PLANNING (SOCIAL IMPACT AND COMMUNITY BENEFIT) AND OTHER LEGISLATION AMENDMENT BILL 2025

Explanatory Notes

for

Amendments to be moved during consideration in detail by the Honourable Jarrod Bleijie MP Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations

Title of the Bill

Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

Objectives of the Amendments

Amendments to Chapter 2 of the Bill

The proposed amendments to be moved during consideration in detail amend the *Planning Act 2016*. The amendments are intended to:

- Ensure local government can recover costs for their involvement in social impact assessment and community benefit agreement processes, including mediation.
- Provide the ability to expand on procedural matters for mediation by Regulation.
- Identify any minor and consequential amendments to other Acts as a result of the above amendments.

Amendments to Chapter 4 of the Bill

<u>Amendments related to the Board of Directors of the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games</u>

Australian Olympic Committee representation

In its public submission to the State Development, Infrastructure and Works Committee (the Committee), the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (the Corporation) confirmed its support of the Queensland Government's intent to streamline governance arrangements of the Corporation and ensure appropriate Queensland Government oversight of both the Corporation and Games Independent Infrastructure and Coordination Authority (the Authority).

The Bill provides that the Australian Olympic Committee (AOC) Chief Executive Officer (CEO) is removed from the Board, with the AOC President and Honorary Life President to remain as the two AOC representatives. To ensure this change maintains alignment with the intent of the Olympic Host Contract – which requires two AOC representatives on the Corporation's Board – the Corporation suggested in its submission that the Bill be amended to provide that should the Honorary Life President of the AOC vacate the position, the position will be filled by the AOC CEO. This change is supported as it would maintain adequate representation of the AOC on the Board in the event the AOC Honorary Life President position was to become vacant.

Vice President

Clause 78 of the Bill amends the Brisbane Olympic and Paralympic Games Arrangements Act 2021 (BOPGA Act) to reduce the number of Vice Presidents on the Corporation's Board from six to one and provide that the Queensland Government nominated director is the sole Vice President.

Following introduction of the Bill and further consultation with the Australian Government, it is proposed that the nominated director nominated by the Prime Minister also be a Vice President of the Board, alongside the nominated director nominated by the Minister. This reflects the important role of the Australian Government in delivering a successful Games and maintains alignment with recommendation of the Authority in their 100 Day Review Final Report to reduce the number of vice presidents in accordance with the overall reduction in Board size.

Should the President be absent from a Board meeting and unable to preside, one of the Vice Presidents is to preside.

This amendment shows a commitment to strong governance and is also supported with the provision for a Queensland Government public servant to attend Board meetings of the Corporation – as well as all of the Board's sub-committees – when nominated as an observer.

Duty of disclosure

Section 43 of the BOPGA Act lists the following people who, as directors of the Corporation's Board, do not have a duty to disclose certain confidential information acquired in their official capacities to the Corporation:

- Elected officer holders
- AOC President
- AOC Honorary Life President
- International Olympic Committee members
- International Paralympic Committee governing board members.

Following the introduction of the Bill, it was identified that because a public servant could be appointed to the Corporation's Board, it is important that they be provided with the same protections to avoid them having a duty to provide confidential information of the State (e.g. Cabinet information) to the Corporation.

An amendment is also made in relation to a public servant who is on the board of the Games Independent Infrastructure and Coordination Authority (Authority) to clarify that they do not have a duty to disclose certain confidential information acquired in their official capacity to the Authority.

Authority to give chief executive information and assistance relating to delivery of venues

An amendment is proposed to clarify that the Chief Executive of the Department may delegate the State representative function to an appropriately qualified person. This is to ensure flexibility and skills to perform the function as may be required from time to time.

Civil proceedings and review

In response to issues raised during the Parliamentary Committee process, it is proposed to clarify the provisions that prevent a civil proceeding from being started.

Cultural heritage provisions

An amendment is proposed in response to submissions received during the Parliamentary Committee process which seek to ensure improved opportunities for awareness of the information notice as part of the alternative cultural heritage provisions. It is intended that an information notice issued as part of proposed section 53DK Requirement for proponent to give information notice, will also be required to be published in a relevant newspaper circulating generally in the project area.

An amendment is also proposed to include a mechanism for the chief executive (cultural heritage) to be notified when a default plan takes effect under the alternative cultural heritage provisions.

Necessary games infrastructure

Amendments are to be made to clarify that the Minister may issue directions to infrastructure entities including Government Owned Corporations and Prescribed Authorities to provide or maintain necessary games infrastructure, to ensure the timely delivery of authority venues, other venues and villages, and the timely construction of games-related transport infrastructure.

The Bill is intended to clarify that directions given to Government Owned Corporations or Prescribed Authorities identified in the Bill must be made jointly with the relevant Minister and before the direction is given, consultation with the entity's Board.

An infrastructure entity must comply with a ministerial direction at its cost, unless the direction states otherwise.

Other venues

In response to the submission made by the Council of the City of Gold Coast, an amendment is proposed to the venue to be known as the Gold Coast Arena in Schedule 2 Other Venues to better reflect the detail of the venue.

Other minor administrative amendments in the Bill are also made to the Bill to respond to issues identified since introduction.

