



Queensland

Sustainable Ports Development Bill 2015



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2015

A Bill

for

An Act to provide for the protection of the Great Barrier Reef World Heritage Area through managing port-related development in and adjacent to the area, and to amend this Act, the *Transport Infrastructure Act 1994* and the legislation mentioned in schedule 2 for particular purposes

[s 1]

The Parliament of Queensland enacts—	1
Part 1 Preliminary	2
Division 1 Introduction	3
1 Short title	4
This Act may be cited as the <i>Sustainable Ports Development Act 2015</i> .	5 6
2 Purpose of Act	7
(1) The purpose of this Act is to provide for the protection of the Great Barrier Reef World Heritage Area through managing port-related development in and adjacent to the area.	8 9 10
(2) The purpose is achieved by—	11
(a) prohibiting particular future development in the Great Barrier Reef World Heritage Area; and	12 13
(b) providing for the development of master plans that establish a long-term vision for the future development of priority ports consistent with the principles of ecologically sustainable development; and	14 15 16 17
(c) implementing master plans through port overlays that regulate development in and surrounding priority ports.	18 19
(3) Also, the purpose is to be achieved in a way that includes the following—	20 21
(a) long-term planning for priority ports to provide a strategic and coordinated approach to managing economic, environmental, cultural and social values in the Great Barrier Reef World Heritage Area;	22 23 24 25
(b) concentrating port development in priority ports;	26

-
- (c) recognising the diverse functions of the port network, including trade, tourism and defence operations; 1
2
 - (d) efficiently using port and supply chain infrastructure; 3
 - (e) expanding port and supply chain capacity in a staged and incremental way to meet emerging demand for imports and exports; 4
5
6
 - (f) identifying and protecting land and infrastructure critical to the effective operation of the port network. 7
8

Division 2 Interpretation 9

- ### **3 Definitions** 10
- The dictionary in schedule 1 defines particular words used in this Act. 11
12

Division 3 Application of Act 13

- ### **4 Act binds all persons** 14
- (1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States. 15
16
17
 - (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act. 18
19

[s 5]

Part 2	Planning for priority ports	1
Division 1	Preliminary	2
5	Priority ports	3
	Each of the following ports is a <i>priority port</i> —	4
	(a) Port of Abbot Point;	5
	(b) Port of Gladstone;	6
	(c) the ports of Hay Point and Mackay;	7
	(d) Port of Townsville.	8
6	Master planned areas	9
(1)	The <i>master planned area</i> for a priority port is the area—	10
	(a) identified in a master plan for the port as the master planned area for the port; and	11 12
	(b) approved by regulation.	13
(2)	To remove any doubt, it is declared that the master planned area for a priority port may include land that is outside the port's strategic port land under the Transport Infrastructure Act.	14 15 16 17
(3)	However, the master planned area for a priority port can not include the following areas—	18 19
	(a) an area covered by tidal water that is outside the port's port limits under the Transport Infrastructure Act;	20 21
	(b) an area within a marine park, even if the area is within the port's port limits under the Transport Infrastructure Act.	22 23 24
(4)	In this section—	25
	<i>marine park</i> means—	26
	(a) the Commonwealth marine park; or	27

(b)	the State marine park.	1
Division 2	Master planning for priority ports	2
Subdivision 1	Requirement for master plan	3
7	Master plan required	4
(1)	The Minister must make an instrument under this division (a <i>master plan</i>) for each priority port.	5 6
(2)	The master plan for a priority port must—	7
(a)	identify the master planned area for the port; and	8
(b)	apply to all of the master planned area.	9
(3)	The Minister must be satisfied the master plan for the priority port adequately considers the principles of ecologically sustainable development.	10 11 12
8	Content of master plan	13
(1)	A master plan for a priority port must—	14
(a)	state the strategic vision, objectives and desired outcomes for the master planned area; and	15 16
(b)	identify the State interests affected, or likely to be affected, by—	17 18
(i)	existing uses at the port; and	19
(ii)	future development at, or for, the port; and	20
(c)	include an environmental management framework that—	21 22
(i)	identifies and maps environmental values in the master planned area and surrounding areas; and	23 24

[s 9]

- (ii) identifies any impacts development in the master planned area may have on the environmental values; and
 - (iii) states objectives, and measures (the *priority management measures*), for managing the impacts identified under subparagraph (ii); and
 - (d) include any other matter prescribed by regulation.
- (2) In this section—
- State interest* means an interest the Minister considers to be—
- (a) an economic, community or environmental interest of the State or a part of the State; or
 - (b) the interest of ensuring this Act’s purpose is achieved, having regard to the matters mentioned in section 2.

Subdivision 2 Making and amending master plans

9 Process for making or amending master plans

The process stated in this subdivision must be used for making or amending a master plan for a priority port.

