535 and confirms that an appeal cannot be about the value of the infrastructure charges adopted by a local government in its resolution. Local governments have the ability to adopt infrastructure charges at any amount at or below the maximum. For a decision about an offset or refund, the appeal cannot be about the establishment cost of infrastructure in a LGIP or the value of the infrastructure determined using the method in a local government's charges resolution.

Subsection (4) requires that an appeal under this section be initiated within 20 business day after the day the notice was given to the recipient.

New section 535A Appeals against refusal of conversion application

Section 535A provides that an applicant for a conversion application under new section 659 may appeal to a building and development committee against a refusal or deemed refusal to make the conversion of non-trunk infrastructure into trunk infrastructure.

Clause 13 Replacement of s 554 (Establishing a building and development committee)

Clause 13 replaces existing section 554 with new sections 554, 554A, 554B and 554C.

New section 554 Action when committee proceeding starts

New section 554 states that upon receipt of a notice of an appeal, or an application for a declaration, the registrar must give a copy of the notice or application to the chief executive. The chief executive must then establish a building and development committee to decide the

appeal or hear the proceeding for the declaration. The chief executive must also appoint one member as the committee's chairperson. After the committee has been established, the registrar must give each party to the proceeding written notice that a committee has been established.

Subsection (4) allows the chief executive to decide to end the proceeding without establishing a committee if the chief executive considers it is not reasonably practicable to establish one. Examples of when it is not reasonably practicable are provided in clause 554C(1).

Subsection (5) requires the chief executive to notify all parties to the proceeding of a decision under subclause (4).

Subsection (6) allows the person's appeal period to start again, where the appeal is for the same matter the subject of the ended proceeding. The court appeal period starts again from the time the person is given the chief executive's notice under subsection (5). This enables the person to commence a fresh appeal to the Court.

New section 554A Power to excuse irregularities
Section 554A provides the chief executive with the power to excuse non-compliance where -

- a person has lodged an appeal or application for a declaration with the registrar of the committees outside the time stated for bringing the proceeding; or
- requirements for validly starting the committee proceeding have not been met.

In considering whether to excuse any non-compliance for committee proceedings, the chief executive must be satisfied that the non-compliance will not cause any substantial injustice to anyone who would be a party to the proceeding. In excusing the non-compliance, the chief executive may act under section 554 as if the non-compliance had not happened. If the non-compliance is not excused by the chief executive, the registrar of the building and development committees must give the person who filed the document a written notice stating that it is of no effect because of the non-compliance.

New section 554B Power to suspend committee proceeding to form another committee
Section 554B provides that if the chief executive decides the existing committee established for a proceeding does not have the expertise to hear or decide a matter, the chief executive can suspend the proceeding and establish another committee to hear and decide the proceeding.

This new section provides the chief executive with the necessary flexibility to ensure that appropriately qualified referees can hear the real issues in the proceeding. Subsection (2) clarifies that subsection (1) does not limit the chief executive's ability to decide to end the proceeding under section 554C(1)(b).

New section 554C Power if committee unable to decide proceedings
A building and development committee may be unable to make a decision for a proceeding for a range of reasons, for example if the chairperson becomes incapacitated. In these circumstances, section 554C gives the chief executive the ability to either establish another committee to hear the matter from the beginning, or decide to end the proceeding if the chief executive is satisfied that it is not reasonably practicable to establish another committee.

Subsection (2) requires the chief executive to give written notice to all parties of a decision to end the proceeding.

Subsection (3) allows the person's appeal period to start again, where the appeal is for the same matter the subject of the ended proceeding. The court appeal period starts again from the time the person is given the chief executive's notice under subsection (2). This enables the person to commence a fresh appeal to the Court.

Clause 14 Insertion of new s 569A

Clause 14 provides that section 569A provides the chief executive with the discretion to refund fees required to be paid to bring a proceeding before a building and development committee if the chief executive makes a decision to end the proceeding under sections 554(4) or 554C(1)(b).

Clause 15 Amendment of s 570 (Appointment of referees)

Clause 15 inserts a new section 570(2) which provides that the chief executive may appoint persons to be referees if the chief executive is satisfied each person has the qualifications, experience or qualifications and experience to be a referee. This ability for the chief executive to appoint referees provides an efficient and flexible approach to ensuring that appropriate skills and expertise are readily available to hear issues in dispute in committee proceedings.

Clause 16 Replacement of s 572 (Term of referee's appointment)

Clause 16 replaces section 572. New section 572(1) provides the terms of an appointment of a general referee and a referee appointed by the chief executive. Section 572(4) and (5) specify that a referee can resign from their appointment by providing notice to whomever appointed the referee - either the Minister or the chief executive and that an appointment can be cancelled at the discretion of the Minister or the chief executive.

Clause 17 Amendment of s 573 (General referee to make declaration)

Clause 17 amends section 573 to extend its application to include referees appointed by the chief executive under section 572(1)(b). This will ensure both general referees appointed by the Minister, and referees appointed by the chief executive, are required to sign and send a declaration to the chief executive prior to sitting as a committee member.

Clause 18 Replacement of ch 8 (Infrastructure)

Clause 18 replaces existing Chapter 8 (Infrastructure) with a new Chapter 8 (Infrastructure) that includes the following sections.

Part 1 Preliminary

New section 625 Simplified outline of chapter
Section 625 provides a simple outline of what Chapter 8 is intended to do. This section is intended to give readers a simple overview of matters covered in Chapter 8.

New section 626 Extension of chapter to permissible changes and compliance assessment
Section 626 extends the meaning of 'development approval', 'applicant for a development approval' and 'the giving of a development approval' to include the equivalent actions or documents for permissible change and compliance assessment. As such, this section provides for the processes outlined in Chapter 8 to apply to permissible change applications and compliance assessment applications as if they were a development application without having to name each type of application in every instance.

New section 627 Definitions for ch 8
Section 627 inserts definitions for Chapter 8. The Bill includes new definitions necessary to give effect to the new infrastructure framework including: *additional payment condition, adopted charge, agreement, automatic increase provision, charges breakup, charges resolution, conversion application, development infrastructure, establishment cost, impose, information notice, infrastructure agreement, infrastructure charges notice, levied charge, LGIP, maximum adopted charge, necessary infrastructure condition, non-rural purposes, non-trunk infrastructure, notice, original notice, payer, payment, PIA, PPI index, public sector entity, relevant appeal period, relevant or reasonable requirements, SPRP (adopted charges), State infrastructure provider, State-related condition, subject premises, submission* and *trunk infrastructure*.

New section 628 References in ch 8
Section 628 clarifies what is meant by commonly used terms in Chapter 8. For example, where the term 'the development' is used in relation to a development approval, it means the development the subject of the approval. This provision is intended to simplify the legislation by limiting the number of time a terms needs to be referred to within certain provisions.

Part 2 Provisions for local governments

Division 1 Charges for trunk infrastructure

Subdivision 1 Power to adopt charges

New section 629 State planning regulatory provision governing charges
Section 629 allows for a State planning regulatory provision (the 'SPRP (adopted charges)') to provide a maximum charge for the supply of trunk infrastructure for development under both the *Sustainable Planning Act 2009* and the *South East Queensland Water (Distribution and Retail Restructuring) Act 2009*. New section 629 provides that such an SPRP is called the SPRP (adopted charges).

Subsections (2) and (3) provide for the Planning Minister to index the maximum adopted charges in accordance with the moving three year average of the producer price index for Queensland road and bridge construction available from the Australian Bureau of Statistics.

Subsection (4) identifies that the SPRP (adopted charges) can, in addition to providing a maximum charge for the supply of trunk infrastructure:

- Provide for the charges breakup between a local government and a water distributor-retailer of the local government;

- State development that is applicable for an adopted charge under Chapter 8 of the *Sustainable Planning Act 2009* or land uses for which there may be an adopted charge the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*; and
- Provide parameters for the methodology that new section 633 (Working out cost of infrastructure for offset or refund) requires must be included in a charges resolution.

New section 630 Power to adopt charges by resolution
Section 630 establishes the power for local government to set infrastructure charges through a charges resolution.

Subdivision 2 Charges resolutions

New section 631 Contents–general
Section 631 identifies the purpose and application of a charges resolution. Subsection (1) confirms that an adopted charge is only valid if it is permitted according to the SPRP (adopted charges) and as long as it is less than or equal to the maximum adopted charge for the development, as specified in the SPRP (adopted charges).

Subsections (2) and (3) provide for the setting of different charges or no charges for part or all of a local government area. Under Chapter 8, local governments have the flexibility to set charges any level less than or equal to the maximum charge identified in the SPRP (adopted charges). In this way, local governments have the flexibility to manage growth and development in their area in line with local community needs and expectations.

Additionally, subsection (3) also provides that a charges resolution can provide for the automatic increase of an infrastructure charge levied in relation to a development approval for the period between the day the charge is levied and the day the charge is paid. The requirements for indexing a levied charge are established under subsections (4) and (5). Subsection (4) requires that the resolution includes information regarding how the increase to a levied charge is worked out. Subsection (5) provides that indexation must not be more than the lesser of:

- the difference between the levied charge and the maximum adopted charge at the time the charge is paid; and
- the increase in the producer price index for Queensland road and bridge construction between the time the charge is levied and the time it is paid.

Use of the producer price index for Queensland road and bridge construction as published by the Australian Bureau of Statistics is consistent with the indexation of the maximum adopted charges under section 629. Subsection (6) provides that, for the indexation of levied charges under subsection (5)(b), the producer price index for Queensland road and bridge construction is to be smoothed in accordance with the 3 year moving average quarterly percentage change between quarter. The intent of smoothing the raw index data in this way is to eliminate short-term fluctuations that may unfairly advantage the recipient of an infrastructure charges notice (for example, if the index was to decrease over a short period) or the local government who levied the charge (for example, if the index was to dramatically increase over a short period). It is intended to provide information to support the calculation of indexed charges on the Department of State Development, Infrastructure and Planning website.

New section 632 Provisions for participating local governments and distributor-retailers
Section 632 applies to South-East Queensland local governments with a distributor-retailer for their water and wastewater services and the distributor-retailers.

Subsection (2) specifies that a participating local government and distributor-retailer may enter into a breakup agreement about the proportion of the maximum adopted charge under the SPRP (adopted charges) that each is entitled to levy. This agreement is called a breakup agreement. Under subsection (3), a breakup agreement prevails over a charges breakup set through the SPRP (adopted charges).

Subsection (4) requires that the charges resolution of a participating local government must include charges breakup for all adopted charges. The requirement to state the charges breakup exists regardless of whether the charges breakup is established through the SPRP (adopted charges) or a breakup agreement. This subsection will provide greater transparency in terms of the portion of charges an applicant can expect to be levied from a distributor-retail and local government.

Neither the local government nor a distributor-retailer may adopt an infrastructure charge that is more than their proportion of the maximum adopted charge under the charges breakup. Additionally, whether the charges breakup is set through a breakup agreement or in the SPRP (adopted charges), both the local government and the distributor-retailer may decide to charge at any amount equal to or below their proportion (under the charges breakup) of the maximum adopted charge.

Subsection (6) and (7) establish the arrangements to apply in the instance where a participating local government has an existing charges resolution and the local government and distributor-retailer then enter into a breakup agreement that specifies a different charges breakup to that in the existing resolution.

New section 633 Working out cost of infrastructure for offset or refund
Section 633 provides that a charges resolution must include a method for working out the cost of infrastructure subject to an offset or refund. This method is to be used when an applicant makes a request under section 657 and is intended to be used when the value of infrastructure in an LGIP, which is the subject of an offset or refund, is out dated or incorrect. The methodology must outline the local government's preferred approach for determining the actual value of the infrastructure at the time of the relevant development approval.

The methodology outlined in the resolution must also be consistent with the parameters included in the SPRP (adopted charges) or a statutory guideline.

New section 634 Steps after making charges resolution
Section 634 identifies when a charges resolution takes effect and confirms that a charges resolution is not part of a planning scheme. A charges resolution must be uploaded and retained on the local government website and attached to all copies of planning schemes that are published and distributed.

Previously local governments were required to publish information on the making of a new charges resolution and provide several copies of the resolution to the Department. The intent of this amendment is to reduce the amount of process for local governments in making a

resolution and to make it easier for applicants to access up-to-date copies of a charges resolution.