Additional amendments to the Planning Act 2016 proposed as amendments during consideration in detail of the Bill

The proposed amendments to be moved during consideration in detail amend the *Planning Act 2016*. The amendments are intended to:

- change the minimum statutory consultation period on regional plans from 60 business days to 30 business days for a new draft regional plan and from 30 business days to 20 business days for an amended draft regional plan
- allow development under an infrastructure designation to proceed without the need to also comply with the plans under a development control plan (applying to defined areas in Mango Hill, Springfield and Kawana Waters only), including validating development already carried out under a designation that did not/does not comply with the plans under a development control plan
- Provide that Local Government may levy an infrastructure charge for development associated with accepted development that generates extra demand on trunk infrastructure, and validate infrastructure charges notices issued by local government since 4 July 2014 are, and have always been, valid.

Amendments to the Queensland Building and Construction and Commission Act 1991 proposed as amendments during consideration in detail of the Bill

The amendments to be moved during consideration in detail amend the Queensland *Building and Construction Commission Act 1991* (QBCC Act) to preserve consumer protections under the Queensland Home Warranty Scheme (QHWS) for consumers where formal contract requirements are not satisfied.

Amendments to the South-East Queensland (Distribution and Retail Restructuring Act) 2009

The policy objectives for distributor-retailer infrastructure charging will be achieved through amendments that:

- continue to ensure that infrastructure charges can only be levied for additional demand placed on trunk infrastructure generated by a connection
- clarify what may be included in working out additional demand for a water service or wastewater service
- declare that infrastructure charges notices issued by distributor-retailers since 5 December 2014 are, and have always been, valid; and

- declare that distributor-retailer boards cannot adopt a charge for trunk infrastructure related to public housing or trunk infrastructure related to other development prescribed by regulation.

Achievement of the objectives

Amendments to Chapter 2 of the Bill

The amendments achieve the policy objectives set out above by:

- Ensuring local governments have the ability to set and charge a fee for all aspects of the community benefit system, including the social impact assessment process, negotiation of community benefit agreements and any associated mediation process. This involves making minor and consequential amendments to the drafting of the existing clauses in the Bill for local government fees, charges and registers under the *City of Brisbane Act 2010* and the *Local Government Act 2009*.
- Providing the ability to establish additional process and procedural matters in relation to voluntary mediation for community benefit agreements in the *Planning Regulation 2017*.
- Making a consequential amendment to the *Environmental Offsets Act 2014* to reflect the change to the definition of enforcement authority under the *Planning Act 2016*.

Amendments to Chapter 4 of the Bill

The policy objective is to be achieved by amending the Bill:

- to reflect that should the position of an Honorary Life President of the AOC be vacated, or there is no Honorary Life President of the AOC, then the AOC CEO holds a position on the Corporation Board instead.
- to reflect that both the nominated director nominated by the Minister and the nominated director by the Prime Minister are Vice Presidents of the Board and the mechanisms for how they might determine who presides over Corporation Board meetings when the President is unavailable.
- to include a public service employee as one of the types of directors who does not have a duty to disclose particular information acquired in particular capacities.
- Providing that the chief executive may delegate the authority under proposed section 53AI to an appropriately qualified person.
- Clarify the requirements of the Authority in sharing information requested by the Chief Executive of the department, and the confidentiality obligations associated with the information.
- Provide that a public service employee is to be subject to the same confidentiality requirements as other members of the Authority.
- Clarifying the requirements that apply to Government Owned Corporations and prescribed authorities in relation to the provision of necessary games infrastructure.

- Clarifying the provisions that prevent a civil proceeding from being started in relation to the development, use or activity for an authority venue, other venue, village or games-related transport infrastructure.
- Including an additional requirement that an information notice for a proposed Part 3 plan must be published in one or more newspapers circulating generally in the project area.
- Including a new requirement that a copy of the notice that a default plan has taken effect must also be given to the chief executive of the department and the chief executive (cultural heritage).
- Updating the reference to the Gold Coast Arena in Schedule 2 Other venues to provide that the games-related use and legacy uses are an indoor entertainment and sport venue with seating for 12,000 to 15,000 people.
- Making minor administrative and consequential amendments.

Additional amendments to the Planning Act 2016 proposed as amendments during consideration in detail of the Bill

- Changing the minimum statutory consultation period on regional plans from 60 business days to 30 business days for a new draft regional plan and from 30 business days to 20 business days for an amended draft regional plan.
- Allowing development under an infrastructure designation to proceed without the need to also comply with the plans under a development control plan (applying to defined areas in Mango Hill, Springfield and Kawana Waters only), including validating development already carried out under a designation that did not/does not comply with the plans under a development control plan.
- Providing that Local Government may levy an infrastructure charge for development associated with accepted development that generates extra demand on trunk infrastructure, clarify what may be included in working out additional demand for trunk infrastructure generated by development and declaring that infrastructure charges notices issued by Local Government since 4 July 2014 are, and have always been, valid.

Amendments to the South-East Queensland (Distribution and Retail Restructuring Act) 2009 proposed as amendments during consideration in detail of the Bill

The policy objectives for distributor-retailer infrastructure charging will be achieved through amendments that:

- continue to ensure that infrastructure charges can only be levied for additional demand placed on trunk infrastructure generated by a connection
- clarify what may be included in working out additional demand for a water service or wastewater service
- declare that infrastructure charges notices issued by distributor-retailers since 5 December 2014 are, and have always been, valid; and

- declare that distributor-retailer boards cannot adopt a charge for trunk infrastructure related to public housing or trunk infrastructure related to other development prescribed by regulation.

Amendments to the Queensland Building and Construction and Commission Act 1991 proposed as amendments during consideration in detail of the Bill

The QHWS covers consumers for loss in circumstances such as where a licensed contractor fails to complete a contract for residential construction work or fails to rectify defective work.