10 Notice of proposal

- (1) If the Minister proposes to make or amend a master plan for a priority port, the Minister must give notice of the proposal to the following entities—
- (a) the port authority for the priority port;
 - (b) each local government whose local government area includes the priority port.
- (2) The notice must state the following—
- (a) that the Minister proposes to make or amend a master plan for the priority port;

-
- (b) the name of the priority port to which the proposed master plan or amendment relates; 1
2
- (c) that the entity may make a written submission to the Minister about the proposal within a stated period of at least 20 business days. 3
4
5
- 11 Preparing and notifying draft instrument** 6
- (1) After giving notice of a proposed master plan or proposed amendment under section 10, the Minister must prepare a draft of the proposed master plan, or proposed amendment, (the *draft instrument*). 7
8
9
10
- (2) After preparing the draft instrument, the Minister must publish a public notice stating— 11
12
- (a) where copies of the instrument may be inspected and purchased; and 13
14
- (b) a phone number or email address to contact for information about the instrument; and 15
16
- (c) that an entity may make a written submission to the Minister about any aspect of the instrument, including the proposed master planned area; and 17
18
19
- (d) the requirements for properly making a submission; and 20
- (e) the period (the *consultation period*) within which a submission may be made, which must be at least— 21
22
- (i) if the Minister proposes to make a master plan—30 business days after the public notice is published in the gazette; or 23
24
25
- (ii) if the Minister proposes to amend a master plan—20 business days after the public notice is published in the gazette. 26
27
28
- (3) The Minister must give a copy of the notice and the draft instrument to the following entities— 29
30
- (a) the port authority for the priority port to which the draft instrument relates; 31
32

[s 12]

- (b) each local government whose local government area is within, or includes, the master planned area or proposed master planned area; 1
2
3
 - (c) if a State development area is within, or includes, the master planned area or proposed master planned area—the Coordinator-General; 4
5
6
 - (d) if a priority development area is within, or includes, the master planned area or proposed master planned area—MEDQ. 7
8
9
 - (4) For all of the consultation period, the Minister must keep a copy of the draft instrument available for inspection and purchase by members of the public at the department’s head office. 10
11
12
13
 - (5) In this section— 14
proposed master planned area means— 15
 - (a) if the draft instrument is a proposed master plan—the area identified in the instrument as the proposed master planned area; or 16
17
18
 - (b) if the draft instrument is a proposed amendment of a master plan—the area that will be identified in the master plan as the master planned area if the amendment is made. 19
20
21
22
- 12 Making proposed master plan or amendment** 23
- (1) After the Minister considers all submissions made in accordance with the public notice, the Minister must decide— 24
25
 - (a) to make the proposed master plan or amendment; or 26
 - (b) to make the proposed master plan or amendment with the changes the Minister considers appropriate; or 27
28
 - (c) not to make the proposed master plan or amendment. 29
 - (2) If the Minister decides to make the proposed master plan or amendment (with or without changes), the Minister must— 30
31
 - (a) publish the decision in a public notice stating— 32

-
- (i) the day the master plan or amendment was made; 1
and 2
 - (ii) where a copy of the master plan or amendment is 3
available for inspection and purchase; and 4
 - (b) give each entity mentioned in section 11(3) a copy of the 5
notice. 6
 - (3) The master plan or amendment has effect on— 7
 - (a) the day after the public notice mentioned in subsection 8
(2) is published in the gazette; or 9
 - (b) a later day stated in the master plan or amendment. 10
 - (4) If the Minister decides not to make the proposed master plan 11
or amendment, the Minister must publish the decision in a 12
public notice. 13

Subdivision 3 Repealing master plans 14

13 Process for repealing master plans 15

- (1) The Minister may repeal a master plan for a priority port (the 16
existing master plan) by making another master plan for the 17
port that specifically repeals the existing master plan. 18
- (2) The existing master plan is repealed on the day the other 19
master plan has effect. 20
- (3) If the Minister repeals a master plan for a priority port, the 21
port overlay for the priority port's master planned area is also 22
repealed. 23
- (4) For subsection (3), the port overlay is repealed on the day the 24
master plan replacing the repealed master plan has effect. 25

[s 14]

Subdivision 4	Reviewing master plans	1
14	Requirement to review master plans	2
(1)	The Minister must complete a review of the master plan for each priority port at least every 10 years after the plan has effect.	3 4 5
(2)	The review must include an assessment of the following matters—	6 7
(a)	whether the boundaries of the master planned area identified in the master plan are still appropriate having regard to the strategic vision, objectives and desired outcomes for the master planned area;	8 9 10 11
(b)	whether the implementation of the priority management measures stated in the master plan has been effective in managing the impacts of development on the environmental values identified in the plan;	12 13 14 15
(c)	whether the priority management measures should be changed.	16 17
15	Notice of review	18
(1)	Before reviewing a master plan for a priority port, the Minister must give notice of the review to the following entities—	19 20 21
(a)	the port authority for the priority port;	22
(b)	each affected local government.	23
(2)	The notice must state that—	24
(a)	the Minister proposes to review the master plan; and	25
(b)	the entity may make a written submission to the Minister about the proposal within a stated period of at least 20 business days.	26 27 28

16	Requesting information for review	1
(1)	The Minister may, at any time during the review of a master plan for a priority port, require 1 or both of the following entities—	2 3 4
(a)	an affected local government;	5
(b)	the port authority for the priority port;	6
	to give the Minister information the Minister is satisfied is relevant to the review.	7 8
(2)	The requirement must—	9
(a)	be in writing; and	10
(b)	state the reasonable period within which the information must be given.	11 12
(3)	The entity must comply with the requirement.	13
17	Action Minister must take after review	14
(1)	After reviewing a master plan, the Minister must—	15
(a)	prepare a new master plan; or	16
(b)	amend the master plan; or	17
(c)	if the Minister is satisfied the master plan is suitable to continue without amendment—decide to take no further action.	18 19 20
(2)	If the Minister decides to take no further action, the Minister must table in the Legislative Assembly a report stating the reasons for the decision.	21 22 23
	Subdivision 5 Guidelines for master plans	24
18	Ministerial guidelines	25
(1)	The Minister may make guidelines about matters that may be considered in preparing or reviewing a master plan for a	26 27