A charges resolution will have effect on either the uploading of the document or on a later date stipulated in the resolution. The resolution must include the date it commences.

Subdivision 3 Levying charges

New section 635 When charge may be levied and recovered
Section 635 establishes when an infrastructure charges notice must be levied and requirements for levying and recovering an infrastructure charge.

Subsection (3)(b) clarifies that in the case of a deemed approval for which a decision notice is not issued, the infrastructure charges notice must be given within 20 business days after the deemed approval notice is received by the local government. This will ensure that local governments are still able to issue infrastructure charges notices in the case of a deemed approval.

Subsection (5) states that the infrastructure charges notice lapses if the development approval stops having effect. This may include the approval lapsing or being cancelled.

New section 636 Limitation of levied charge
Section 636 provides that a levied charge may be only for additional demand placed upon trunk infrastructure. For example, an application is lodged for the subdivision of 1 lot into 3 and there is an existing 3 bedroom house on the original lot. Assuming that each lot is intended to be used for a 3 bedroom dwelling and the local government has set an adopted charge of $28,000 per 3 or more bedroom house, the applicant should receive an infrastructure charge for the 2 new lots only ($56,000). The adopted infrastructure charge for the third lot, which includes the existing house, does not warrant an infrastructure charge as there is no additional infrastructure demand created by the lot.

The recognition of the existing lawful use of a site or the existing (uncommenced) rights to develop a site through a discounted infrastructure charge is an established practice undertaken by many local governments and is commonly known as a ‘credit’. Stipulating the parameters which govern how a ‘credit’ is issued within the SPA provides greater certainty to all stakeholders.

New section 637 Requirements for infrastructure charges notice
Section 637 identifies the information to be included within an infrastructure charges notice.

Subsections (1)(f) requires that where an offset or refund is to be provided, details of that offset or refund are included in the infrastructure charges notice. Subsection (2) specifies that the infrastructure charges notice must also include or be accompanied by an information notice about the decision to give the notice.

Subdivision 4 Payment

New section 638 Payment triggers generally
Section 638 specifies when levied charges have to be paid. Each payment trigger is dependent on the type of development approval the infrastructure charges notice was issued for: reconfiguration of lot; material change of use or building approval. Subsections (1)(a) to (c) determine when the local government should state the charge is payable in the infrastructure charges notice. If items (a) to (c) do not apply, subsection (d) requires the charge to be paid at the time stated in the infrastructure charges notice.

The most significant change to this section is in relation to subsection (1)(b) which now includes the issuing of a final inspection notice as an additional trigger point for charges levied in relation to a building approval. Previously, the section only referred to the issuing of a certificate of classification which is issued in relation to most building types (Class 1b up to Class 9 building types) but does not capture detached dwellings (Class 1A) building types. This amendment is intended to ensure a wider variety of building types are capture by this provision.

New subsection (2) outlines that this section is subject to an agreement made under section 639. Section 639 provides for, amongst other things, a change in the timing of payment of a levied charge.

New section 639 Agreements about payment or provision instead of payment
Section 639 carries over from 648K(1) to (2) of SPA and provides for a recipient of an infrastructure charges notice to enter into an infrastructure agreement with the relevant local government about:

- payment timing for a levied charge;
- paying a levied charge in instalments; and
- whether infrastructure may be provided instead of paying part or all of the levied charge.

The section is intended to provide proponents and local governments with the flexibility to make alternative arrangements for paying or providing infrastructure.

Subdivision 5 Changing charges during relevant appeal period

Subdivision 5 gives the recipient of an infrastructure charges notice the ability to make written representation to the local government about the notice.

New section 640 Application of sdiv 5
Section 640 outlines that subdivision 5 is applicable to the recipient of an infrastructure charges notice.

New section 641 Submissions for infrastructure charges notice
Section 641 provides that the recipient of an infrastructure charges notice may make submissions about the notice during the appeal period for the notice.

New section 642 Consideration of submissions
Section 642 requires the local government to consider the submissions made under section 641.

New section 643 Decision about submissions
Section 643 outlines the actions a local government must take after it has considered submissions in accordance with section 642.

In accordance with subsection (1), where the local government agrees with a submission made under section 641, the local government must give the recipient of the infrastructure charges notice a new infrastructure charges notice within 5 business days after making the decision. This notice is a *negotiated notice*.

Subsection (3) sets out the requirements for issuing a negotiated notice under subsection (1). Subsection (4) requires a local government that does not agree with any of the submissions made under section 641, must give the recipient within 5 business days after making the decision, a notice stating the decision.

Subsection (5) confirms that when an applicant is given a notice under subsection (4) (where the local government does not agree with the submission), the relevant appeal period starts again.

New section 644 Suspension of relevant appeal period
Section 644 provides for the suspension of the relevant appeal period to allow more time for a submission under section 641 to be made.

Division 2 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

New Section 645 Application and operation of sdiv 1
Section 645 provides an overview of when a *necessary infrastructure condition* about trunk infrastructure can be imposed in relation to a development approval.

New section 646 Necessary infrastructure condition for LGIP-identified infrastructure
Section 646 provides that a local government may impose conditions about trunk infrastructure that has been identified in their LGIP. Subsection (2)(a) allows a local government to require a developer to provide trunk infrastructure identified in its LGIP. Subsection (2)(b) allows a local government to condition a developer to provide different trunk infrastructure to what is identified in its LGIP, provided the alternative infrastructure delivers the same standard of service. This provides flexibility for a local government to respond practically when conditioning a development approval. For example, a local government could change the alignment of trunk water infrastructure to be provided under a development condition, from that identified in its LGIP, to accommodate the specifics of a development.

New section 647 Necessary infrastructure condition for other infrastructure
Section 647 provides that a local government may impose a condition about trunk infrastructure that has not been identified in the LGIP but which is necessary to service the

development the subject of the approval. It is not always possible for local governments to predict and identify all trunk infrastructure that will be necessary to service all future development. The need for unidentified trunk infrastructure may only be realised when a development application is considered.

Subsection (3) provides that a condition can only be imposed under subsection (2) if the infrastructure is trunk infrastructure that is consistent with the LGIP and for development completely inside the priority infrastructure area (PIA).

New section 648 Deemed compliance with necessary or reasonable requirements
Section 648 modifies the 'reasonable or relevant' test for conditions imposed under section 646 and 647. Subsection (2) confirms that a necessary infrastructure condition may be imposed for infrastructure which services other premises in the general area of the subject premises.

New section 649 Offset or refund requirements
Section 649 provides for compensation to be given where an applicant is required to provide trunk infrastructure in accordance with a necessary infrastructure condition. The cost of the trunk infrastructure provided is to be offset against any infrastructure charge levied on the development by the local government.

Subsection 649(2) addresses instances where the cost of the trunk infrastructure required by a necessary infrastructure condition is equal to or less than the levied charge. In this circumstance, the value of the trunk infrastructure to be provided under a necessary infrastructure condition is subtracted from the value of the infrastructure charge payable. The remaining infrastructure charge value is the charge payable by the applicant.

Subsections (3) and (4) provide for instances where necessary infrastructure conditions require the provision of trunk infrastructure that is valued at more than the amount of the levied charge. In this situation, there is no infrastructure charge payable and the local government must refund the applicant the proportion of the establishment cost in accordance with subsections (4)(b)(i) and (4)(b)(ii). The local government and the payer have to agree on the timing of the refund.

Subdivision 2 Conditions for additional trunk infrastructure costs

New section 650 Power to impose
Section 650 allows local government to impose conditions for the payment of additional costs to the extent a proposed development is inconsistent with certain development assumptions identified in a LGIP. These assumptions fall into three categories identified in subsections 650(1)(a)(i)-(iii).

Subsection 650(1)(a)(i) deals with assumptions about the type or scale of development, including:

- an inconsistency in the proposed use between the development application and LGIP (for example, a light industrial use may be proposed as part of a development application in an area identified for 'commercial use' in the LGIP); or

- an inconsistency in the proposed density of development from that specified in the LGIP (for example, medium density residential at 18 dwellings per hectare instead of low density residential at 10 dwellings per hectare).

If a proposed development is anticipated to generate a need for infrastructure in excess of that associated with the scale of development identified in the LGIP, additional payment may be levied for associated costs.

Subsection 650(1)(a)(ii) deals with assumptions about the timing of development identified in the LGIP. Timing of development is determined by the availability of trunk infrastructure to service it. For example, an expansion of a commercial centre occurring before the time identified in the LGIP. The plans for trunk infrastructure and associated schedules of works in the LGIP identify when and where new infrastructure will be constructed. Additional payment may be required for the costs associated with providing trunk infrastructure earlier than identified in the LGIP.

Subsection 650(1)(a)(iii) deals with the location of proposed development relative to the PIA identified in the LGIP. In determining additional payments, trunk infrastructure provided by the developer and infrastructure charges levied for the development must be taken into account.

Subsection (3) modifies the requirement for a condition to confirm that an additional payment condition is considered reasonable or relevant to the extent the infrastructure is necessary but not yet available to service the subject development.

New section 651 Content of additional payment condition
Section 651 outlines the details required to be included in an additional payment condition and when payment is required.

New Section 652 Restriction if development completely in PIA
Section 652 applies to additional payment conditions for development located within a PIA and limits what an additional payment condition can require in this circumstance.

New section 653 Other area restrictions
Section 653 provides for additional payment conditions for development completely or partly outside the PIA. The scope for levying an additional payment condition under section 653 is considerably broader than for development within a PIA. This reflects the fact that development outside a PIA is not planned for by a local government through its LGIP.

New section 654 Refund if development in PIA
Section 654 provides for the refunds in relation to additional payment conditions for development within a PIA. The local government is required to refund the payer the portion of the cost of the infrastructure which may be attributed to other users and will be collected as a levied charge. However, the timing of this payment is to be determined through an agreement between the local government and payer.

New section 655 Refund if development approval ceases
Section 655 provides for refunds in relation to additional payment conditions where the relevant development approval ceases to have effect. Subsection (3) provides that the timing

of the refund is to be determined through an agreement between the local government and the payer.

New section 656 Additional payment condition does not affect other powers
Section 656 clarifies that a local government's ability to condition for non-trunk infrastructure, impose necessary infrastructure conditions and adopt and levy infrastructure charges is not affected by the imposition of an additional cost condition.

Subdivision 3 Working out cost for required offsets or refunds

New section 657 Process
Section 657 provides for an applicant to require a local government to use the methodology outlined in its infrastructure resolution (as required by section 633) to determine the value of the establishment cost for the purpose of determining the value of an offset or refund.

The intention of this section is to provide applicants with a consistent process for confirming the value of trunk infrastructure to be provided by the applicant. It is intended that this section is used where an applicant is dissatisfied with the planned value of the infrastructure (as identified in the relevant LGIP) that is the subject of the offset or refund.

Where an applicant requests the local government use the process identified in its LGIP to determine the value of an offset or refund, the local government must amend the existing infrastructure charges notice to reflect the new valuation.

Division 3 Miscellaneous provisions about trunk infrastructure

Subdivision 1 Conversion of particular non-trunk infrastructure before construction starts

New section 658 Application of sdiv 1
Section 658 provides that Chapter 8, Division 3, Subdivision 1, applies where a condition of a development approval requires the provision of non-trunk infrastructure.

New section 659 Application to convert infrastructure to trunk infrastructure
Section 659 provides that an applicant for a development approval may apply in writing to the relevant local government to convert non-trunk infrastructure that is the subject of a development condition to trunk infrastructure. An application to convert non-trunk infrastructure to trunk infrastructure is a conversion application. In accordance with new section 658, a conversion application under section 659 can only be about non-trunk infrastructure that the applicant has been conditioned to provide.

New section 660 Deciding conversion application
Section 660 requires a local government to consider and decide a conversion application that it receives. The local government has 30 business days from the date the application is made.

In accordance with subsection (3), as part of making a decision about a conversion application a local government may give a notice to the applicant requiring additional information that is needed to make the decision. Subsection (4) provides a notice given under subsection (3) must, in addition to describing the information to be provided by the applicant,

provide a period of at least 10 business days for the applicant to respond. Subsection (5) provides that if notice is not complied with within 10 business days, or a longer period if separately agreed between the local government and the applicant, the application lapses.