A recent Queensland Civil and Administrative Tribunal (QCAT) decision has highlighted an anomaly between interpretation and practice with respect to QHWS coverage. The amendments to the QBCC Act are technical amendments. They confirm QHWS coverage for the range of agreements between a homeowner and a builder and retrospectively validate previous impacted decisions and actions.

Alternative ways of achieving policy objectives

Amendments to Chapter 2 of the Bill

The policy objectives are best achieved by the proposed amendments for consideration in detail. The proposed amendments are an extension of the amendments proposed by the Bill as introduced, and are seen as the best method to ensure alignment with the original policy intent of the Bill with respect to supporting local government financial sustainability and providing transparent and accountable process and procedures for negotiation and decision-making with respect to community benefit.

Amendments to Chapter 4 of the Bill

Legislative amendment is the only suitable approach to achieve the Bill's objectives and to meet certain Government commitments in the 2032 Delivery Plan.

Additional amendments to the Planning Act 2016 proposed as amendments during consideration in detail of the Bill

Legislative amendment is the only suitable approach to achieve the objectives to change the statutory consultation period for regional plans; regularise how development for Ministerial and Local Government Infrastructure Designations apply in development control plan areas and validate development carried out under a designation that did not or does not comply with the plans under a development control plan; and clarify that an infrastructure charge may be levied for development involving accepted development when extra demand on trunk infrastructure is generated and validate infrastructure charges notices consistent with this policy intent since introduction on 4 July 2014.

Amendments to the South-East Queensland (Distribution and Retail Restructuring Act) 2009 proposed as amendments during consideration in detail of the Bill

While a non-legislative approach to achieving the policy objective has been considered, amendments to the SEQ Water Act are the only way to clarify the operation of the provisions and to put beyond doubt that charges levied under an infrastructure charges notice for additional demand on trunk infrastructure were properly worked out and are valid.

Amendments to the Queensland Building and Construction and Commission Act 1991 proposed as amendments during consideration in detail of the Bill

There are no alternative ways of achieving the policy objectives other than by legislative amendment.

Estimated cost for government implementation

The amendments to be moved during consideration in detail do not result in additional cost to Government.

Consistency with fundamental legislative principles

Amendments to Chapter 4 of the Bill

The amendments to the Bill are potentially inconsistent with the following fundamental legislative principles:

- whether the legislation has sufficient regard to the rights and liberties of individuals and, more particularly
- that the legislation does not confer immunity from proceeding without adequate justification.

To the extent that the provisions in the legislation will remove the usual approval and review processes there is justification for such a position, given the need to deliver the venues for the 2032 Games and to meet existing contractual commitments.

Additional amendments to the Planning Act 2016 proposed as amendments during consideration in detail of the Bill

Under section 4(2) of the *Legislative Standards Act 1992* (LSA), fundamental legislative principles include requiring that legislation has sufficient regard to rights and liberties of individuals. Section 4(3)(g) of the LSA provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively.

Amendments to the Planning Act will clarify the existing policy intent that an infrastructure charge may be levied for development involving accepted development when extra demand on trunk infrastructure is generated and validating infrastructure charges from 4 July 2014 that previously levied and/or paid in these circumstances, when the provisions commenced.

Although the proposed amendments will operate retrospectively, they are purely declaratory in nature. The amendments do not and will not impose any additional obligations that were not intended to already exist under relevant legislation and therefore the amendments do not adversely affect rights and liberties of, or impose obligations on, individuals. Developers are obliged to pay infrastructure charges as part of the extra demand generated by the use of the premises for new developments

The proposed amendments to validate development authorised by a designation in a development control plan, where inconsistent with the plans of a development control plan is not considered to have an adverse effect on rights and liberties, or impose obligations retrospectively.

The designation framework has been in place for many years. Designations are made following a proper planning process which includes public consultation, assessment against relevant State and Local Government planning instruments, including a relevant development control plan, and where for a designation made by the Planning Minister, involves engagement with the Local Government.

The financial risks and uncertainty for local government, industry and community are considered too great not to progress the proposed amendments to validate the abovementioned infrastructure charges notices and development authorised by a designation in a development control plan.

Amendments to the South-East Queensland (Distribution and Retail Restructuring Act) 2009 proposed as amendments during consideration in detail of the Bill

Under section 4(2) of the *Legislative Standards Act 1992* (LSA), fundamental legislative principles include requiring that legislation has sufficient regard to rights and liberties of individuals. Section 4(3)(g) of the LSA provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively.

Although the proposed amendments will operate retrospectively, they are purely declaratory in nature. The amendments do not and will not impose any additional obligations that were not intended to already exist under relevant legislation and therefore the amendments do not adversely affect rights and liberties of, or impose obligations on, individuals. Developers are obliged to pay infrastructure charges as part of the connection to water and sewerage services for new developments.

Amendments to the Queensland Building and Construction and Commission Act 1991 proposed as amendments during consideration in detail of the Bill

The amendments have been drafted having regard to the fundamental legislative principles (FLPs) in the *Legislative Standards Act 1992* (LSA). The principles require legislation to have sufficient regard to—

- rights and liberties of individuals; and
- the institution of Parliament.

The proposed amendments may be inconsistent with the FLPs as the amendments are intended to apply retrospectively which is the only approach that will achieve the intended outcome.

While justification for this is outlined below, the curative and validating amendments may be inconsistent with the following principles:

- does not adversely affect rights and liberties, or impose obligations, retrospectively
- does not confer immunity from proceeding or prosecution without adequate justification
- institutional integrity of courts and judicial independence.