[s 19]

	priority port, including matters that may be considered in identifying the master planned area for the port.	1 2
(2)	The Minister must publish the guidelines on the department's website.	3 4
Division 3	Port overlays for master planned areas	5 6
Subdivision 1	Requirement for port overlay	7
19	Port overlay required	8
(1)	As soon as practicable after a master plan takes effect for a priority port, the Minister must make an instrument under this division (a <i>port overlay</i>) for the priority port's master planned area.	9 10 11 12
(2)	The port overlay must—	13
(a)	identify the master planned area to which it applies; and	14
(b)	apply to all of the master planned area.	15
(3)	The Minister must be satisfied the port overlay implements the master plan for the master planned area.	16 17
(4)	However, a port overlay can not regulate development in a priority development area or State development area.	18 19
20	Status of port overlay	20
(1)	A port overlay is a statutory instrument under the <i>Statutory Instruments Act 1992</i> and has the force of law as provided for under this Act.	21 22 23
(2)	A port overlay is not subordinate legislation.	24

21	Content of port overlay	1
(1)	The port overlay for a priority port’s master planned area must—	2 3
(a)	state the purpose of the overlay; and	4
(b)	state how the priority management measures in the master plan are to be achieved, including the entity responsible for the measures; and	5 6 7
(c)	include any other matter prescribed by regulation.	8
(2)	Also, the port overlay may—	9
(a)	for the Planning Act—	10
(i)	state the matters an affected local government must consider in making or amending a local planning instrument under that Act; or	11 12 13
(ii)	state that development in the master planned area is, under that Act, exempt development, self-assessable development, development requiring compliance assessment, assessable development requiring code or impact assessment, or prohibited development; or	14 15 16 17 18 19
(iii)	state the matters an assessment manager must consider in assessing a development application for development in the master planned area; or	20 21 22
(b)	for the Transport Infrastructure Act, state the matters a port authority must consider in making or amending a land use plan in relation to the priority port under chapter 8, part 4 of that Act; or	23 24 25 26
(c)	otherwise regulate development in the master planned area by, for example—	27 28
(i)	stating aspects of development that may not take place; or	29 30
(ii)	including measures to reduce the risk of environmental harm, or serious adverse cultural, economic or social impacts, in the master planned area.	31 32 33 34

[s 22]

- (3) Subsection (2)(a) and (c) is subject to section 19(4). 1
- (4) In this section— 2
 - environmental harm* see the Environmental Protection Act, 3
section 14. 4

Subdivision 2 Making, amending and repealing port overlays 5 6

22 Making or amending port overlays 7

- (1) The Minister may make or amend a port overlay for a priority port's master planned area by publishing a public notice stating— 8
 - (a) the day the port overlay, or amendment, (the *instrument*) was made; and 11
12
 - (b) where a copy of the instrument is available for inspection and purchase; and 13
14
 - (c) for an amendment of a port overlay—a brief description of the amendment. 15
16
- (2) The Minister must give a copy of the notice and the instrument to the following entities— 17
18
 - (a) the port authority for the priority port; 19
 - (b) each affected local government; 20
 - (c) if the master planned area is within, or includes, a priority development area—MEDQ; 21
22
 - (d) if the master planned area is within, or includes, a State development area—the Coordinator-General. 23
24
- (3) Subject to subsection (5), the instrument has effect on— 25
 - (a) the day after the public notice mentioned in subsection (1) is published in the gazette; or 26
27
 - (b) a later day stated in the instrument. 28

(4)	Within 14 sitting days after the instrument is made, the Minister must table a copy of the instrument in the Legislative Assembly.	1 2 3
(5)	The <i>Statutory Instruments Act 1992</i> , sections 49(2), 50 and 51 apply to the instrument as if—	4 5
(a)	the instrument were subordinate legislation; and	6
(b)	a reference in section 49(2) of that Act to section 49(1) of that Act were a reference to subsection (4).	7 8
23	Repealing port overlays	9
(1)	The Minister may repeal a port overlay (the <i>existing port overlay</i>) for a priority port’s master planned area by making another port overlay for the master planned area that specifically repeals the existing port overlay.	10 11 12 13
(2)	The existing port overlay is repealed on the day the other port overlay has effect.	14 15
Subdivision 3	Relationship with other instruments	16
24	Relationship with planning instruments under Planning Act	17 18
	If there is an inconsistency between a port overlay and a planning instrument under the Planning Act, the port overlay prevails to the extent of the inconsistency.	19 20 21
25	Relationship with land use plans under Transport Infrastructure Act	22 23
	If there is an inconsistency between a port overlay and a land use plan made under the Transport Infrastructure Act, chapter 8, part 4, the port overlay prevails to the extent of the inconsistency.	24 25 26 27

[s 26]