New section 661 Notice of decision
Section 661 provides that as soon as practicable after a local government has made a decision under new section 660 regarding an application to convert non-trunk infrastructure to trunk infrastructure it must give notice of the decision to the applicant.

Where a decision under new section 660 is to convert the non-trunk infrastructure to trunk infrastructure, the decision of the local government must address the requirements of subsection 661(2) regarding any offset or refund that applies, or might apply in relation to the infrastructure charge.

If the local government does not decide to convert the non-trunk infrastructure to trunk infrastructure, in accordance with subsection (3), the notice issued by the local government must be an information notice. In accordance with the definition of information notice in new section 627, an information notice must state the decision and reasons for the decision, identify that the recipient of the information notice may appeal the decision and how the recipient may appeal.

New section 662 Effect of and action after conversion
Section 662 applies where a decision under new section 660 is to convert infrastructure to trunk infrastructure.

Subsection (2) provides that a condition requiring non-trunk infrastructure to be provided no longer applies to the development approval. However, under subsection (3), the local government may amend the development approval to which the conversation application relates to impose a trunk infrastructure condition. A trunk infrastructure condition under subsection (3) can only relate to the infrastructure that is the subject of the conversation application in new section 660. Under subsection (3) the local government has 20 business days after making a decision to amend the development application. The ability for a local government to issue a new condition for trunk infrastructure reflects the fact that the infrastructure required is inconsistent with the local government's infrastructure planning.

Where a condition about necessary trunk infrastructure is imposed under subsection (3), subsection (4) requires the local government to amend an existing infrastructure charges notice to reflect any offset or refund required under section 649.

Subdivision 2 Other provisions

New section 663 Financial provisions
Section 663 provides that a levied charge must be used to provide trunk infrastructure. However, infrastructure charges received do not need to be used to provide infrastructure for a particular trunk infrastructure network or location within the local government's area. Subsection (2) confirms that levied charges do not need to be held on trust by a local government.

New section 664 Levied charge taken to be rates
Section 664 provides that a levied charge is, for the purposes of recovery by a local government, taken to be rates. Subsection (2) provides that the classification of a levied charge as rates is subject to any agreement between a local government and an applicant. For example, an infrastructure agreement may specify that for a particular development approval the levied charge is not considered a rate for the purposes of recovery.

Division 4 Non-trunk infrastructure

New section 665 Conditions local governments may impose
Section 665 establishes the conditioning powers of a local government for non-trunk infrastructure.

Subsection (3) requires a condition about non-trunk infrastructure to specify the infrastructure to be provided and when. The section generally envisages developers constructing the specified infrastructure. However, if an applicant wished to pay the local government to supply the infrastructure, an infrastructure agreement between the parties could be entered into.

Part 3 Provisions for State infrastructure providers

This part outlines the conditioning powers for State infrastructure providers and general requirements for imposing conditions. These conditions can only be about protecting or maintaining the safety or efficiency of any or all of the matters listed in subclause 666(2).

The ability to impose such conditions relies on the agency being a State infrastructure provider which is any of the following:

- the chief executive; and
- a public sector entity, other than a local government or distributor-retailer, that provides State infrastructure or administers a regional plan for a designed region.

New section 666 Power to impose conditions about infrastructure
Section 666 outlines the types of conditions a State infrastructure provider can impose on a development approval. These are referred to as a State-related condition, which, in subsection (1) provides may only be about infrastructure or works to protect infrastructure operation.

Subsection (3) provides relevant definitions for clause 666. This subsection includes a definition for 'safety or efficiency' of infrastructure mentioned in clause 666(2). Safety and efficiency in effect constitutes the State infrastructure provider's 'common' conditioning power.

Section 666 is intended to consolidate the matters addressed by the current subsections 347(2) and (3) and subsections 653 (1) and (2) of SPA. However, the reference to 'additional infrastructure costs' in existing subsection 653(2)(b) has been removed to be consistent with the deletion of sections 655, 656 and 657 of SPA which related to additional infrastructure costs. These provisions have been deleted as they were originally intended to work in conjunction with local function charges and the inclusion of state infrastructure in an LGIP. This is no longer the State's approach to delivering state infrastructure.

New section 667 Content requirements for condition
Section 667 outlines the content required in relation to a State-related condition.

New section 668 Refund if State-related condition ceases
Section 668 outlines the circumstances in which a State infrastructure provider must refund the payer any part of the payment not spent, or contracted to be spent, on designing or constructing the infrastructure before being told of the cessation.

The section takes into account the fact that the chief executive may have imposed the State-related condition but may not be the public sector entity responsible for providing the infrastructure.

New section 669 Reimbursement by local government for replacement infrastructure
Section 669 applies if infrastructure provided under a State-related condition:

- has replaced, or is to replace, infrastructure for which there has been, is or is to be a levied charge by a local government; and
- provides the same desired standard of service as the replaced infrastructure.

The local government must pay the levied charge, when paid, to the State infrastructure provider that imposed the condition to construct the infrastructure or reimburse someone else who constructed it. The local government must agree with the State infrastructure provider and the applicant about when the levied charge will be paid.

Section 669(1) defines when a local government may have to give the money it has collected for an item to a State infrastructure provider to be used for the provision of a different item. This is limited to situations where the infrastructure provided under a State-related condition has replaced or is to replace infrastructure the local government planned to provide, and provides at least the same standard of service as the replaced item.

If this is the case, subsection (2) requires that the local government provide any charges collected for the infrastructure it planned to supply to the State infrastructure provider to be used either to construct the infrastructure or reimburse the person who constructed the infrastructure. Alternatively, the local government must enter into an agreement with the State infrastructure provider and the applicant about when the levied charge will be paid.

It is important to note these provisions are intended to apply to charges already collected and to be collected in future for the infrastructure the local government had intended to supply.

Example - A local government may have planned to install traffic signals at the intersection of a State-controlled road with a major local road. However, the State infrastructure provider may have instead required a developer to construct, under a condition imposed under this division, a grade-separated interchange to meet State or regional transport needs. The local government should make available to either the developer or the State infrastructure provider the funds it has already collected from other users for the proposed signalised intersection. The developer or the State infrastructure provider must use these funds to provide the grade separated interchange. The local government would continue to collect charges from other users for the signalised intersection, since this is the standard of infrastructure required to meet local transport needs, and refund these charges to the developer or State infrastructure provider who constructed the infrastructure.

Where the item the State infrastructure provider requires to be constructed does not provide at least the same standard of service as the item the local government plans to provide to meet local traffic needs, these provisions do not apply. This is because transferring funds for an item providing a lower standard of service will either reduce the standard of service for the funds collected, or leave the local government to fund the planned item when required from other sources.

Part 4 Infrastructure Agreements

It is important to provide the flexibility for as wide a range of infrastructure arrangements as possible. This part allows for infrastructure agreements as an alternative to other infrastructure funding mechanisms, but also establishes accountability mechanisms for all agreements about infrastructure entered into under the SPA.

New section 670 Infrastructure agreement
Section 670 establishes that an agreement, mentioned in any of the sections listed in section 670, is an infrastructure agreement.

New section 671 Obligation to negotiate in good faith
Section 671 provides that where a public sector entity or another entity decides to enter into an infrastructure agreement with another party, all parties seeking to negotiate the infrastructure agreement must act in good faith. The intention of this section is to encourage open, timely and cost effective negotiation of infrastructure agreements.

New section 672 Content of infrastructure agreement
Section 672 requires that an infrastructure agreement must explain, if relevant, how the obligations formed under the agreement would be fulfilled if ownership of the land, the subject of the agreement, changed. For example, a developer might subdivide a large parcel of land and sell parts of it to other developers.

The clause also requires an agreement to state, if relevant, what action would be taken if a planning instrument outside the control of the person required to fulfil the obligations of the agreement, was changed.

New section 673 Copy of infrastructure agreement to be given to local government
Section 673 requires a copy of an infrastructure agreement to be given to a local government if the local government is not a party to the agreement. To ensure efficient local coordination and provision of infrastructure, a local government needs to be aware of any infrastructure arrangements within the area of its jurisdiction.

New section 674 When infrastructure agreement binds successors in title
Section 674 ensures that development obligations will be fulfilled despite subsequent changes to the ownership of the land.

Subsection (5) allows for the agreement to release the owner and successors in title from the obligations of the infrastructure agreement when the land is subdivided. This will enable the individual subdivided parcels to be disposed of free of the obligations of the agreement. If an applicant were to take advantage of this provision and release the owner and successors in

title, the public sector entity requiring or providing the infrastructure, as a party to the agreement, could ensure the agreement protected their interests.

New section 675 Exercise of discretion unaffected by infrastructure agreement
Section 675 provides that an agreement cannot fetter the discretion of a public sector entity about a development application.

An agreement may purport to depend on the exercise of certain discretions about an application, but it will not affect or be invalidated by whatever decision the entity makes. This is intended to address concerns that an infrastructure agreement that relies for its fulfilment on a development approval can only be entered into after a development application has been made and before it is decided. This interpretation was not intended, and the new section makes it clear that the application may already have been made, or it may be made in the future.

New section 676 Infrastructure agreement prevails over approval and charges notice
Section 676 provides that if an infrastructure agreement is inconsistent with a development approval or infrastructure charges notice, the agreement prevails to the extent of the inconsistency.

However, if a State infrastructure provider (other than the chief executive) is a party to the agreement, subsection (1) only applies if the chief executive has approved it. This approval must be given by notice to all parties to the agreement.

Example - An applicant would not be required to pay the charge stated in an infrastructure charges notice if the applicant had entered into an agreement with the local government to construct the infrastructure instead of paying the charge.

New section 677 Agreement for infrastructure partnerships
Section 677 provides for infrastructure partnerships involving a public sector entity. This clause provides a broad head of power for such agreements to be entered into and is not limited to trunk infrastructure.

Part 5 Miscellaneous

New section 678 Sale of particular local government land held on trust
Section 678 outlines a process which local government must undertake to sell land which it holds on trust as fee simple for public parks infrastructure or land for community facilities. It is intended to establish a transparent process for the sale of land which is acquired through the infrastructure charges or conditions.

Subsection (5) requires that all proceeds from the sale of such land must be used to provide trunk infrastructure.

New section 679 Trunk infrastructure not identified
Section 679 identifies infrastructure considered trunk and non-trunk where the definition of *trunk infrastructure* in section 627 does not apply, including where a local government does not have a local government infrastructure plan.

Clause 19 Insertion of new ch 10, pt 11

Clause 19 inserts new Chapter 10, Part 11 (Savings and transitional provisions for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014) consisting of the following sections.

Part 11 (Savings and transitional provisions for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014)

Division 1 Purpose of part and definitions

New section 974 Purpose of pt 11
Section 974 outlines the purpose of Part 11.

New section 975 Definitions for pt 11
Section 975 outlines the definitions for Part 11.

Division 2 Saving provisions

New section 976 Deferment of LGIP requirement for existing planning schemes
Section 976 clarifies that a local government is not required to have an LGIP in place until 1 July 2016. After this time every local government will be required to have an adopted LGIP if they intend to make a charges resolution, impose trunk infrastructure conditions or give infrastructure charges notices.

New section 977 Existing notices
Section 977 ensures that all superseded infrastructure charge notices can continue to apply as if they are an infrastructure charges notice.

New section 978 Existing charges
Section 977 ensures that all superseded infrastructure charges can continue to apply as if they are a levied charge.

New section 979 Charges resolutions until 1 July 2016
Section 979 provides for an adopted charges resolution made prior to 1 July 2014 to remain valid but only to the extent that it is consistent with the SPRP (adopted charges) in place at the time. As such, if an adopted charges resolution states a charge which is above the current maximum charge for a certain use type (e.g. commercial development) the charge for that use type would be invalid. However the remainder of the resolution would remain valid.

Subsections (5) to (8) apply if the local government does not have an adopted PIP or LGIP in its planning scheme. These provisions allow for local government, within an existing or new adopted charges resolution, to identify:

- Development infrastructure as trunk infrastructure; and
- Establishment cost for that infrastructure.