Does not adversely affect rights and liberties, or impose obligations, retrospectively
The validating amendments may potentially limit certain rights and liberties including the right not to be arbitrarily deprived of property, in this case in relation to amounts the QBCC has recovered from at-fault parties following a QHWS claim payment. If the amendments did not proceed, contractors may be entitled to seek reimbursement of amounts they have paid to QBCC as part of QBCC recovery action for previously approved claims.

Certainty and finality in QHWS claim management and recovery action are important to ensure ongoing confidence in the QBCC's administration of the QHWS. There is no indication that accepting common law contracts for the purpose of QHWS has put any party at a disadvantage or that the claim or recovery process for this type of contract was not procedurally fair.

The amendments also intentionally apply retrospectively to validate previous QHWS policies, decisions and actions, as well as associated decisions made by QCAT, in relation to coverage for consumers where formal contract requirements are not satisfied. The retrospective validating amendments are justified as they will remove uncertainty about the validity of what is likely to be a large number of policies and decisions made since the QHWS was introduced. It does not change a person's rights or the consequences of those rights, but will prevent any further disputes about previous QHWS policies and QBCC actions in relation to coverage for consumers where formal contract requirements are not satisfied.

The amendment to provide pathways for persons to apply for particular decisions to be reviewed by the QBCC or reopened by QCAT does potentially change existing rights retrospectively. Persons who have had matters decided should be able to rely on the certainty and finality of those decisions.

However, it is also possible that consumers particularly stand to be significantly disadvantaged by decisions made wholly or partly because what they had understood to be a contract did not comply with the formality requirements. If this is not raised by their building contractor, consumers are often unaware a formal contract is required. Additionally, consumers with an informal building contract will have received a notice of cover, giving rise to a reasonable expectation of valid coverage. As such it is potentially unfair to deny the consumer the protections afforded by the QHWS in situations where they have not entered into a formal contract.

On this basis, the inconsistency with this principle, particularly in relation to the retrospectivity can be justified.

Does not confer immunity from proceeding or prosecution without adequate justification

The QBCC Act presently states the QBCC, the Commissioner and staff of the QBCC do not incur civil liability for an honest act or omission, in the performance or purported performance of functions under the QBCC Act, among other Acts. In the case of application of the QHWS, where formal contract requirements are not satisfied, the amendments confer immunity from proceeding, however this may be adequately justified.

Specifically, the amendments provide that no liability attaches to the QBCC, its staff, a public service employee or the State, and no compensation is payable by them, in relation to the application of the QHWS where formal contract requirements are not satisfied, or in connection with any act or decision done or made for the relevant policies under the QHWS.

The removal of liability is considered appropriate in the circumstances due to the technical nature of the issue, and the fact that there was no material disadvantage to any person. Further, the validating amendments do not have any serious, practical implications for the rights of any parties. Clarifying the matter of liability will therefore avoid uncertainty and potential disputes.

Institutional integrity of courts and judicial independence

This principle relates to legislation that offends Chapter 3 of the Commonwealth constitution by interfering with the judicial process in a way that undermines the institutional integrity of a State court invested with federal judicial power. Such legislation may be invalid, for example, where it directs a court to rely on particular information to reach a particular conclusion or to make a particular order.

The validating amendments may be seen as inconsistent with this principle; however, they are justified in the circumstances for a number of reasons. Firstly, the amendments have a limited scope, as the validation relates solely to coverage for consumers where formal contract requirements are not satisfied. In any other circumstances, the validation will not apply and does not affect the ability of QBCC or a court to determine application of the QHWS or claim processing.

It is necessary to make these curative amendments for the efficiency and effectiveness of the QHWS process. The amendments do not have any serious or significant negative impacts on the rights of any party as the validation only confirms the previous and current practice of the QBCC. There is no indication that the amendments place any party at a disadvantage or that the QHWS process was not procedurally fair.

Consultation

Amendments to Chapter 2 of the Bill

The amendments proposed to be moved during consideration in detail regarding local government cost recovery and allowing additional processes and procedures for mediation by regulation, are in response to feedback in submissions received during the parliamentary committee process undertaken by the State Development, Infrastructure and Works Committee.

Amendments to Chapter 4 of the Bill

Some of the amendments proposed to be moved during consideration in detail are in response to the public submissions received during the parliamentary committee process undertaken by the State Development, Infrastructure and Works Committee.

The Corporation and the Authority were consulted on the proposed amendments.

Additional amendments to the Planning Act 2016 proposed as amendments during consideration in detail of the Bill

The Local Government Association of Queensland (LGAQ) has written to the State Development Infrastructure and Works Parliamentary Committee recommending the state provides legislative clarity to ensure Local Government may levy infrastructure charges where a development approval for a material change of use is not required, whether as a result of an Act or regulation, a categorising instrument (a planning scheme, a Temporary Local Planning Instrument or a variation approval) or infrastructure designation.

Sunshine Coast Council, Ipswich City Council and the City of Moreton Bay (responsible for DCPs) support the proposed changes with regards to infrastructure designations in DCPs.

Amendments to the South-East Queensland (Distribution and Retail Restructuring Act) 2009 proposed as amendments during consideration in detail of the Bill

Consultation was undertaken with council-owned distributor-retailers, Urban Utilities and Unitywater on the amendments to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*. Both Urban Utilities and Unitywater are generally supportive of the proposed amendments.

Amendments to the Queensland Building and Construction and Commission Act 1991 proposed as amendments during consideration in detail of the Bill

Due to the nature of the issue, consultation outside government stakeholders did not occur.

Consistency with legislation of other jurisdictions

Amendments to the *Planning Act 2016*

The provisions relating to the *Planning Act 2016* are specific to the State of Queensland and are not uniform with or complementary to legislation of the Commonwealth or another state.