Subdivision 4	Relationship with Economic Development Act	1 2
26	Requirement to review development schemes under Economic Development Act	3 4
(1)	As soon as practicable after a port overlay takes effect for a priority port's master planned area, MEDQ must—	5 6
(a)	consider whether a development scheme for a priority development area under the Economic Development Act is inconsistent with the port overlay; and	7 8 9
(b)	if there is an inconsistency, decide whether to amend the development scheme to remove the inconsistency.	10 11
(2)	However, subsection (1) applies only if the master planned area is within, or includes, the priority development area.	12 13
(3)	If, under subsection (1)(b), MEDQ decides not to amend the development scheme, MEDQ must, within 14 sitting days after making the decision, table in the Legislative Assembly a report about the reasons for the decision.	14 15 16 17
27	Requirements for making or amending development schemes under Economic Development Act	18 19
(1)	In making or amending a development scheme for a priority development area under the Economic Development Act, MEDQ must consider, but is not bound by, a requirement under a port overlay.	20 21 22 23
(2)	Subsection (3) applies to MEDQ if—	24
(a)	under the Economic Development Act, MEDQ makes or amends a development scheme for a priority development area; and	25 26 27
(b)	the priority development area is within, or includes, a priority port's master planned area; and	28 29
(c)	the development scheme, or amendment, (the <i>instrument</i>) is inconsistent with the port overlay for the master planned area.	30 31 32

-
- (3) MEDQ must, within 14 sitting days after making the instrument, table in the Legislative Assembly a report stating the reasons for making the instrument despite the inconsistency.

Subdivision 5 Relationship with Planning Act

28 Application of Planning Act

- (1) Subject to this section, the Planning Act applies for development on land in a priority port's master planned area.
- (2) If there is an inconsistency between this section and the Planning Act, this section prevails to the extent of the inconsistency.
- (3) Subject to section 19(4), if development is stated in the port overlay for a master planned area to be development of a particular type for the Planning Act, the development is taken to be development of that type under that Act.
- (4) Subsections (5) and (6) apply to a development application to the extent the application is for development—
- (a) in a priority port's master planned area; and
 - (b) stated in the port overlay for the master planned area to be assessable development under the Planning Act.
- (5) If the port overlay states matters the assessment manager for the development application must consider in assessing the application, the assessment manager must, in assessing the application under the Planning Act, consider the matters.
- (6) The assessment manager's decision under the Planning Act about the development application must not be inconsistent with the port overlay.
- (7) Subsection (5) does not limit the Planning Act, sections 313, 314 and 316.

[s 29]

Subdivision 6	Relationship with State Development Act	1 2
29	Requirement to review approved development schemes under State Development Act	3 4
(1)	As soon as practicable after a port overlay takes effect for a priority port's master planned area, the Coordinator-General must—	5 6 7
(a)	consider whether an approved development scheme for a State development area under the State Development Act is inconsistent with the port overlay; and	8 9 10
(b)	if there is an inconsistency, decide whether to amend the approved development scheme to remove the inconsistency.	11 12 13
(2)	However, subsection (1) applies only if the master planned area is within, or includes, the State development area.	14 15
(3)	If, under subsection (1)(b), the Coordinator-General decides not to amend the approved development scheme, the Coordinator-General must, within 14 sitting days after making the decision, table in the Legislative Assembly a report about the reasons for the decision.	16 17 18 19 20
30	Requirements for making or amending approved development schemes under State Development Act	21 22
(1)	In making or amending an approved development scheme for a State development area under the State Development Act, the Coordinator-General must consider, but is not bound by, a requirement under a port overlay.	23 24 25 26
(2)	Subsection (3) applies to the Coordinator-General if—	27
(a)	under the State Development Act, the Coordinator-General makes or amends an approved development scheme for a State development area; and	28 29 30
(b)	the State development area is within, or includes, a priority port's master planned area; and	31 32

(c)	the approved development scheme, or amendment, (the <i>instrument</i>) is inconsistent with the port overlay for the master planned area.	1 2 3
(3)	The Coordinator-General must, within 14 sitting days after making the instrument, table in the Legislative Assembly a report stating the reasons for making the instrument despite the inconsistency.	4 5 6 7
Part 3	Provisions relating to Great Barrier Reef World Heritage Area	8 9 10
Division 1	Preliminary	11
31	Definition for pt 3	12
	In this part—	13
	<i>restricted area</i> means an area that is within the Great Barrier Reef World Heritage Area but outside the Commonwealth marine park.	14 15 16
	<i>Note</i> —	17
	See the Commonwealth Marine Park Act for prohibitions relating to the Commonwealth marine park and Great Barrier Reef Region under that Act.	18 19 20

[s 32]

Division 2	Particular applications for port facilities	1 2
32	Particular applications for port facilities must be refused	3
(1)	An assessment manager must refuse a development application to the extent the application is for development for, or relating to, a port facility, if the development is—	4 5 6
(a)	within the State marine park; or	7
(b)	within a restricted area that is outside a port’s existing port limits.	8 9
(2)	However, subsection (1) does not apply to the following development—	10 11
(a)	the carrying out of dredging;	12
(b)	the disposal of material generated from dredging activities.	13 14
(3)	This section applies despite the following—	15
(a)	the Economic Development Act;	16
(b)	the Planning Act;	17
(c)	the State Development Act;	18
(d)	the Transport Infrastructure Act, section 291.	19
(4)	In this section—	20
	<i>assessment manager</i> includes—	21
(a)	for a PDA development application under the Economic Development Act—MEDQ; and	22 23
(b)	for an SDA application under the State Development Act—the Coordinator-General.	24 25
	<i>development application</i> includes—	26
(a)	a PDA development application under the Economic Development Act; and	27 28
(b)	an SDA application under the State Development Act.	29

existing port limits, for a port, means the port's port limits, immediately before the commencement, under the Transport Infrastructure Act.

Division 3 Capital dredging and disposal of dredge material

33 No approvals for particular capital dredging

An approving authority must not grant an approval for development that is, or includes, capital dredging if the dredging will be carried out—

- (a) within a restricted area; and
- (b) for the purpose of establishing, constructing or improving a port facility, other than a port facility in a priority port's master planned area.