Subsection (7) stipulates that for purposes of applying Chapter 8 of the amended Act, the identification of trunk infrastructure, standards of service and establishment costs are taken to

have been done under an LGIP. Subsection (8) stipulates that the saved provision ceases to have effect from 1 July 2016.

New section 980 Existing land transfer requirements in lieu of charge
Section 980 preserves the agreements made under repealed sections 637(1)(d), 637(2) and 648K(3) and ensures those agreements can continue as if the sections had not been repealed.

New Section 981 Undecided appeals
Section 981 applies to appeals that had been started but were not finalised before the commencement. Subsection (2) provides for the continuation of the superseded sections in the unamended Act that apply to the appeal.

Division 3 Transitional provisions

New section 982 PIP to LGIP
Section 982 transitions existing PIPs into LGIPs and therefore provides for a reference in the legislation to an LGIP to apply to existing PIPs. Subsection (3) confirms that before 1 July 2016, a PIP that becomes an LGIP on 1 July 2014 must be consistent with a guideline made under section 117(2).

New section 983 Existing SPRP for adopted charges
Section 983 provides for the existing SPRP (adopted charges) to remain valid when the amendments are made to the SPA subject to any regulations under the SPA. Subsection (2) provides for the SPRP to identify PIAs in lieu of an LGIP until 1 July 2016. Subsection (3) outlines that the SPRP will not have the power to identify a PIA as of 1 July 2016. At this time it is anticipated that a PIA is to be identified in an LGIP.

New section 984 Existing application for development approval
Section 984 stipulates that development applications already submitted to local government, but for which an approval has not been given at the commencement date, is to be decided under the provisions of the amended Act.

New section 985 Existing agreements under s 648G
Section 985 provides that an agreement under SPA section 648G between a local government and distributer-retailer operating in its area, is taken to be a breakup agreement under the amended Act.

New section 986 Infrastructure charges register
Section 986 specifies that the registers listed in subsection (1) become part of the local government's infrastructure charges register under the amended Act.

New section 987 Infrastructure agreements
Section 987 provides that an infrastructure agreement in force immediately before commencement is also an infrastructure agreement under the amended Act.

New section 988 Consequential provisions
Section 988 provides that a document that is valid under the amended Act must be read with the necessary changes to make it consistent with the amended Act.

Division 4 Other provisions

New section 989 Regulated infrastructure charges schedule
Section 989 provides that a regulated infrastructure charges schedule in existence before the commencement of the amendment Bill ceases to exist.

New section 990 Transitional regulation-making power
Section 990 provides a transitional regulation-making power to support the change from the unamended SPA to the amended SPA. Subsection (4) provides that any transitional regulation will expire one year after the date of commencement.

Clause 20 Amendment of sch 3 (Dictionary)

Clause 20 makes necessary changes to Schedule 3 (Dictionary) of SPA to support the operation of the new local infrastructure planning and charges framework.

Part 3 Amendment of other Acts

Division 1 South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

Clause 21 Act Amended

Clause 21 provides the Bill amends the *South East Queensland Water (Distribution and Retailer Restructuring) Act 2009.*

Clause 22 Amendment of s 99BOB (Charges schedules for distributor-retailers)

Clause 22 amends section 99BOB to require a distributor-retailers charges schedule to include information on:

- a distributors retails adopted charges;
- the way an adopted charge is calculated; and
- the charges breakup between the distributor-retailer and local government for all adopted charges.

Clause 23 Amendment of s 99BRAG (Decision generally)

Clause 23 amends section 99BRAG to provide that the decision on any water approval may include imposing conditions if they are permitted under Part 7.

Clause 24 Amendment of s 99BRAI (Decision notice)

Clause 24 amends section 99BRAI to require for each condition imposed on a water approval, for trunk or non-trunk infrastructure, under Chapter 4C, Part 7 of the SEQ Water

Act a reference to the provision under which the condition was imposed. This amendment is intended to provide greater clarity on an applicant's entitlement to: an offset; a refund or request for conversion of non-trunk infrastructure to trunk infrastructure under Chapter 4C, Part 7 of the SEQ Water Act.

Clause 25 Amendment of s 99BRAJ (Water approval conditions must be relevant and reasonable)

Clause 25 amends section 99BRAJ to provide that a distributor-retailer may condition a water approval for trunk infrastructure or non-trunk infrastructure so long as the conditions are relevant and reasonable.

Section 99BRAJ(3) now provides that a water approval condition must not impose a condition about trunk infrastructure or non-trunk infrastructure unless the condition is permitted to be imposed under Part 7, Divisions 4 to 6. Additionally, a water approval condition cannot require the applicant to enter into a water infrastructure agreement. This amendment is to support the use of an infrastructure agreement as a voluntary agreement process.

Clause 26 Amendment of s 99BRAK (Power to amend)

Clause 26 amends section 99BRAK to provide that if a water approval holder asks a distributor-retailer to amend a water approval condition the distributor-retailer must decide to approve the request with or without conditions or to refuse the request.

Section 99BRAK(5) now provides that if a condition as amended, and any conditions imposed under subsection (2)(a) take effect when the amendment notice is given to the applicant and any conditions imposed under subsection (2)(a) are taken to be water approval conditions of the water approval. If the condition is amended the distributor-retailer may give the applicant a new water infrastructure charges notice under Part 7, Division 3, subdivision 3 or the SEQ Water Act to replace the original notice.

Clause 27 Insertion of new s 99BRAM

New section 99BRAM Water infrastructure agreement terms become water approval conditions

New section 99BRAM provides that if an applicant and a distributor-retailer enter into a water infrastructure agreement and there is a water approval then each term of the agreement is taken to be a condition for the water approval.

Clause 28 Amendment of s 99BRAT (Assessment of connections, water approvals and works)

Clause 28 amends section 99BRAT to clarify that while a connection including works for a connection cannot be assessed or authorised under a local law or other law of a State, this does not apply for a connection, including works for a connection, in a priority development area under the *Economic Development Act 2012*.

Clause 29 Amendment of s 99BRAU (Requests for standard connections)

Clause 29 amends the note in section 99BRAU(6).

Clause 30 Amendment of s 99RAW (Meaning of *interested person* and *original decision*)

Clause 30 amends section 99BRAW to provide that an interested person includes a person who:

- has had one or more of the following charges levied for a connection, other than for a standard connection—
  - a connection charge
  - a property service works charge
  - a charge under an infrastructure charges notice
- has been given a notice under section 99BRDG about a conversion application, or there is a deemed refusal for the application.

Section 99BRAW(2) now provides that an original decision includes the decision to levy a charge for a connection mentioned in subsection (1)(c)(i) or (ii) (*charge decision);* the decision to give an infrastructure charges notice; or the refusal or deemed refusal of a conversion application (a *conversion decision*).

Section 99BRAW(3) provides that for an original decision about the decision or action for which a decision notice was given, an interested person cannot appeal a water approval condition that became a condition under section 99BRAM.

Clause 31 Replacement of s 99BRAX (Meaning of *standard appeal period*)

New section 99BRAX provides for definitions of: charge decision, conversion decision, deemed refusal, required period and standard appeal period (for appeals under Chapter 4C, Part 4, Divisions 3 or 4).

Clause 32 Amendment of s 99BRBA (Requirements for making internal review application)

Clause 32 amends section 99BRBA to provide that an internal review application must be made within 30 business days after the day—

- the relevant decision required to be made, if there is a failure to decide or a deemed refusal or
- the original decision is made for all other situations.

Clause 33 Amendment of s 99BRBC (Notice of review decision)

Clause 33 amends section 99BRBC to rename the building and development dispute resolution committee the building and development committee.

Clause 34 Amendment of s 99BRBD (Internal review stops particular actions)

Clause 34 amends section 99BRBD so that if an internal review is started under Chapter 4C, Division 2 any work under a water approval must not be started until the review is decided or withdrawn.

Despite this if the reviewer is satisfied the outcome of the review would not be affected if the work is started before the review is decided the reviewer may allow the work to start before the review is decided.

Clause 35 Amendment of ch 4C, pt 4, div 3, hdg and s 99BRBE

Clause 35 amends the heading of Chapter 4C, Part 4, Division 3 and section 99BRBE to remove the reference to 'dispute resolution'.

Clause 36 Amendment of s 99BRBF (Appeals about applications for connections–particular charges)

Clause 36 amends section 99BRBF to provide that the section applies if an applicant for a connection applied for internal review of a charge decision or a decision to give an infrastructure charges notice and the review decision is not the decision sought by the applicant. The applicant may appeal to a building and development committee about the review decision.

However, section (3) and (4) limit and define the matter about which an appeal can be made. Subsection (3)(a) allows appeals about the application of the relevant adopted charge. This might include matters such as:

- calculation of additional gross floor area (GFA) which will result from the proposed development and converting the additional GFA into an adopted infrastructure charge;
- applying an incorrect use category to the type of development proposed in the development application (e.g. imposing a charge based on the 'commercial – bulky goods' adopted charge rate when the development application is for a 'commercial – retail' development);
- levying a charge where a charge is not appropriate (e.g. imposing a charge where the connection does not result in additional demand on the infrastructure networks);
- basic errors in the mathematical calculation of the charge.

Subsection (3)(b)(i)(A) allows appeals for an infrastructure charge notice for an error in the working out, of additional demand. This might include mattes such as:

- the calculation of additional demand when the demand for the existing lawful uses have been subtracted (e.g. where an applicant is reconfiguring one lot into three and there was an existing house on the original lot, the levied charge must be for the two new lots only); and
- where a site has an existing water approval however, the water approval has not been acted on and a new water approval is issued for the site, in working out the infrastructure charge it must be assumed that the connection the subject of the original approval exists on the site.

An applicant can also under section 99BRBF appeal an error relating to an offset or refund or if there was no decision about an offset of refund.

Subsection (4) is intended to clarify the scope of the legal action in respect of levied charges. It is not intended to allow affected persons to challenge the value of the infrastructure charges adopted by a distributor-retailer's board. A distributor-retailer's board has a right to adopt any charge provided that charge is not more than allowed under a charges breakup.

Subsection (4) also provides that for an appeal about an offset or refund the appeal must not be about the establishment cost, for infrastructure identified in the distributor-retailer's water Netserv plan. An appeal also must not be about the cost of the infrastructure decided by applying the method included in the distributor-retailers water Netserv plan for a decision about an offset or refund for an infrastructure charges notice. The appeal must be started within the standard appeal period of 20 business days.

Clause 37 Insertion of new s 99BRBFA

New section 99BRBFA Appeals against refusal of conversion application
New section 99BRBFA applies to an applicant for a conversion application if the applicant applies for internal review of the conversion decision and the review decision is not the decision sought by the applicant. The applicant may appeal to a building and development committee against the review decision. The appeal must be started within the standard appeal period of 20 business days.

Clause 38 Amendment of s 99BRBG (Application of relevant committee appeal provisions)

Clause 38 amends s99BRBG to include that relevant committee appeal provisions under the Planning Act apply with necessary changes to an appeal under Chapter 4C, Division 3 of the SEQ Water Act, as if a reference in the provisions to—

- an infrastructure charges notice under the Planning Act were an infrastructure charges notice under the SEQ Water Act
- the period required under the Planning Act for lodging a document to start proceedings were a reference to the period required under the SEQ Water Act for lodging a document to start proceedings.

The definition of relevant committee appeal provisions is also amended to exclude SPA section 564(2)(d) and (e), and to insert sections 567, 569 and 569A.

Clause 39 Amendment of s 99BRBK (Registrar must ask distributor-retailer for material in particular proceedings)

Clause 39 amends section 99BRBK to provide that if an applicant applied for internal review and later appealed to the building and development committee, under section 99BRBE for a failure to decide or section 99BRBFA for a deemed refusal of a conversion application, the registrar of building and development committees must ask the distributor-retailer to give the registrar—

- all material, including plans and specifications, relevant to the application;
- a statement of the reasons the distributor-retailer had not decided the application during the period for deciding the application; and
- any other information the registrar requires.

Clause 40 Amendment of s 99BRBL (Lodging appeal stops particular actions)

Clause 40 amends section 99BRBL to clarify an appeal lodged under Chapter 4C, Division 3 in certain circumstances stops particular actions. Additionally, the clause renames the building and development dispute resolution committee to the building and development committee.