Amendments to Chapter 4 of the Bill

The provisions relating to the *Brisbane Olympic and Paralympic Games Arrangements Act 2021* are specific to the State of Queensland and are not uniform with or complementary to legislation of the Commonwealth or another state.

Amendments to the South-East Queensland (Distribution and Retail Restructuring Act) 2009 proposed as amendments during consideration in detail of the Bill

The SEQ Water Act is specific to Queensland and is not uniform with, or complementary to, the legislation of the Commonwealth or another state.

Amendments to the Queensland Building and Construction and Commission Act 1991 proposed as amendments during consideration in detail of the Bill

The provisions relating to the *Queensland Building and Construction Commission Act 1991* are specific to the State of Queensland and are not uniform with or complementary to legislation of the Commonwealth or another state.

NOTES ON PROVISIONS

Amendments to the *City of Brisbane Act 2010*

Amendment 1 amends section 99 of the *City of Brisbane Act 2010* to ensure the correct section of the *Planning Act 2016* is referenced regarding the ability to set and charge a cost recovery fee under section 106ZM(1) of the Bill.

Amendment 2 amends section 100 of the *City of Brisbane Act 2010* to ensure the correct section of the *Planning Act 2016* is referenced regarding the obligation to keep a register for cost recovery fees with respect to section 106ZM(1) of the Bill.

Amendments to the *Local Government Act 2009*

Amendment 3 amends section 97 of the *Local Government Act 2009* to ensure the correct section of the *Planning Act 2016* is referenced regarding the ability to set and charge a cost recovery fee under section 106ZM(1) of the Bill.

Amendment 4 amends section 98 of the *Local Government Act 2009* to ensure the correct section of the *Planning Act 2016* is referenced regarding the obligation to keep a register for cost recovery fees with respect to section 106ZM(1) of the Bill.

Amendments to the *Planning Act 2016*

Amendment 5 amends section 106ZC of the Bill to identify the ability for a Regulation to further prescribe process and procedural matters for mediation.

Amendment 6 replaces section 106ZM of the Bill regarding fees for particular matters. The new clause 106ZM clarifies that a local government may charge and entity a fee in relation to aspects of social impacts assessment, community benefit agreements and associated mediation. Specifically, the section identifies the ability to charge a fee for social impact assessment where undertaken in accordance with a guideline established for social impact assessment under section 106W (2) of the Bill. Revised examples of social impact assessment activities for which a fee can be applied has been included after section 106ZM (1)(a).

Amendments to the *Brisbane Olympic and Paralympic Games Arrangements Act 2021*

Amendment 7 provides for the omission of the section 21(3) the definition of public servant from this section.

Amendment 8 provides for new amendments to existing section 43 of the BOPGA Act to include a public servant as one of the types of directors who does not have a duty to disclose particular information acquired in particular capacities.

Amendment 9 amends s53AI(4) to state that Subsection 3 applies despite section 57 or any other obligation of the Authority under an Act or law about confidentiality of the state information.

Amendment 10 amends 53AI(5) to omit reference to “public service employee in the department” and insert “person”.

Amendment 11 omits s53BJ(3) the definition of public servant from this section.

Amendment 12 inserts “or public servant” in proposed section 53CAA(1)(a)(i).

Amendment 13 omits 53CL(1)(e) “a government owned corporation” and inserts new 53CL(1)(e) “a distributor-retailer; and 53CL(1)(f) “any other government entity within the meaning of section 53EB.

Amendment 14 makes amendments to s53DD(3) to clarify the circumstances where civil proceedings may not be commenced in relation to the development, use or activity for a games venue, other venue, village or games-related transport infrastructure, where those proceedings would have the direct effect of prohibiting, restricting or limiting the carrying out of the development, use or activity.

Amendment 14 also inserts new s53DD(3A) which states that subsection 3 does not limit, and is not limited by, section 53EG.

Amendment 15 amends proposed s53DK(5)(b) to state “on the website of the department in which the cultural heritage Acts are administered; and”

Amendment 16 inserts a new s53DK(5)(c) to provide that the notice must be published in 1 or more newspapers circulating generally in the project area and in which notices affecting Aboriginal persons and Torres Strait Islander persons are generally published. Amendment 16 includes an example of a newspaper for (c), being the Koori Mail.

Amendment 17 inserts a new s53DS(3)(3A) which provides that “Also, the proponent must give a copy of the notice mention in subsection (3) to the chief executive of the department and to the chief executive (cultural heritage).

Amendment 18 amends proposed s53EB(7)(b) to state “unless the direction states otherwise, bear any costs of complying with the direction.”

Amendment 19 inserts new subsection 53EB(8A) which provides that if the infrastructure entity is a government owned corporation or a prescribed authority, a direction may be given under subsection (4) only by the Minister acting jointly with the entity’s relevant Ministers; and before the direction is given, the Minister and the relevant Ministers must consult with the entity’s board about the proposed direction.

Amendment 19 also inserts new subsection 53EB(8B) which provides that for subsection 8A, subsections (4) and (5) apply as if a reference in the subsections to the Minister were a reference to the Minister acting jointly with the entity’s relevant Ministers.

Amendment 20 replaces s53EB(9) to provide that “If a direction is given under this section to an infrastructure entity that is a government owned corporation”. Subsections 53EB(9)(a) and (b) are unchanged.

Amendment 21 replaces s53EB(11) definition of “government entity” to state that “government entity means (a) a government entity within the meaning of the Public Sector Act 2022, section 276; or (b) a government owned corporation.”