34 Restriction on granting approvals for disposal of prescribed dredge material

(1) An approving authority may grant an approval for development that is, or includes, the disposal of prescribed dredge material within a restricted area only if—

- (a) it is impracticable to beneficially reuse the prescribed dredge material; and
- (b) the prescribed dredge material will be deposited on land, other than tidal land, in a way that is consistent with the principles of ecologically sustainable development.

(2) In this section—

prescribed dredge material means material generated from capital dredging in a priority port's master planned area carried out for the purpose of establishing, constructing or improving a port facility in the master planned area.

tidal land means land that is submerged at any time by tidal water.

[s 35]

35	Relationship with particular Acts	1
	This division applies despite the following Acts—	2
	(a) the Coastal Act;	3
	(b) the Economic Development Act;	4
	(c) the Environmental Protection Act;	5
	(d) the Forestry Act;	6
	(e) the Planning Act;	7
	(f) the State Development Act.	8
Part 4	Miscellaneous	9
Division 1	Protection of particular uses and rights	10
		11
36	Lawful uses of premises protected	12
	(1) This section applies if, immediately before a port overlay or an amendment of a port overlay took effect, the use of premises was a lawful use of the premises in the master planned area to which the port overlay applies.	13 14 15 16
	(2) Neither the port overlay nor the amendment can—	17
	(a) stop the use from continuing; or	18
	(b) further regulate the use; or	19
	(c) require the use to be changed.	20
37	Lawfully constructed buildings and work protected	21
	To the extent a building was lawfully constructed or work was lawfully carried out before a port overlay or an amendment of a port overlay took effect, neither the port overlay nor the	22 23 24

	amendment can require the building or work to be altered or removed.	1 2
38	Existing development approvals	3
	(1) This section applies if—	4
	(a) a development approval exists for premises; and	5
	(b) after the development approval is given, a port overlay or an amendment of a port overlay has effect.	6 7
	(2) To the extent the development approval has not lapsed, neither the port overlay nor the amendment can stop or further regulate the development to which the development approval relates, or otherwise affect the development approval.	8 9 10 11
39	Existing development applications	12
	(1) Subsection (2) applies if, immediately before a port overlay for a priority port’s master planned area has effect—	13 14
	(a) a development application had been made for premises in the master planned area; and	15 16
	(b) the application was a properly made application and had not lapsed under the Planning Act; and	17 18
	(c) the application had not been decided.	19
	(2) Despite the port overlay having effect, the application must be decided under the Planning Act, and that Act continues to apply, as if the port overlay were not in effect.	20 21 22
Division 2	Compensation for port overlays	23
Subdivision 1	Preliminary	24
40	Definitions for div 2	25
	In this division—	26

[s 41]

	<i>appeal period</i> see section 52(2).	1
	<i>compensation claim</i> see section 44.	2
	<i>owner</i> , of an interest in land, means the owner of the interest when a port overlay, or an amendment of a port overlay, first applied to the land.	3 4 5
41	References to port overlays	6
	A reference in this division to a port overlay includes an amendment of a port overlay.	7 8
	Subdivision 2 Compensatory circumstances	9
42	Right to compensation—particular assessable development under the Planning Act	10 11
	An owner of an interest in land is entitled to be paid compensation by the State if—	12 13
	(a) immediately before a port overlay took effect for the land, a particular material change of use of the land (the <i>alternative lawful use</i>) was exempt development or self-assessable development under the Planning Act; and	14 15 16 17 18
	(b) the port overlay states that the alternative lawful use is assessable development under the Planning Act; and	19 20
	(c) a development application made by the owner for a development permit under the Planning Act for the alternative lawful use is refused, or approved in part or subject to conditions; and	21 22 23 24
	(d) the reason for any decision to refuse all or part of the application relates, in whole or part, to inconsistency with the port overlay; and	25 26 27
	(e) the application of the port overlay to the land reduces the value of the interest.	28 29

43	Right to compensation—particular prohibited development under the Planning Act	1 2
(1)	This section applies if—	3
(a)	immediately before a port overlay took effect for land, a particular material change of use of the land (the <i>alternative lawful use</i>) was exempt development, self-assessable development or assessable development under the Planning Act; and	4 5 6 7 8
(b)	the port overlay states that the alternative lawful use is prohibited development under the Planning Act.	9 10
(2)	An owner of an interest in the land may make a written request to the Minister for an exemption that allows the carrying out of the alternative lawful use on the land, for a particular period, as if the port overlay were not in effect.	11 12 13 14
(3)	If the Minister refuses the request, and the application of the port overlay to the land reduces the value of the owner's interest, the owner is entitled to be paid compensation by the State.	15 16 17 18
(4)	If the Minister approves the request, the port overlay is taken not to apply to the carrying out of the alternative lawful use on the land for the period stated in the approval.	19 20 21
Subdivision 3	Limits on compensatory circumstances	22 23
44	Time limit on claiming	24
	Compensation under subdivision 2 is payable only if a claim is made to the Minister (a <i>compensation claim</i>) within 3 years after the day the port overlay has effect.	25 26 27
45	General exclusions	28
(1)	Despite sections 42 and 43, compensation is not payable for a compensation claim—	29 30

[s 46]

- (a) about a matter if compensation has already been paid for the matter to a previous owner of the interest in land; or 1
2
- (b) about anything done in contravention of this Act. 3
- (2) A compensation claim can not be made for a matter for which 4
compensation is also payable under another Act. 5