Clause 41 Amendment of s 99BRBO (Appeals about applications for connection—particular charges)

Clause 41 amends section 99BRBO to provide that the section applies if an applicant for a connection applied for internal review of a charge decision or a decision to give an infrastructure charges notice and the review decision is not the decision sought by the applicant. The applicant may appeal to a Planning and Environment Court about the review decision.

New subsections (3) and (4) define the matters about which an appeal can and cannot be made. Section 99BRBO (3)(a) allows appeals about the reasonableness of the levied charges. This might include matters such as the apportionment of the cost of the infrastructure between existing and future users (for example, has the cost of the infrastructure been correctly apportioned between existing and future users taking into account the anticipated demand on the infrastructure or the capacity of the infrastructure allocated to developments).

Subsection (3)(b) allows appeals about the application of the relevant adopted charges in determining a levied charge. This might include matters such as:

- the calculation of gross floor area (GFA) for a proposed development and converting the GFA into an adopted infrastructure charge;
- applying an incorrect use category to the type of development proposed in the development application (for example, imposing a charge based on the 'commercial – bulky goods' adopted charge rate when the development application is for a 'commercial – retail' development);
- levying a charge where a charge is not appropriate (e.g. imposing a charge where the connection does not result in additional demand on the infrastructure networks); and
- errors in the mathematical calculation of the charge.

Subsection (3)(c)(i) allows appeals about an error relating to the working out, of additional demand. This might include matters such as:

- the calculation of additional demand when the demand for the existing lawful uses have been subtracted (e.g. where an applicant is reconfiguring one lot into three and there was an existing house on the original lot, the levied charge must be for the two new lots only); and
- where a site has an existing water approval however, the water approval has not been acted on and a new water approval is issued for the site, in working out the infrastructure charge it must be assumed that the connection the subject of the original approval exists on the site.

An applicant may also appeal an error relating to a decision about an offset or refund or if there was no decision about an offset or refund.

New subsection (4) clarifies the scope of appeal rights and confirms that an appeal must not be about the value of the infrastructure charge adopted by a distributor-retailer. Distributor-retailers have the ability to adopt infrastructure charges at amounts below their agreed proportion.

Subsection (4) also provides that for a decision about an offset or refund for an infrastructure charges notice an appeal must not be about the establishment cost for infrastructure identified in the distributor-retailer's water Netserv plan or decided using the method included in the distributor-retailers infrastructure charges schedule.

New subsection (5) requires that an appeal under this section be initiated within 20 business days after the day the notice was given to the recipient or 20 business days after the review decision was taken to have been made.

Clause 42 Insertion of new s 99BRBOA

99BRBOA Appeals against refusal of conversion application

Clause 42 inserts new section 99BRBOA to provide that if an applicant applied for internal review of a conversion decision and the review decision is not the decision sought by the applicant, the applicant may appeal to the Planning and Environment Court against the review decision. The appeal must be started within 20 business days after the day the notice was given to the recipient or 20 business days after the review decision was taken to have been made.

Clause 43 Amendment of s 99BRBV (Lodging appeal stops particular actions)

Clause 43 amends section 99BRBV to provide clarity that lodging an appeal to the Planning and Environment Court except if started under section 99BRBP stops work from being undertaken unless allowed by the Planning and Environment Court.

Clause 44 Renumbering of ss 99BRDD and 99BRDE

Clause 44 renumbers sections 99BRDD and 99BRDE to 99BRDQ and 99BRDR.

Clause 45 Insertion of new ch4C, pt 7

Part 7 Water Infrastructure

Division 1 Preliminary

New section 99BRCC Definitions for pt 7

New section 99BRCC provides for definitions for Chapter 4C, Part 7. The Bill includes new definitions necessary to give effect to the new infrastructure framework including: additional payment condition, agreement, automatic increase provision, board decision, breakup agreement, establishment cost, infrastructure charges schedule, levied charge, necessary infrastructure condition, payer, payment, PPI Index, premises, SPRP (adopted charges) and subject premises.

Division 2 Infrastructure charges schedule

New section 99BRCD Operation of div 2
New section 99BRCD provides that Division 2 applies if the charges schedule (an infrastructure charges schedule) of a distributor-retailer includes an adopted charge.

New section 99BRCE Schedule of charges to be adopted
New section 99BRCE provides that the distributor-retailers board must adopt its infrastructure charges schedule before the schedule is—

- included in the distributor-retailer's water Netserv plan; and
- uploaded to the distributor-retailers website.

The infrastructure charges schedule must include the matters dealt with in the board's decision under Division 3, Subdivisions 1 and 2. A charge in the infrastructure charges schedule takes effect—

- on the day stated in a board decision if, the infrastructure charges schedule is uploaded to the distributor-retailer's website before the beginning of the day stated in the board decision as the day the charge takes effect; or
- the day the infrastructure charges schedule is uploaded to the distributor-retailer's website if no date is provided in the board decision.

Division 3 Charges for trunk infrastructure

Subdivision 1 Power to adopt charges

New section 99BRCF Power to adopt charges by board decision
New section 99BRCF provides that a distributor-retailers board may decide (a *board decision*) to adopt charges (each an *adopted charge*) for providing trunk infrastructure in relation to its water service or wastewater service. However, a board decision does not, of itself, levy an infrastructure charge and the making of a board decision is subject to Subdivision 2. Additionally, an adopted charge must not be for a trunk infrastructure related to work or use of land authorised under the *Greenhouse Gas Storage Act 2009*, *Mineral Resources Act 1989, the Petroleum Act 1923*, or the *Petroleum and Gas (Production and Safety) Act 2004*. An adopted charge cannot be for a trunk infrastructure related to development in a priority development area under the *Economic Development Act 2012*.

A board decision must state the day when an adopted charge in the board decision is to take effect.

Subdivision 2 Board decision

New section 99BRCG Matters for board decision
New section 99BRCG provides that an adopted charge may be made only if it is permitted under the SPRP (adopted charges) and is no more than the proportion of the maximum adopted charge for trunk infrastructure the distributor-retailer may have under either, a breakup agreement to which it is a party or if it is not a party to a breakup agreement the SPRP (adopted charges).

A distributor-retailer can have different adopted charges for providing trunk infrastructure in different parts of the distributor-retailer's geographic area. Under this provision distributor-retailers have the flexibility to manage growth and development in their area in line with local community needs and expectations.

New section 99BRCG also provides the ability for a board decision to declare that there is no adopted charge for part or all of the distributor-retailers geographic area and provide for automatic increases in levied charges from when the charge is levied to when the charge is paid (an *automatic increase provision*).

However, an automatic increase provision must state how increases under it are to be worked out. Additionally, the automatic increase increased must not be more than the lesser of the following—

- the different between the levied charge and the amount mentioned in subsection (1)(b) the distributor-retailer could have levied for the trunk infrastructure when the charge is paid
- the increase for the PPI index for the period stating on the day the levied charge was levied and ending on the day the charge is paid, adjusted by reference to the 3-yearly PPI index average.

New subsection (6) provides that for the indexation of levied charges under subsection (5)(b), the producer price index for Queensland road and bridge construction is to be smoothed in accordance with the 3 year moving average quarterly percentage change between quarters. The intent of smoothing the raw data in this way is to eliminate any short-term fluctuations that may unfairly advantage the either the applicant or the distributor-retailer due to steep short term fluctuations.

The maximum adopted charge, for trunk infrastructure, means the maximum for an adopted charge for the infrastructure imposed under an SPRP (adopted charges), as mentioned in the Planning Act, section 629(1) and as the amount of the maximum that is changed from time to time under the Planning Act, section 629(2).

New section 99BRCH Working out cost of infrastructure for offset or refund

New section 99BRCH provides that for the purpose of working out an offset of refund under this part, a board decision must include method for working out the cost of the infrastructure the subject of the offset or refund. The method must be consistent with the parameters for the purpose provided for under either the SPRP (adopted charges) or a guideline mentioned in the Planning Act section 633(2)(b).

The method included in a water Netserv plan is to be used when applicant makes a request under section 99BRCH and is intended to be used when the value of infrastructure identified in a distributor-retailer's water Netserv plan, which is the subject of an offset or refund, is out dated or incorrect. The methodology must outline the distributor-retailer's preferred approach for determining the actual value of the infrastructure at the time of the relevant water approval.

Subdivision 3 Levying charges

New section 99BRCI When charge may be levied and recovered
New section 99BRCI applies if—

- a distributor-retailer has given a water approval;
- an adopted charge applies for providing the trunk infrastructure; and
- the connection the subject of the water approval is not being carried out by a public sector entity on designated land under the Planning Act.

The distributor-retailer must give the applicant for a water approval an infrastructure charges notice. The distributor-retailer may give the infrastructure charges notice only within 10 business days after the distributor-retailer gives the applicant a decision notice under section 99BRAI or a notice under section 99BRAU(5).

New subsection (4) provides that timeframes for giving a notice are subject to any provision under which an infrastructure charges notice may be amended or replaced for example due to a decision to convert non-trunk infrastructure to trunk infrastructure. The infrastructure charges notice lapses if the water approval stops having effect. This may include the approval lapsing or being cancelled.

If the infrastructure charges notice levies on the applicant an amount for a charge worked out by applying the adopted charge (a *levied charge*), the following apply for the levied charge—

- its amount is subject to section 99BRCJ and 99BRCT;
- it is payable by the applicant;
- it attaches to the land;
- it only becomes payable as provided for under Chapter 4C, Part 7, Division 3, Subdivision 4;
- it is subject to any agreement under section 99BRCM(1); and
- the distributor-retailer may recover from the applicant the amount, or part of the amount of the charge as a debt.

New subsection (7) provides definitions for public sector entity.

New section 99BRCJ Limitation of levied charge
New section 99BRCJ provides that a levied charge may be only for additional demand placed upon trunk infrastructure that will be generated by the connection the subject of the water approval.

In working out additional demand, the following relating to the premises must not be included—

- existing demand for a water service or waste water service that is the subject of an existing water approval;
- existing uses that are lawful and already taking place on the premises; and
- other development that may be lawfully carried out on the premises without the need for a further development permit under the Planning Act.

For example, an application is lodged that proposes to subdivide 1 lot into 3, there is an existing 3 bedroom house on the original lot however two new connections will be required. Assuming that each lot is intended to be used in the same way as the original lot,

infrastructure charges should only be levied for the two new lots. No charge is applied for the third lot as there is no additional demand from the existing house.

New section 99BRCK Requirements for infrastructure charges notice
New section 99BRCK provides that an infrastructure charges notice must state all of the following for the levied charge—

- its current amount;
- how it has been worked out;
- the land;
- when it will be payable under section 99BRCL (without considering any possible water infrastructure agreement);
- if an automatic increase provision applies that it subject to automatic increases and how the increases are worked out under the provisions; and
- whether an offset or refund under Chapter 4C, Part 7 applies and if so details of the offset or refund.

The infrastructure charges notice must also include, or be accompanied by an information notice about the decision to give the notice.

Subdivision 4 Payment

New section 99BRCL Payment triggers generally
New section 99BRCL provides that a levied charge for trunk infrastructure becomes payable—

- when the network connection is made if the charge applies for a water approval and there is a related reconfiguring of a lot that is assessable development or development requiring compliance assessment; or
- otherwise when the property service connection is made.

New section 99BRCL also provides, the payment of charges is subject to any relevant water infrastructure agreement and for a definition of assessable development see the Planning Act Schedule 3.

New section 99BRCM Agreements about payment or provision instead of payment
New section 99BRCM provides that the recipient of an infrastructure charges notice and the distributor-retailer that gave it may agree about either or both of the following—

- whether the levied charge may be paid other than as required under section 99BRCL, including whether it may be paid by instalments; and
- whether infrastructure may be provided instead of paying part or all of the levied charge.

If the levied charge is subject to an automatic increase provisions, the agreement must state how increase in the charges are payable under the agreement.

This section is intended to provide applicants and distributor-retailers with the flexibility to make alternative arrangements for paying or providing infrastructure.