Amendment 22 inserts new definitions into s53EB(11) for “prescribed authority”, “Queensland Bulk Water Supply Authority” and “Queensland Rail Transit Authority”.

Amendment 23 inserts a new definition in s53EB(11) “relevant Ministers”.

Amendment 24 amends s54A(1). It omits “each” from “(each a funding agreement)”. This is a consequential amendment to address that the Authority is no longer required to enter into a funding agreement.

Amendment 25 amends s57 *Use or disclosure of confidential information*, to include s57(1)(a)(iiia) the chief executive of the department. Amendment 18 also renumbers the subsection.

Amendment 26 amends Schedule 1 (Dictionary) to include the definition of “public servant”.

Amendment 27 amends Schedule 2 (Other Venues) to replace the Games-related use for the facility to be known as the Gold Coast Arena to be “indoor entertainment and sport venue with seating for 12,000 to 15,000 people”. It also replaces the Legacy use for the Gold Coast Arena to be “indoor entertainment and sport venue with seating for 12,000 to 15,000 people”.

Amendment 28 amends Clause 73 of the Bill to pluralise reference to ‘Vice President’ to reflect that there are now two Vice Presidents on the Corporation Board, being the nominated director nominated by the Minister and the nominated director nominated by the Prime Minister.

Amendment 29 inserts a note under Clause 73 of the Bill to reflect that Vice President provisions also relate to the nominated director nominated by the Prime Minister.

Amendment 30 amends Clause 73 of the Bill to provide that the AOC CEO is a director of the Corporation Board in the event the AOC Honorary Life President position becomes vacant.

Amendment 31 amends Clause 78 of the Bill to provide that the nominated director nominated by the Prime Minister is a Vice President of the Corporation Board, in addition to the nominated director nominated by the Minister.

Amendment 32 amends Clause 80 to reflect *Amendment 31*, and that presiding of Corporation Board meetings is to be rotated between Vice Presidents in the event the President of the Corporation Board is absent from a Corporation Board meeting.

Amendment 33 removes Clause 81 from the Bill. Existing section 34 no longer requires amending to reflect a singular ‘Vice President’ as there will continue to be more than one Vice President of the Corporation Board as per *Amendment 31* above.

Amendment 34 removes Clause 82 from the Bill which was seeking to provide that any director who was presiding over a Corporation Board meeting held a casting vote.

Existing section 35(3) of the BOPGA Act does not need amending as section 34 of the Act requires that either the President or a Vice President be present at a Corporation Board meeting to achieve quorum.

Amendment 35 inserts the definition of 'vice president' in Schedule 6 of the BOPGA Act.

Amendment 36 renumbers Clause 85 to account for *Amendment 35* above.

Additional amendments to the *Planning Act 2016*

Amendment 37 inserts Chapter 4A Regional planning amendments after clause 85.

Clause 85A provides that this chapter amends the *Planning Act 2016*.

Clause 85B amends section 10 of the Planning Act (Making or amending State planning instruments).

Section 10(3)(c) is amended to provide that the statutory consultation period for making a new regional plan is changed from 60 to 30 business days to reduce the minimum period acknowledging modern methods of engagement. A consultation period could be longer if desired.

Section 10(3)(d) is amended to provide that the statutory consultation period for making an amended regional plan is changed from 30 to 20 business days to reduce the minimum period acknowledging modern methods of engagement. A consultation period could be longer if desired.

Amendment 38 inserts Chapter 4B Development control plan amendments after clause 85.

Clause 85C provides that this chapter amends the *Planning Act 2016.*

Clause 85D amends section 275ZB (Restrictions on starting development in structure plan area).

New section 275ZB(5)(b) makes clear that the requirements in section 275B(1)-(3) for development to comply with a development control plan and be consistent with that plan, do not apply where the development relates to infrastructure under a designation (Chapter 2, Part 5). This is a new addition to a case where a development control plan, first introduced under a previous Act, and still otherwise relevant to a development starting in the development control plan area, will now not apply on commencement of this provision.

Clause 85E amends section 316 (Development control plans) omits the note and inserts a new note which links to Part 9, division 2 (Provisions for amendments to existing Development control plans) and the new Part 11, division 1 (Provisions relating to Development control plans), both of which provide provisions for amendments relating to development control plans under an old Act.

Clause 85F inserts new Chapter 8, Part 11 Transitional and validation provisions for *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025.*

It also inserts Division 1 Provisions relating to development control plans.

The proposed chapter 8, part 11 to be inserted in the Planning Act will validate past, and allow future, development in relation to infrastructure under a designation on premises where inconsistent with a development control plan applying to the premises. It will not be necessary to comply with any process in the development control plan for making and approving plans or with any plans made under a Development control plan, for the development in relation to infrastructure under a designation.

Premises the subject of a designation are for community infrastructure which is a priority for the State and local government. A designation may be made for community infrastructure such as schools, hospitals and emergency services facilities as defined under schedule 5 of the Planning Regulation 2017.

Designations are made following a proper planning process which includes public consultation, assessment against relevant State and local government planning instruments, including a relevant development control plan, and engagement with the local government.

Ordinarily, the effect of the infrastructure designation is that the development is ‘accepted’ (although building works approval is required). However, prior to commencement, an infrastructure designation in a development control plan does not override the need to comply with the plans under a development control plan if there is an inconsistency.

After a designation has been given, the proponent is required to apply for approval of plans or changing plans made under a development control plan, to enable development under a designation to be carried out. This adds unnecessary and lengthy delays to delivering community infrastructure in development control plan areas in Mango Hill, Springfield and Kawana Waters.