Subdivision 4 Processing claims 6

46 Deciding and notifying compensation claims 7

The Minister must decide a compensation claim within 60 8
business days after the day the claim is made. 9

47 Notifying decision 10

The Minister must, within 10 business days after deciding a 11
compensation claim, give the claimant a notice stating— 12

- (a) the decision, and the reasons for it; and 13
- (b) if the decision is to pay compensation—the amount of 14
compensation; and 15
- (c) that the decision, including any amount, may be 16
appealed; and 17
- (d) how to appeal. 18

48 Calculating amount of compensation 19

- (1) This section applies for working out the amount of 20
compensation payable for a reduction in the value of an 21
interest in land because of a port overlay taking effect (a 22
planning change). 23
- (2) The amount must be the difference between the interest's 24
market value immediately before the planning change and its 25
market value immediately after the planning change, 26
appropriately adjusted having regard to any of the following 27
that are relevant— 28

(a)	any limitations or conditions that may reasonably have applied to the use of the land immediately before the planning change to the land;	1 2 3
(b)	any benefit accruing to the land from the planning change;	4 5
	<i>Example—</i>	6
	the likelihood of improved amenity in the land's locality	7
(c)	if the owner has an interest in land adjacent to the land, any benefit accruing to the adjacent land—	8 9
	(i) because the planning change has effect; or	10
	(ii) because of the construction of, or improvement to, infrastructure on the adjacent land under the port overlay, other than infrastructure funded by the owner, before the compensation claim;	11 12 13 14
(d)	the effect of any other changes to the port overlay since the planning change.	15 16
49	When compensation is payable	17
	Any compensation decided under a compensation claim is payable within 30 business days after—	18 19
	(a) if no appeal is made—the appeal period ends; or	20
	(b) if an appeal is made—the appeal ends.	21
50	Payment of compensation to be recorded on title	22
(1)	The Minister must give the registrar of titles under the <i>Land Title Act 1994</i> notice of the payment of compensation under a compensation claim.	23 24 25
(2)	The notice must be in the form approved by the registrar.	26
(3)	The registrar must keep the information stated in the notice as information under the <i>Land Title Act 1994</i> , section 34.	27 28

[s 51]

Subdivision 5	Appeals	1
51	Appeals against decisions on compensation claims	2
	A person who is dissatisfied with the Minister’s decision about a compensation claim may appeal to the court against the decision.	3 4 5
52	Procedure for an appeal	6
(1)	An appeal to the court is started by filing a notice of appeal with the registrar of the court.	7 8
(2)	The notice of appeal must be filed within 20 business days after the person was given notice of the decision (the <i>appeal period</i>).	9 10 11
(3)	The notice of appeal must state the grounds of the appeal.	12
53	Powers of court on appeal	13
(1)	In deciding an appeal, the court—	14
(a)	has the same powers as the Minister in making the decision appealed against; and	15 16
(b)	must comply with natural justice.	17
(2)	An appeal is by way of rehearing.	18
(3)	The court must decide to do 1 of the following for the decision appealed against—	19 20
(a)	confirm it;	21
(b)	change it;	22
(c)	set it aside and make a decision replacing it.	23
(4)	If the court acts under subsection (3)(b) or (c), the court’s decision is taken (other than for this division) to have been made by the Minister.	24 25 26

Division 3	Offences	1
54	Giving false or misleading information	2
(1)	A person must not, in relation to the administration of this Act, give the Minister information the person knows is false or misleading in a material particular.	3 4 5
	Maximum penalty—1665 penalty units.	6
(2)	Subsection (1) does not apply to a person if the person, when giving information in a document—	7 8
(a)	tells the Minister, to the best of the person’s ability, how the document is false or misleading; and	9 10
(b)	if the person has, or can reasonably obtain, the correct information—gives the correct information.	11 12
Division 4	Evidentiary and legal proceedings	13
55	Evidentiary aids	14
	A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—	15 16 17
(a)	a decision or notice under this Act;	18
(b)	that a stated document, or stated information, is a document or information included in a register kept under this Act;	19 20 21
(c)	that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);	22 23
(d)	that on a stated day—	24
(i)	a stated entity was given a stated decision or notice under this Act; or	25 26
(ii)	a stated requirement under this Act was made of a stated entity.	27 28

[s 56]

Division 5	Other administrative matters	1
56	Registers	2
(1)	The chief executive must keep a register of each of the following—	3 4
(a)	master plans, or amendments of master plans, made under part 2, division 2;	5 6
(b)	proposed master plans, or proposed amendments of master plans, notified under section 11;	7 8
(c)	port overlays, or amendments of port overlays, made under part 2, division 3.	9 10
(2)	The chief executive may also keep a register of other documents or information relating to this Act that the chief executive considers appropriate.	11 12 13
(3)	The chief executive may keep a register in the way the chief executive considers appropriate.	14 15
(4)	However, the documents included in the registers must also be published on—	16 17
(a)	the department’s website; and	18
(b)	the website of the port authority for the priority port to which the document relates.	19 20
57	Access to registers	21
(1)	The chief executive must—	22
(a)	keep each register open for inspection by the public during office hours on business days at the department’s head office; and	23 24 25
(b)	allow a person to search and take extracts from the register; and	26 27
(c)	give a person who asks for it a copy of all or part of a document or information held in the register, on payment of the fee decided by the chief executive.	28 29 30