Subdivision 5 Changing charges

New section 99BRCN Application of Planning Act, ch 8, pt 2, div 1, sdiv 5
New section 99BRCN provides that the Planning Act, Chapter 8, Part 2, Division 1, Subdivision 5 applies to an infrastructure charges notice given by a distributor-retailer with any necessary changes, as if a reference in the subdivision to—

- an infrastructure charges notice were a reference to an infrastructure charges notice under the SEQ Water Act;
- the local government that gave the infrastructure charges notice were the distributor-retailer that gave the infrastructure charges notice under the SEQ Water Act; and
- the relevant appeal period were a reference to the period within which the recipient of the infrastructure charges notice may make an internal review application under Part 4, Division 2 of the SEQ Water Act about the decision to give an infrastructure charges notice.

Subdivision 6 Miscellaneous

New section 99BRCO Distributor-retailer may supply different trunk infrastructure from that identified in a water Netserv plan
New section 99BRCO provides that a distributor-retailer may supply different trunk infrastructure from the infrastructure identified in its water Netserv plan if the infrastructure supplied delivers the same desired standard of service identified in the plan.

Division 4 Water approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

New section 99BRCP Application and operation of sdiv 1
New section 99BRCP provides that subdivision 1 applies if trunk infrastructure necessary to service the premises the subject of a water approval (the *subject premises*) has not been provided or has been provided but is inadequate. New sections 99BRCQ and 99BRCR go on to provide for a distributor-retailer to be able to impose particular water approval conditions (each conditions is a *necessary infrastructure conditions*) on any water approval given.

New section 99BRCQ Necessary infrastructure condition for infrastructure identified in water Netserv plan
New section 99BRCQ provides that a distributor-retailer may impose water approval conditions about trunk infrastructure that has been identified in its water Netserv plan. A distributor-retailer can require either or both of the following:

- identified infrastructure;
- different trunk infrastructure to what is identified in its water Netserv plan, provided that the alternative infrastructure delivers the same standard of service.

This section provides flexibility for a distributor-retailer to respond practically when conditioning a water approval. For example under this section a distributor-retailer could alter the alignment of water infrastructure identified in the distributor-retailer's Netserv plan, to better accommodate the specifics of the proposed development and connection.

New section 99BRCR Necessary infrastructure condition for other infrastructure
New section 99BRCR provides that even if a distributor-retailer's water Netserv plan does not identify trunk infrastructure a distributor-retailer may still impose a condition requiring trunk infrastructure at a stated time if it is necessary to service the premises. It is not always possible for a distributor-retailer to predict and identify all trunk infrastructure that will be necessary to service all future development. The need for unidentified trunk infrastructure may only be realised when an application for connection is considered.

Under section 99BRCR a distributor-retailer is able to impose a condition requiring the applicant to provide previously unidentified trunk infrastructure at a specified time.

However, the distributor-retailer may impose a condition under subsection (2) only if the infrastructure is trunk infrastructure that services a connection:

- consistent with the assumptions about the type, scale, location, timing or intensity of future development stated in the water Netserv plan; and
- for premises completely inside the connection area and future connection area.

New section 99BRCS Deemed compliance with reasonable or relevant requirement
New section 99BRCS provides that a necessary infrastructure condition is taken to comply with the relevant and reasonable requirements under section 99BRAJ (1) if—

- generally the infrastructure required is necessary to service the subject premises and it is the most efficient and cost-effective solution for servicing other premises in the general area of the subject premises.
- for a necessary infrastructure condition that requires the provision of the infrastructure on the subject premises its provision is not an unreasonable imposition on the connection and is reasonable required for the connection.

To remove any doubt it is declared that a necessary infrastructure condition may be imposed for infrastructure even if it will service premises other than the subject premises.

New section 99BRCT Offset or refund requirements
New section 99BRCT provides that where there is a water approval with a necessary trunk infrastructure condition and the trunk infrastructure services or is planned to service other premises and an adopted charge applies for trunk infrastructure the applicant may be entitled to compensation.

New subsection (2) provides for when the cost of the infrastructure required by necessary infrastructure condition is equal to or less than the amount worked out by applying the adopted charge. In this circumstance the value of the trunk infrastructure to be provided under a necessary infrastructure condition is subtracted from the value of the infrastructure charge payable. The remaining infrastructure charge value, once the cost of any necessary infrastructure the subject of the condition has been deducted, is the payable charge by the applicant.

When the value of infrastructure is greater than the amount worked out by applying the adopted charge, there is no amount payable by the applicant for the relevant water approval and the distributor-retailer must provide a refund to the applicant for the proportion of the establishment cost of the trunk infrastructure that –

- may be apportioned reasonably to users of premises other than the subject premises; and
- has been, is or is to be the subject of a levied charge.

The distributor-retailer and the payer have to agree to the timing of a refund.

Subdivision 2 Conditions for additional trunk infrastructure costs

New section 99BRCU Power to impose
New section 99BRCU provides that a distributor-retailer may impose a condition (an *additional payment condition*) on a water approval requiring the payment of additional trunk infrastructure costs if the connection:

- Either—
  - will generate infrastructure demand more than that required to service the type, scale or intensity of future development assumed in the water Netserv plan (for example demand for a commercial type infrastructure is planned for however a light industry infrastructure connection is requested); or
  - will require new trunk infrastructure earlier then when identified in the distributor-retailer's water Netserv plan (for example an expansion of a commercial centre is occurring before the time identified in a distributor-retailer water Netserv plan); or
  - is for premises completely or partly outside the connections area and future connections area; and
- Would impose additional trunk infrastructure costs on the distributor-retailer after taking into account either or both of the following—levied charges for the trunk infrastructure or trunk infrastructure provided, or to be provided, by the applicant under this part.

An additional payment condition is taken to comply with relevant and reasonable requirements under section 99BRAJ(1) to the extent the infrastructure is necessary for the connection but is not yet available to service the connection. The reasonable and relevant compliance applies even if the infrastructure is also intended to service other premises.

The power to impose an additional payment condition is subject to the rest of subdivision 2.

New section 99BRCV Content of additional payment condition
New section 99BRCV provides that an additional payment condition must state all of the following:

- why it was imposed;
- the amount of the payment to be made under the condition;
- details of the trunk infrastructure for which the payment is required;
- when the amount becomes payable (the *payment time*);
- that the applicant may, instead of making the payment, elect to provide part or all of the trunk infrastructure;
- if the applicant so elects any requirements for providing the trunk infrastructure and when the trunk infrastructure must be provided.

Unless the applicant and the distributor-retailer otherwise agree, the payment time is:

- by the day the connection, or work associated with the connection, starts if the trunk infrastructure is necessary to service the premises; or
- if the trunk infrastructure is not necessary to service the premises—
    - when the network connection is made for a connection associated with reconfiguring a lot; or
    - when the property service connection is made for other connections.

New section 99BRCW Restriction if connection completely in connection area and future connection area

New section 99BRCW applies for an additional payment condition imposed by a distributor-retailer for a connection completely inside the connection area and future connection area.

The additional payment condition may require a payment only as follows:

- for trunk infrastructure to be provided earlier than planned in the water Netserv plan the difference between—
    - the establishment cost of the infrastructure made necessary by the connection; and
    - the amount or any charge paid for the trunk infrastructure.
- for infrastructure associated with a different type, scale or intensity of future development from that assumed in the water Netserv plan—the establishment cost of any additional trunk infrastructure made necessary by the connection.

New section 99BRCX Other area restrictions

New section 99BRCX applies for an additional payment condition imposed by a distributor-retailer for a connection completely or partly outside the connection area and future connection area. The additional payment condition may only requirement payment of—

- the establishment cost of trunk infrastructure that is made necessary by the connection and needed to service the rest of the connection area and future connection area; and
- either or both the following establishment costs of any temporary infrastructure: costs required to ensure the safe or efficient operation of infrastructure needed to service the connection or costs made necessary by the connection; and
- any decommissioning, removal and rehabilitation costs of the temporary infrastructure; and
- the maintenance and operating costs for up to 5 years of the infrastructure and temporary as mentioned above.

The scope for levying an additional cost condition under section 99BRCY is considerably broader than for a connection within the connection area and the future connection area. This reflects the fact that the connection outside the connection area and the future connection area is not planned for by a distributor-retailer through its water Netserv plan.

New section 99BRCY Refund if connection in connection area and future connection area

New section 99BRCY applies for an additional payment condition imposed by a distributor-retailer for a connection completely inside the connection area and future connection area. The distributor-retailer must refund the payer the proportion of the establishment cost of the infrastructure that, may be apportioned reasonably to other users of the infrastructure and has been, is or is to be, the subject of a levied charge by the distributor-retailer. Timing the refund is subject to terms agreed between the payer and distributor-retailer.

New section 99BRCZ Refund if water approval ceases
New section 99BRCZ applies if:

- if a water approval that is subject to an additional payment condition no longer has effect for example if the water approval lapses; and
- a payment has been made under the condition; and
- construction of the infrastructure the subject of the condition has not substantially started before the water approval no longer has effect.

The distributor-retailer must refund the payer any part of the payment the distributor-retailer has not spent, or contracted to spend, on designing and constructing the infrastructure. Timing of the refund is subject to terms agreed between the payer and distributor-retailer.

New section 99BRDA Additional payment condition does not affect other powers
New section 99BRDA provides that to remove any doubt, it is declared that the imposition of an additional payment condition does not prevent a distributor-retailer from doing the following—

- adopting charges for trunk infrastructure or levying charges;
- imposing a condition for non-trunk infrastructure;
- imposing a necessary infrastructure condition.

Subdivision 3 Miscellaneous provisions

New section 99BRDB No conditions on State infrastructure suppliers
New section 99BRDB provides that a distributor-retailer cannot impose a condition under Chapter 4C, Part 7, Division 4 on a supplier of State infrastructure. The definition for State infrastructure is provided for under the Planning Act, Schedule 3.

New section 99BRDC Working out cost for required offset or refund
New section 99BRDC applies if:

- a distributor-retailer has given an applicant a water approval under which the applicant is required to provide trunk infrastructure and an infrastructure charges notice that includes details of an offset or refund under Chapter 4C, Part 7 relating to the establishment cost of the trunk infrastructure; and
- the applicant does not agree with the value of the establishment cost.

The applicant may, by notice to the distributor-retailer, require it to use the method under the relevant infrastructure charges schedule to recalculate the establishment cost. By notice to the applicant the distributor-retailer must amend the existing infrastructure charges notice. The amended infrastructure charges notice must adopt the method to work out the establishment cost.

The intention of this section is to provide applicants with a consistent process for confirming the value of trunk infrastructure to be provided by an applicant. It is intended that this section is used where an applicant is dissatisfied with the planned value for infrastructure (as identified in a water Netserv plan) that is the subject of the offset or refund.

Division 5 Miscellaneous provisions about trunk infrastructure

Subdivision 1 Conversion of particular non-trunk infrastructure before construction starts

New section 99BRDD Application of sdiv 1
New section 99BRDD provides that subdivision 1 applies if a particular water approval condition under section 99BRDJ requires non-trunk infrastructure to be provided and the construction of the non-trunk infrastructure has not started.

New section 99BRDE Application to convert infrastructure to trunk infrastructure
New section 99BRDE provides that the applicant for the water approval may apply to convert the non-trunk infrastructure to trunk infrastructure. An application to convert non-trunk infrastructure to trunk infrastructure is a conversion application. The application must be made to the distributor-retailer in writing.

New section 99BRDF Deciding conversion application
New section 99BRDF provides that the distributor-retailer must consider and decide the conversation application within the required period of 30 business days after the making of the application or if an information requirement is made the requirement is complied with.
A regulation may prescribe criteria relevant to a decision about a conversion application.

However, at any time before making the decision, the distributor-retailer may give a notice (an *information requirement*), to the applicant requiring the applicant to give information the distributor-retailer reasonably needs to make the decision.

The notice must state what information the distributor-retailer requires and that the recipient of the notice has at least 10 business days for the giving of the information. The information requirement must also explain that if the application for information lapses if the applicant does not comply with the notice within the later of the following—

- the period stated in the notice for giving the information;
- any later period as agreed within the period stated in the notice, between the distributor-retailer and the applicant.