New Chapter 4B and Chapter 8, Part 11 ensure that a designation applies in the same way in these areas as other parts of Queensland.

New section 366 (Definition for division) provides that for this new Division 1, reference to a development control plan is as per section 358. Section 358 refers to section 316, specifically the Springfield Structure Plan, the Mango Hill Infrastructure Development Control Plan and the Development Control Plan 1 Kawana Waters. New Division 1 does not apply to other areas of Queensland.

New section 367 (Validation of particular development and uses) provides for development in relation to infrastructure under a designation carried out before commencement and a development control plan applied.

New section 367(1) provides that this section applies if before the commencement of the new provisions, development in relation to infrastructure under a designation was carried out on a premises; and when the development was carried out or when the infrastructure designation was given, a development control plan applied to the premises.

New section 367(2) declares that the carrying out of development and any use of the premises that is a natural and ordinary consequence of the development for infrastructure under a designation is taken to be, and to have always been, as valid and lawful as if it had complied with the process or plans as stated in the development control plan.

New section 367(3) provides that the infrastructure designation is lawful despite requirements under a development control plan, section 316(2) of the *Planning Act 2016,* section 857(5) of the repealed *Sustainable Planning Act 2009* and section 6.1.45A(2) repealed *Integrated Planning Act 1997* which require development under a development control plan to comply with the development control plans.

New section 367(4) is instructive about when new section 367(5) applies, clarifying that it applies if the development was carried out under a development approval on premises in certain areas known as designations (different to designations under chapter 2, part 5) made under the Springfield Structure Plan.

New section 367(5) specifically addresses existing section 275ZB of the Planning Act which permits development under a development approval to start in an open space designation, town centre designation, conservation designation or a regional transport designation under the Springfield Structure Plan area, only if certain plans apply to the premises and only if development is consistent with those plans.

New section 367(5) declares that despite section 275ZB, the carrying out of the development, and any use of the premises that is a natural and ordinary consequence of development for infrastructure under a designation is also taken to be, and to have always been, as valid and lawful as if development complied with the above designations, whether it does or not.

New section 367(6) refers to section 275T of the Planning Act for definitions for community residential designation, conservation designation, designation for community infrastructure under the repealed IPA, open space designation, regional transport corridor designation and town centre designation. These references are necessary to interpret new section 367 (4)-(5).

New section 368 (Development in a development control plan) provides for development in relation to an infrastructure designation where a development control plan applies on or after commencement.

New section 368(1) provides that this section applies if on or after the commencement, development in relation to infrastructure under a designation is carried out on the premises and a development control plan applies to the premises.

New section 368(2) provides that despite section 316(2) of the repealed *Sustainable Planning Act 2009* and the development control plan - a process in the development

control plan for making and approving plans does not apply and the development is not required to comply with the plans in the way stated in the development control plan.

Amendment 39 inserts new Chapter 4C Infrastructure charging amendments.

Amendment 40 inserts Part 1 Amendment of the *Planning Act 2016* after clause 85.

New section 85G (Act amended) provides that this part amends the *Planning Act 2016.*

New section 85H amends section 113 (Adopting charges by resolution) to provide that an adopted charges must not be made for trunk infrastructure that relates to development prescribed by regulation. This mirrors the provisions in section 99BRCF of the *South East Queensland (Distribution and Retail Restructuring) Act 2009.*

New section 85I substitutes section 120 (Limitation of levied charge) for improved readability by framing in the positive when an infrastructure charge notice can be issued to levy a charge on a development approval, as opposed to the current section 120 which details when a charge cannot be levied.

The purpose of the section 120 being substituted is to provide certainty and clarity that local governments may, and have been intended to be able to, levy an infrastructure charge for approved development involving accepted development when extra demand on trunk infrastructure is generated.

Accepted development may be stated in an Act, regulation or local categorising instrument (a planning scheme, a temporary local planning instrument, a variation approval). It may be an exemption certificate, a Ministerial Infrastructure Designation or where a defines a use as accepted development (for example, a warehouse in the industry zone).

It is not intended to include circumstances where for example, a development permit was unnecessarily given for development which only involves accepted development under an Act, Regulation (e.g. schedule 6 or 7 of the Planning Regulation 2017 such as building works for public housing) or local planning instruments.

New section 120(1) provides that charges may only be levied under an infrastructure notice for a development approval for extra demand placed on trunk infrastructure that will be generated by the subject of the development approval (the approved development). The development approval may be for a material change of use, reconfiguring a lot, or building work as provided for in section 112(3) of the *Planning Act 2016* and section 52 of the Planning Regulation 2017.

New subsection 120(2) and section 120(3) are instructive in working out extra demand on trunk infrastructure which may be generated by the approved development and may be generated by a prescribed development or use.

New section 120(3) introduces a definition of ‘prescribed development or use’ that may be considered in working out extra demand at new section120(2).

The definition of 'prescribed development or use' includes an accepted development such as a Ministerial Infrastructure Designation or exemption certificate that allows a use to commence without a development permit.

New section 120(3) also introduces a definition of 'infrastructure requirement', which means an infrastructure charges notice, or a condition of a development approval, that requires infrastructure or a payment in relation to demand on infrastructure.

The various subsections 120(3)(a)-(e) are scenarios where a use of premises could establish without a development approval so no extra demand on trunk infrastructure is worked out at the time. The replaced section 120 clarifies that the extra demand on trunk infrastructure may be worked out and levied in an infrastructure charge notice when a subsequent development approval is given (such as for building work), but prevent for any duplication of consideration of demand.

New section 120(2) provides that the 'prescribed development or use' at section 120(3) may be included in working out extra demand in the circumstances provided at new section 120(2)(a) and (b). Examples are provided below to assist.