(2)	The fee can not be more than the actual cost of giving the copy.	1 2
58	Approval of forms	3
	The chief executive may approve forms for use under this Act.	4
59	Regulation-making power	5
(1)	The Governor in Council may make regulations under this Act.	6 7
(2)	A regulation may—	8
(a)	approve a master planned area identified in a master plan for a priority port; and	9 10
(b)	prescribe matters that must be included in a master plan or port overlay; and	11 12
(c)	provide for fees payable under this Act and the matters for which they are payable; and	13 14
(d)	impose a penalty of no more than 20 penalty units for a contravention of a regulation.	15 16
Part 5	Transitional provision	17
60	Particular development exempted	18
(1)	Section 32 does not apply to development mentioned in section 32(1) if the development is the subject of an EIS process started before the commencement.	19 20 21
(2)	Section 33 does not apply to development that is, or includes, capital dredging if the capital dredging is the subject of an EIS process started before the commencement.	22 23 24
(3)	In this section—	25
	<i>EIS process</i> means any of the following—	26

[s 61]

- (a) an EIS process for development within the meaning of the Planning Act; 1
2
- (b) an EIS process for a project within the meaning of the Environmental Protection Act; 3
4
- (c) the process under the State Development Act, part 4, division 3, subdivision 1 for an environmental impact statement for a coordinated project under that Act; 5
6
7
- (d) the process under the Commonwealth Environment Act, chapter 4, part 8, division 6 for an environmental impact statement for an action under that Act; 8
9
10
- (e) the process under another Commonwealth Act for preparing an environmental impact statement for a project. 11
12
13

Part 6 Amendment of Acts 14

Division 1 Amendment of this Act 15

61 Act amended 16

 This division amends this Act. 17

62 Amendment of long title 18

 Long title, from 'area,'— 19

omit, insert— 20

 area 21

Division 2	Amendment of Transport Infrastructure Act 1994	1 2
63	Act amended	3
	This division amends the <i>Transport Infrastructure Act 1994</i> .	4
64	Amendment of s 286 (Approval of land use plans)	5
(1)	Section 286(1)—	6
	<i>insert—</i>	7
	(e) if the land included in the draft plan is within, or includes, a priority port’s master planned area—the draft plan is consistent with the port overlay for the master planned area.	8 9 10 11 12
(2)	Section 286(2), ‘and (d)’—	13
	<i>omit, insert—</i>	14
	, (d) and (e)	15
(3)	Section 286—	16
	<i>insert—</i>	17
	(7) In this section—	18
	master planned area , for a priority port, see the <i>Sustainable Ports Development Act 2015</i> , section 6.	19 20 21
	port overlay , for a priority port’s master planned area, means the port overlay made for the area under the <i>Sustainable Ports Development Act 2015</i> , part 2, division 3.	22 23 24 25
	priority port see the <i>Sustainable Ports Development Act 2015</i> , section 5.	26 27

[s 65]

Part 7 **Amendment of other legislation** 1

65 **Legislation amended** 2

Schedule 2 amends the legislation it mentions. 3

Schedule 1	Dictionary	1
	section 3	2
	<i>affected local government</i> , for a priority port, means a local government whose local government area is within, or includes, the master planned area for the priority port.	3 4 5
	<i>allocation of quarry material</i> means an allocation of quarry material in tidal water under the Coastal Act, chapter 2, part 5.	6 7
	<i>appeal period</i> , for part 4, division 2, see section 52(2).	8
	<i>approval</i> , for part 3, division 3, means—	9
	(a) an allocation of quarry material; or	10
	(b) a development approval; or	11
	(c) an environmental authority under the Environmental Protection Act; or	12 13
	(d) a Forestry Act approval; or	14
	(e) a PDA development approval under the Economic Development Act; or	15 16
	(f) an SDA approval under the State Development Act.	17
	<i>approving authority</i> , for part 3, division 3, means—	18
	(a) for an allocation of quarry material—the chief executive under the Coastal Act; or	19 20
	(b) for a development approval—the assessment manager for the development application to which the approval relates; or	21 22 23
	(c) for an environmental authority under the Environmental Protection Act—the administering authority under that Act; or	24 25 26
	(d) for a Forestry Act approval—the chief executive under the Forestry Act; or	27 28
	(e) for a PDA development approval under the Economic Development Act—MEDQ; or	29 30

(f) for an SDA approval under the State Development Act—the Coordinator-General.	1 2
assessment manager see the Planning Act, section 246(1).	3
capital dredging —	4
(a) means dredging carried out for the purpose of—	5
(i) creating or enlarging a channel, basin, port, berth or other similar thing; or	6 7
(ii) removing material that is unsuitable as a foundation for a port facility; or	8 9
(iii) creating a trench for a pipe, cable or tube; or	10
(iv) an activity incidental to an activity mentioned in subparagraph (i) to (iii); but	11 12
(b) does not include dredging to maintain the safe and effective ongoing operation of a port facility.	13 14
Coastal Act means the <i>Coastal Protection and Management Act 1995</i> .	15 16
Commonwealth Environment Act means the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cwlth).	17 18
Commonwealth marine park means the Great Barrier Reef Marine Park established under the Commonwealth Marine Park Act.	19 20 21
Commonwealth Marine Park Act means the <i>Great Barrier Reef Marine Park Act 1975</i> (Cwlth).	22 23
compensation claim , for part 4, division 2, see section 44.	24
Coordinator-General means the Coordinator-General under the State Development Act.	25 26
court means the court under the Planning Act.	27
development see the Planning Act, section 7.	28
development application means a development application under the Planning Act.	29 30
development approval means a development approval under the Planning Act.	31 32