New section 99BRDG Notice of decision
New section 99BRDG provides that as soon as practicable after deciding the conversion application, the distributor-retailer must give the applicant notice of the decision. If the decision is to convert the non-trunk infrastructure to trunk infrastructure, the notice must state whether an offset or refund under this part applies and, if it does, details of the offset or refund. If the decision is not to convert the non-trunk infrastructure, the notice must be an information notice about the decision.

New section 99BRDH Effect of and action after conversion
New section 99BRDH applies if the decision on a conversion application is to convert non-trunk infrastructure to trunk infrastructure.

The relevant water approval condition requiring non-trunk infrastructure to be provided no longer has effect. Within 20 business days after making the decision, the distributor-retailer may amend the water approval by imposing a necessary infrastructure condition for the trunk

infrastructure. If a necessary infrastructure condition is imposed, the distributor-retailer must also do either of the following within10 business days after of the imposition for the purposes of section 99BRCT (2) or (3)(b)—

- give an infrastructure charges notice;
- amend, by notice to the applicant, any existing infrastructure charge notice for the water approval.

For taking action under section 99BRDI subsections (3) or (4), Chapter 4C, Part 4 and Part 7, Divisions 3 and 4 apply as it—

- a water approval were a reference to the conversion; and
- a levied charge were a reference to the amendment of the levied charge.

Subdivision 2 Other provisions

New section 99BRDI Application of levied charge
New section 99BRDI provides that a levied charge paid to a distributor-retailer must be used to provide trunk infrastructure. To remove any doubt, it is declared that the amount paid need not be held in trust by the distributor-retailer.

Division 6 Non-trunk infrastructure

New section 99BRDJ Conditions distributor-retailers may impose
New section 99BRDJ applies for the imposition by a distributor-retailer of a water approval condition about non-trunk infrastructure.

The condition may be only about providing development infrastructure for one or more of the following—

- a network, or part of a network, internal to the premises
- connection the premises to external infrastructure networks
- protecting or maintaining the safety or efficiency of the water infrastructure network of which the non-trunk infrastructure is a component.

The condition must state the infrastructure to be provided and when the infrastructure must be provided.

Division 7 Water infrastructure agreements

New section 99BRDK Water infrastructure agreement
New section 99BRDK provides that a *water infrastructure agreement* is an agreement, as amended from time to time, mentioned in any of the following sections: 99BRCM(1), 99BRCT(4), 99BRCV(2), 99BRCY(3), 99BRCZ(3), and 99BRDP(1).

New section 99BRDL Obligation to negotiate in good faith
New section 99BRDL applies if a distributor-retailer proposes to another entity that they enter into a water infrastructure agreement or a person proposes to a distributor-retailer that they enter into a water infrastructure agreement.

The distributor-retailer or other entity to whom the proposal is made must, in writing, tell the proponent if it agrees to entering into negotiations for an infrastructure agreement. In

negotiating an infrastructure agreement, the distributor-retailer and the other entity must act in good faith.

Examples of actions for negotiating in good faith include:

- disclosing to the other party to the negotiations in a timely way information relevant to the entering into of the proposed agreement;
- considering and responding in a timely way to the other party's proposals about the proposed agreement;
- giving reasons for each response.

New section 99BRDM Content of water infrastructure agreement

New section 99BRDM provides that a water infrastructure agreement must include a statement about how the obligations must be fulfilled in the event obligations under the water infrastructure agreement would be affected by a change in the ownership of land the subject of the agreement.

A water infrastructure agreement must also include any other matters required by a regulation to be included.

New section 99BRDN When water infrastructure agreement binds successors in title

New section 99BRDN applies if the owner of land to which a water infrastructure agreement applies is a party to the agreement or consents to the water connection obligation being attached to the land. The water connection obligations under the water infrastructure agreement attach to the land and bind the owner and the owner's successors in title of the land. If the owner's consent is given but not endorsed on the water infrastructure agreement, the owner must give a copy of the document evidencing the owner's consent to the distributor-retailer for the land to which the consent applies.

Despite the obligations attaching to land if the water infrastructure agreement states that if the land is subdivided, part of the land is to be released from the water connection obligations and the land is subdivided, the part of land is released from the water connections obligations. Additionally, the water connection obligations are no longer binging on the owner of the part.

In this section a water connection obligation means an obligation under the water infrastructure agreement other than an obligation to be fulfilled by a public sector entity. A public sector entity is defined in the Planning Act, Schedule 3.

New section 99BRDO Water infrastructure agreement prevails over water approval and infrastructure charges notice

New section 99BRDO provides that if a water infrastructure agreement is inconsistent with a water approval or infrastructure charges notice, the agreement prevails to the extent of the inconsistency.

New section 99BRDP Agreement for infrastructure partnerships

New section 99BRDP provides that a person may enter into an agreement with a distributor-retailer about providing or funding infrastructure or refunding payments made towards the costs of providing or funding infrastructure. This is not limited to trunk infrastructure. This has effect despite section 99BRAJ and Chapter 4C, Part 7, Divisions 2 to 6.

Clause 46 Amendment of s 99BT (Keeping particular documents available for inspection and purchase)

Clause 46 amends section 99BT to require an SEQ service to provide to keep available for inspection and purchase a copy of all supporting material used to draft its water Netserv plan. A distributor-retailer must also keep available for inspection and purchase each water infrastructure agreement and each document mentioned in the water Netserv plan used to prepare the plan.

Clause 47 Amendment of s 140 (Schedule of works for distributor-retailers before 1 October 2014)

Clause 47 amends section 140 to provide that a reference to a water Netserv plan in sections 99BRCO; 99BRCQ; 99BRCR; 99BRCU; 99BRCW or the definition of trunk infrastructure, is taken to be a reference to the schedule of works adopted by the distributor-retailer's board under subsection (1).

Clause 48 Insertion of new ch 6, pt 10

Part 10 Transitional provisions for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

New section 141 Transitional regulation-making power

New section 141 provides that a regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which it is necessary to make provision to allow or facilitate the change from the operation of the unamended Act to the operation of the amended Act. A transitional regulation may have retrospective operation to a day that is not earlier than the commencement.

A transitional regulation must declare it is a transitional regulation. This section and any transitional regulation expire 1 year after the commencement.

Clause 49 Amendment of schedule (Dictionary)

Clause 49 amends Schedule 3 (Dictionary) for the purposes of the Bill.

Division 2 State Development and Public Works Organisation Act 1971

Clause 50 Act amended

Clause 50 provides that the Bill amends the *State Development and Public Works Organisation Act 1971* (SDPWO Act).

Clause 51 Amendment of s 24 (Definitions for pt 4)

Clause 51 moves the definition of a 'properly made submission' and 'submission period' from Part 4 to the Dictionary so that it may apply to both Part 4 and new Part 4A.

Clause 52 Insertion of new pt 4A

Clause 52 inserts the new Part 4A for particular coordinated projects to be assessed and approval decisions made by the Coordinator-General under the bilateral agreement. Particular coordinated projects include, but are not limited to, projects that may have an impact on matters of national environmental significance (MNES) that are currently declared 'controlled actions' under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) requiring approval of the Commonwealth Environment Minister.

Part 4A Assessment and approval of particular coordinated projects under bilateral agreement

Division 1 Preliminary

New section 54H Application and purpose pt 4A
Section 54H is intended to ensure a valid approval decision can be made under Part 4A. A project may only be considered for approval where a bilateral agreement is in place and that Part 4A has been accredited as an authorisation process for the purposes of the bilateral agreement.

The purpose of Part 4A is to specify the necessary procedures and decision-making requirements for an accredited authorisation process for the purposes of an approvals bilateral agreement. In many sections throughout Part 4A, the procedures and requirements are intended to mirror similar provisions of the EPBC Act.

New section 54I Definitions for pt 4A
Section 54I provides definitions that cross-reference the EPBC Act and new definitions for *bilaterally accredited authorisation process*, *bilateral project declaration*, *environmental approval*, *protected matters report* and *specified provision*.

Division 2 Coordinated projects to be assessed under this part

New section 54J Declaration for coordinated project for this part
Section 54J provides powers to the Coordinator-General to declare a project to be assessed under this part where the project is a coordinated project. The declaration is intended to be able to be made either concurrently or following the declaration of a coordinated project.

A declaration cannot be made for a project that is not fully within the scope of the approvals bilateral agreement. Projects that are likely to have a significant impact on a protected matter (specified by section 34 of the EPBC Act) that is not covered by the approvals bilateral agreement are not intended to be considered for declaration. Also, a declaration cannot be made for a project to be assessed under this part where the Commonwealth Minister has already made an earlier determination under the EPBC Act about the project.

New section 54K Application for declaration
Section 54K specifies the application and the information requirements to allow the Coordinator-General to consider the project to be assessed under this part. The application should describe the protected matters under the EPBC Act that may be impacted by the project, including matters that may be outside the scope of the bilateral agreement (such as impacts entirely outside Queensland State waters but entirely within Commonwealth territorial waters).

New section 54L Deciding application
Section 54L specifies that the matters that the Coordinator-General must consider in the decision whether or not to make the declaration. If the Coordinator-General decides not to make the declaration, then he or she must give the applicant written notice of the reasons for it.

New section 54M Cancellation of declaration
Section 54M specifies that a declaration may be cancelled if the proponent provides a written request, or if the Coordinator-General considers the project is no longer within the scope of the bilateral agreement. This may occur where the proponent proposes changes to the location or design of the project during the EIS process. This may also be an outcome of the bilateral agreement.

A declaration may also be cancelled if the coordinated project declaration is cancelled under section 27AF.

Where the Coordinator-General initiates the cancellation the proponent will receive a notice of decision and reasons for it.

New section 54N Lapsing of declaration
Section 54N states that if a declaration for the coordinated project lapses under Part 4, then the authorisation process under Part 4A also lapses. This maintains the linkage between the two concurrent assessment processes in Part 4 and Part 4A.

Division 3 Assessment and approval process

New section 54O Application of div 3
This division provides the assessment and approval process for the new ‘stand-alone’ Part 4A.

New section 54P Preparation of draft protected matters report
Section 54P sets the requirement for the proponent to prepare a draft protected matters report and specifies the information that needs to be included in the report. This provision enables the Coordinator-General to specify requirements that may be additional to the standard requirements set out in Schedule 1AA of the regulation.

Subsection (4) enables the Coordinator-General to refer the draft report to any person prior to public notification. The intention is to facilitate input of any available expert technical advice about potential impacts at this stage.

New section 54Q Public notification of draft protected matters report
Section 54Q specifies the requirements for public notification the draft protected matters report, which generally follows the processes for an EIS under section 33 of the Act. These requirements allow for the circumstances where public notification of the EIS for the coordinated project has already occurred prior declaration of the project under Part 4A. Otherwise, the public notifications for the project corresponding to the concurrent processes in Parts 4 and 4A are required to occur together. These requirements aim to minimise the incidence of duplicate, fragmented and potentially confusing public processes.

New section 54R Proponent must finalise protected matters report after public notification
Section 54R requires the proponent to supply the Coordinator-General with a final protected matters report that takes into account the accepted submissions received during the public consultation period. This provision reflects similar provisions in the EPBC Act (section 104).

The definition of accepted submissions is intended to limit the proponent's analysis of submissions to those relevant to protected matters. However, the definition includes protected matters that are not necessarily specified by the bilateral agreement. This enable the Coordinator-General to consider information in submissions that may indicate that the declared project is no longer in the scope of the bilateral agreement.

New section 54S Coordinator-General may seek further information or comments
Section 54S sets out that, after receiving the final protected matters report from the proponent, the Coordinator-General may require further information reasonably necessary in order to make a decision about issuing an environmental approval. This provision reflects similar provisions in the EPBC Act (section 132).

This section also specifies that if the proponent does not comply with the request for further information, then the Coordinator-General may make a decision about the issuing of the environmental authority without the further information or refuse to make a decision until the information has been provided to the satisfaction of the Coordinator-General.

New section 54T Decision about approving undertaking of coordinated project
Following the receipt of sufficient information, the Coordinator-General must decide to either approve all or part of the project, or refuse the project. The decision must separately consider each of the protected matters specified in the bilateral agreement and ensure that, for each specified matter, potential impacts would not be unacceptable or unsustainable. These provisions reflect the relevant requirement under section 46 of the EPBC Act. Decision making criteria are specified by new section 54W.