<i>Economic Development Act</i> means the <i>Economic Development Act 2012</i> .	1 2
<i>enlarging</i> includes increasing the depth of.	3
<i>Environmental Protection Act</i> means the <i>Environmental Protection Act 1994</i> .	4 5
<i>environmental value</i> see the <i>Environmental Protection Act</i> , section 9.	6 7
<i>Forestry Act</i> means the <i>Forestry Act 1959</i> .	8
<i>Forestry Act approval</i> means an agreement, contract, permit, licence or authority relating to the removal of quarry material under the <i>Forestry Act</i> .	9 10 11
<i>Great Barrier Reef World Heritage Area</i> means the Great Barrier Reef World Heritage Area under the <i>Commonwealth Marine Park Act</i> .	12 13 14
<i>land</i> means any land, whether above or below the ordinary high-water mark at spring tides.	15 16
<i>master plan</i> see section 7(1).	17
<i>master planned area</i> , for a priority port, see section 6.	18
<i>material change of use</i> , for part 4, division 2, subdivision 2, see the <i>Planning Act</i> , section 10(1).	19 20
<i>MEDQ</i> means MEDQ under the <i>Economic Development Act</i> .	21
<i>notice</i> means a written notice.	22
<i>owner</i> , of an interest in land, for part 4, division 2, see section 40.	23 24
<i>Planning Act</i> means the <i>Sustainable Planning Act 2009</i> .	25
<i>port authority</i> means a port authority under the <i>Transport Infrastructure Act</i> .	26 27
<i>port facility</i> —	28
1 <i>Port facility</i> means a facility or land used in the operation or strategic management of a port authority's port.	29 30 31

Schedule 1

2	<i>Port facility</i> does not include a small-scale port facility to be used for a tourism or recreation purpose.	1 2
	<i>Examples of a small-scale port facility—</i>	3
	boat ramp, boat harbour, marina	4
	port overlay see section 19(1).	5
	premises means—	6
	(a) a building or other structure; or	7
	(b) land, whether or not a building or other structure is situated on the land.	8 9
	principles of ecologically sustainable development see the Commonwealth Environment Act, section 3A.	10 11
	priority development area means a priority development area under the Economic Development Act.	12 13
	priority management measures , for part 2, see section 8(1)(c)(iii).	14 15
	priority port see section 5.	16
	public notice means a notice published—	17
	(a) in the gazette; and	18
	(b) in a newspaper circulating as follows—	19
	(i) for a notice about a proposed master plan—circulating in the proposed master planned area;	20 21 22
	(ii) for a notice about a master plan, an amendment of a master plan, a repeal of a master plan or a port overlay—circulating in the master planned area to which the instrument relates; and	23 24 25 26
	(c) on the department’s website.	27
	quarry material see the Coastal Act, schedule.	28
	restricted area , for part 3, see section 31.	29
	State Development Act means the <i>State Development and Public Works Organisation Act 1971</i> .	30 31

<i>State development area</i> means a State development area under the State Development Act.	1 2
<i>State marine park</i> means the Great Barrier Reef Coast Marine Park continued in existence under the <i>Marine Parks Act 2004</i> .	3 4
<i>tidal water</i> see the Coastal Act, schedule.	5
<i>Transport Infrastructure Act</i> means the <i>Transport Infrastructure Act 1994</i> .	6 7
<i>use</i> , for premises, includes any use incidental to and necessarily associated with the use of the premises.	8 9

Schedule 2	Other amendments	1
	section 65	2
	Economic Development Act 2012	3
1	Section 63(1)—	4
	<i>insert—</i>	5
	<i>Note—</i>	6
	See also the <i>Sustainable Ports Development Act 2015</i> , section 27	7
	for additional requirements for making a development scheme.	8
2	Section 66—	9
	<i>insert—</i>	10
	<i>Note—</i>	11
	See also the <i>Sustainable Ports Development Act 2015</i> , section 27	12
	for additional requirements for amending a development	13
	scheme.	14
	State Development and Public Works Organisation	15
	Act 1971	16
1	Section 79—	17
	<i>insert—</i>	18
	<i>Note—</i>	19
	See also the <i>Sustainable Ports Development Act 2015</i> , section 30	20
	for additional requirements for making or amending an approved	21
	development scheme.	22

Sustainable Planning Regulation 2009

1

1 Schedule 3, part 1, table 5—

2

insert—

3

Development in a priority port's master planned area		
8	All aspects of development in a priority port's master planned area, other than development in a priority development area or State development area, if the port overlay for the master planned area states the development is assessable development	If the port overlay requires impact assessment—impact assessment Otherwise—code assessment

2 Schedule 5, part 1, table 5—

4

insert—

5

Master planned area for a priority port	
6	Development in a priority port's master planned area if the port overlay for the master planned area states the development is assessable development

3 Schedule 26—

6

insert—

7

master planned area, for a priority port, see the *Sustainable Ports Development Act 2015*, section 6.

8

9

10

port overlay, for a priority port's master planned area, means the port overlay made for the area under the *Sustainable Ports Development Act 2015*, part 2, division 3.

11

12

13

14

priority port see the *Sustainable Ports Development Act 2015*, section 5.

15

16

Schedule 2

State development area means a State 1
development area under the *State Development* 2
and Public Works Organisation Act 1971. 3

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