New section 54U Conditions
Section 54U establishes the power of the Coordinator-General to impose conditions that are consistent with the EPBC Act, section 134 in particular. These conditions may be necessary or convenient for protecting, repairing or mitigating damage to a specified protected matter for which the approval has effect (whether or not the damage is likely to be caused by the action). Specific powers are included to allow the Coordinator-General to impose conditions for offsets, bonds, audits and the duration of approval.

New section 54V Jurisdiction for conditions
Consistent with the powers for imposed conditions in Part 4 of the SDPWO Act, new section 54V enables the Coordinator-General to nominate an entity that is to have jurisdiction for the condition for compliance purposes. This promotes an efficient compliance system by allocating responsibility to the entity with the necessary expertise, statutory authority and/or experience to carry out the role.

New section 54W Criteria for decision
Section 54W describes the matters the Coordinator-General must consider in making a decision on an approval or a condition. In particular, the Coordinator-General must consider the information about the project's potential impacts supplied by the proponent, submissions accepted under section 54Q and the decision making criteria in the approval bilateral agreement. It is intended that the Coordinator-General would include all relevant technical advice received during the assessment process. It is noted that new section 54ZO envisages the Coordinator-General commissioning expert advice, at the cost of the proponent, necessary for an informed decision.
Subsection (3) enables the Coordinator-General to consider the environmental record of the proponent. This reflects similar provisions in the EPBC Act. It is noted that up to this point, the proponent of the coordinated project may have changed in accordance with section 27AE.

The Coordinator-General must prepare an assessment report that identifies the relevant material and the reasons for the decision.

New section 54X Notice of decision
The decision notice must state that the project is approved or refused. A copy of the assessment report must be given to the proponent.

New section 54Y Issuing environmental approval
Section 54Y states that if the Coordinator-General decides to approve the undertaking of the coordinated project or part of the project, the Coordinator-General must issue an environmental approval to the proponent separate to the decision notice. The section also outlines the information that the environmental approval must contain.

Division 4 Amendment of environmental approval

New section 54Z Application for amendment
This section established that the proponent may, either in conjunction with an application to the Coordinator-General to assess a change to the coordinated project, or a change to conditions of a coordinated project, request that the Coordinator-General assess a change to the environmental approval. This process can be used to assess:

- requests for extension to an approval (change to condition);
- requests to amend conditions; and
- changes to the project or proponent.

This section also specifies the information that must be included with the application, including:

- the reasons for the proposed amendment;
- the likely impact of the amendment on any matter protected by the EPBC Act;

- enough supporting information to allow the Coordinator-General to decide the application (under new section 54ZD(2)); and
- details and consent of a new proponent (if that is proposed).

New section 54ZA Coordinator-General may seek further information or comments
The Coordinator-General may ask any person or issue a notice to the proponent for further information about the proposed amendment and its effects on the coordinated project or another related matter.

If the proponent fails to comply with such a notice, the Coordinator-General may decide the amendment application without further information or refuse to decide the application until the notice is complied with to the Coordinator-General's satisfaction.

New section 54ZB Public notification of amendment application
Public notification of the proposed changes will be a requirement, except for a request for extension to a lapse date for an approval or a change of proponent. Again, the standard process of public notification for an EIS for a coordinated project described under section 33 of the Act will be followed.

Public notification, even for relatively minor proposed amendments, is considered to be a necessary requirement to comply with the Australian Government's standards for accreditation.

New section 54ZC Deciding amendment application
The Coordinator-General must decide whether to approve or refuse a change application. This section also describes the matters that the Coordinator-General must consider in making that amendment decision. This process reflects the matters that must be considered in the original approval decision.

New section 54ZD Notice of decision
The proponent receives written notice of the decision and reasons for it.

New section 54ZE Issuing amended environmental approval
If the decision is to approve the amendment application the proponent is provided with an amended environmental approval.

Division 5 Cancelling environmental approval

New section 54ZF Cancellation at proponent's request
Section 54ZF provides that the proponent may make a written request to the Coordinator-General to cancel the approval for a specified provision. The Coordinator-General may cancel the environmental approval for the specified provision following the request.

New section 54ZG Cancellation for grounds including contravention or unforseen significant impact
Section 54ZG provides that the Coordinator-General may cancel an environmental approval for a specified provision if the approval or conditions have been contravened or if significant environmental impacts have, will or are likely to occur on a specified matter that were not accurately identified by the proponent in the assessment and the approval would not have

been issued or would have been issued with particular conditions if that information had been known during the assessment period.

The approval may also be cancelled if the information provided during the assessment did not accurately identify the likely impacts of the project on a protected matter and the information was inaccurate because of the proponent's negligence or deliberate act or omission. Each of these provisions mirror the existing revocation provisions in the EPBC Act (section 145)

New section 54H Notice of proposed cancellation
Section 54H provides that before cancelling an environmental approval the Coordinator-General must give the proponent a notice with grounds for cancellation and an opportunity to respond to the proposed cancellation of at least 14 days. The Coordinator-General must consider any response given by the proponent within the stated time.

New section 54ZI Notice of cancellation decision
Section 54ZI provides that if the Coordinator-General decides to cancel an environmental approval the proponent must receive a decision notice (within 14 days after the decision) with the day of effect stated in the written notice.

New section 54ZJ Issuing amended environmental approval
Section 54ZJ provides for an amended environmental approval to be issued to the proponent after a decision in new section 54ZH(1) to cancel part of the approval in relation to one or more specified protected matters.

Division 6 Offences and compliance

New section 54ZK Failure to comply with environmental approval or conditions
Section 54ZK describes the penalties that apply in relation to non-compliance with an environmental approval or a condition. The penalties specified are broadly consistent with similar provisions in the EPBC Act.

New section 54ZL Compliance under Environmental Protection Act
Section 54ZL provides the application of provisions of the EP Act with regard to causing environmental harm and executive officer liability to the undertaking of a coordinated project. These provisions are modelled on similar provisions in Part 4, Division 8 of the SDPWO Act.

Offence provisions of the EP Act are relevant to environmental approval. The section limits the following persons to bring a proceeding-

- the Coordinator-General;
- a nominated entity having jurisdiction for a condition;
- the local government in which the coordinated project is being undertaken;
- the proponent;
- another person whose interests are significantly adversely affected by the subject matter of the proceeding.

New section 54ZM Declarations
Section 54ZM provides that any person mentioned above may start a proceeding in the Planning and Environment Court for a declaration about the lawfulness of undertaking a

coordinated project in accordance with SPA. These provisions are modelled on similar provisions in Part 4, Division 8 of the SDPWO Act.

Division 7 Miscellaneous

New section 54ZN Fees for pt 4A
Consistent with Part 4, the proponent must pay the Coordinator-General the fees prescribed under a regulation and if the fees become payable the Coordinator-General's obligations are suspended until the fee has been paid. The fee for a project undertaken under Part 4A is to be described in the regulation.

New section 54ZO Recovering the cost of advice or services for assessment
As in Part 4, the Coordinator-General may recover cost of services for assessment. In practice, this cost recovery is generally applied only where the Coordinator-General must contract external to government for the provision of advice or assistance not available with government at that time, especially in relation to highly technical specialist matters.

Clause 53 Amendment of s 173 (Regulation-making power)

Clause 53 amends section 173 to expand the regulation making power to clarify that regulations can be made for the SDPWO Act in respect of the approvals bilateral.

Clause 54 Insertion of new pt 9, div 6

New Division 6 Transitional provision for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

Clause 54 inserts a transitional provision for particular coordinated projects that have completed the relevant EIS preparation and public notification obligations under Part 4 of the SDPWO Act and part 13 of the regulation prior to an approvals bilateral agreement being in place. If these projects are subsequently declared as a bilateral project under Part 4A, then the public notification of the EIS is considered to have satisfied the requirement for public notification of the draft protected matters report. This is intended to avoid unnecessary duplication of process that would otherwise occur for coordinated projects that have been undergoing assessment in accordance with the assessment bilateral or one-off accreditation processes.

Clause 55 Amendment of sch 2 (Dictionary)

Clause 55 provides definitions to terms that ensure consistency of terminology used in the EPBC Act. It also relocates the definition of 'properly made submission' from Part 4 of the SDPWO Act (following deletion by Clause 51) so that it may apply to both Part 4 and Part 4A of that Act.

Part 4 Minor and consequential amendments

Clause 56 Acts Amended

Clause 56 provides for Schedule 1 to amend the Acts it mentions.

Schedule 1 Minor and consequential amendments

South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

Schedule 1 makes a number of minor and consequential amendments to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* as a result of the Bill.

Sustainable Planning Act 2009

1 Section 20(1)(c) —
This amendment adds reference to the matters mentioned in section 629.

2 Section 38(b)(ii)(A), 'priority infrastructure plans'—
This amendment removes reference to priority infrastructure plans and replaces this terminology with LGIPs.

3 Sections 78(2), 88(1)(e) and 212(3), 'a priority infrastructure plan'—
This amendment removes reference to priority infrastructure plans and replaces this terminology with LGIPs.

4 Section 85(1)(b) and (c)—
This amendment removes reference to priority infrastructure plans and replaces this terminology with LGIPs.

5 Section 205, from 'any charge' to 'part 1'—
This amendment removes reference to 'any charge for infrastructure under chapter 8, part 1' and replaces this segment with 'any adopted charge'.

6 Section 282(2)(f), from 'section 655'—
This amendment removes reference to 'section 655 to 657 – any relevant adopted infrastructure charges resolutions' and replaces this segment with 'chapter 8, part 2, division 2, subdivision 2 or part 3-any relevant charges resolution'.

7 Sections 313(2)(f) and 314(2)(i), 'an adopted infrastructure charges resolution or the priority infrastructure plan'—
This amendment removes reference to adopted infrastructure charges resolutions and priority infrastructure plans and replaces this terminology with the providers LGIP.

8 Sections 315(1)(c), 346(2), note, 388(1)(a), 404(1)(c) and 720, 'chapter 8, part 1'—

This amendment updates the reference to the relevant parts in chapter 8.

9 Section 364(1), from 'an infrastructure' to 'charge'

This amendment removes reference to infrastructure charge, regulated infrastructure charge and adopted infrastructure charge and replaces the terms with 'a levied charge'.

10 Section 364(2), from 'under', first mention, to 'section 648F'—

This amendment removes reference to 'under section 633, regulated infrastructure charges notices under section 643 or adopted infrastructure charges notice under section 648F'.

11 Chapter 7, part 2, division 1 heading, 'Establishment, constitution'—

This amendment amends the heading from 'constitution' to 'Constitution'.

12 Section 724(1)(a), 'its priority infrastructure plan'—

This amendment removes reference to priority infrastructure plans and replaces this terminology with its LGIP.

13 Section 724(1)—

This amendment includes a new provision to provide that local governments must keep available for inspection and purchase all supporting material used to draft its LGIP.

14 Section 724(1)(g)(ii) and (iii)—

This amendment removes reference to a priority infrastructure plan and an infrastructure charges schedule and replaces this terminology with an LGIP.

15 Section 724(1)(p) to (t)—

This amendment removes the provisions (p) through to (t), and replaces these with new provisions:

- (p) each documents mentioned in the LGIP used to prepare it;
- (q) each charges resolution of the local government;
- (r) a register (the ***infrastructure charges register***) of all infrastructure charges the local government levies;

16 Section 724(1)(u), 'chapter 8, part 2'—

This amendment updates the reference to be chapter 8, part 2, section 673.

17 Sections 724(3) and 739(f), from ', regulated' to 'adopted infrastructure charges register'—

This amendment provides for the removal of 'register, regulated infrastructure charges register and adopted infrastructure charges register', to reference only the infrastructure charges register.

18 Section 724(3)(b), 'schedule' –

This amendment replaces schedule with resolution.

19 Section 724(4)—

This amendment provides for the removal of this provision.

20 Section 738(a), from ‘, including’ to ‘schedule,’—

This amendment includes reference to charges resolutions.

21 Section 739(k), ‘section 662’—

This amendment updates the reference to the relevant section 673.

22 Section 834—

This amendment provides for the removal of this provision.