New section 120(2)(a) provides that the extra demand generated a 'prescribed development or use' may also be included if an infrastructure requirement (an infrastructure charges notice, or condition of a development approval, that requires infrastructure or a payment in relation to demand on infrastructure as defined in new section 120(3)) given or imposed in relation to the prescribed development or use has not been complied with.

For example, the 'prescribed development or use' in section 120(3)(c) and (d) are present and past uses of the land, and would not be included in the extra demand calculation for subsection 120(2)(b) which applies to a prescribed development or use that has not been carried out on the premises.

However, section 120(3)(c) and (d) could be included in working out demand under section 120(2(a) – that is, if there is an infrastructure requirement given or imposed in relation to them that has not been complied with.

New section 120(2)(b) provides that the extra demand generated by a 'prescribed development and use' may also be included if the prescribed development or use has not been carried out on the premises and either of the following apply:

(i) the approved development is for or relates to the prescribed development or the use and the demand on trunk infrastructure generated by the prescribed development or use has not been included in working out extra demand for another infrastructure requirement.

Example of approved development that is for or relates to a prescribed development or use –

The approved development is building work for a multiple dwelling. A material change of use of the premises for the multiple dwelling is accepted development. The building work is for the material change of use, and the use of the premises for the multiple dwelling.

(ii) an infrastructure requirement applying to premises on which the prescribed development or use will be carried out was given or imposed on the basis of development or a use of a lower scale or intensity being carried out on the premises.

For example, if a warehouse has been established as accepted development under a planning scheme, and no development approval was required to establish the use, a subsequent development approval for building work may include the demand on trunk infrastructure by the use as a warehouse.

In this example, the *approved development* is the development permit for the building work for the warehouse as per new section 120(1). There is no other assessable development associated with the development of the warehouse.

The *prescribed development or use* is the *material change of use for the warehouse*, as it is development that may be carried out on the premises without a development permit (accepted development) as per new section 120(3).

In working out extra demand, the demand on trunk infrastructure generated by the material change of use for the warehouse (***prescribed development or use***) may be included as the demand generated by the material change of use for the warehouse has not been included in working out extra demand for another infrastructure requirement (new section 120(2)(b)(i)).

As a further example, if a Ministerial Infrastructure Designation is given for a community housing project and a new trunk road widening is within the land the subject of the Ministerial Infrastructure Designation is a requirement of that infrastructure designation, and at the time of the subsequent development approval it is not provided, the requirement can be considered in working out the extra demand in issuing an infrastructure charges notice with the subsequent development approval.

New section 120 recognises scenarios where a use of premises could establish without a development approval but ultimately, the development or use (potentially involving building works, reconfiguring a lot, operational works) may generate extra demand on infrastructure. The infrastructure charge may be for extra demand, considering the use, placed on trunk infrastructure generated by the development the subject of the approval.

New section 85J ensures existing cross references in the Planning Act refer to the correct new parts of section 120 and section 99BRCJ of the *South East Queensland Water (Distribution and Retail Restructuring) Act 2009* which has been replaced.

New section 85K inserts new Chapter 8, Part 11, Division 2 Provisions relating to infrastructure charges notices (ICNs).

New section 369 (Definitions for division) inserts definitions for new Division 2 Provisions relating to infrastructure charges notices.

Broadly, this section seeks to validate infrastructure charges notices paid or levied since 4 July 2014 when the current infrastructure charges framework was introduced in the repealed *Sustainable Planning Act 2009*, as if the new section 120 was in force applied when the charges notice was given.

New section 370 (Infrastructure charges notices – former s 120 applied) applies in relation to an infrastructure charges notice given, for a development approval before the commencement if a former section 120 applied in relation to the levied charge under the notice and the levied charge does not comply with section 120.

Section 370(2) declares than an infrastructure charges notice is taken to be, and to have always been, as valid and lawful as it would be or would have been had new section 120 been in force when the notice was given.

Section 370(3) provides that anything done, or omitted to be done, in relation to the infrastructure charges notice is taken to be, and to have always been, as valid and lawful as it would be or would have been had new section 120 been in force when the notice was given.

Section 370(4) provides that if the infrastructure charges notice has, before the commencement, been found by a court or tribunal to be invalid or has been set aside by a court or tribunal, the decision and any orders, declarations or directions in relation to the decision of the court or tribunal, stand; but new section 120 applies in relation to the giving, after the commencement, of a new infrastructure charges notice for the development approval.

Section 370(5) provides that former section 120 means section 120 as in force from time to time before the commencement.

New section 371 (Infrastructure charges notices - old Act, s 636 as in force from 7 November 2014 applied) provides that this section applies in relation to an infrastructure charges notice given, or purportedly given, for a development approval before commencement if the repealed *Sustainable Planning Act 2009*, section 636 as in force from 7 November 2014 (the relevant provision) applied in relation to the levied charge under the notice; and the levied charge does not comply with the relevant provision when the notice was given.

New section 371(2) declares that the infrastructure charges notice is taken to be, and to have always been, as valid and lawful as it would be or would have been had new section 120 been in force when the notice was given.

New section 371(3) provides that anything done, or omitted to be done, in relation to the infrastructure charges notice is taken to be, and to have always been, as valid and lawful as it would be or would have been had new section 120 been in force when the notice was given.

New section 371(4) provides that if the infrastructure charges notice has, before the commencement, been found by a court or tribunal to be invalid or has been set aside by a court or tribunal, the decision and any orders, declarations or directions in relation to the decision of the court or tribunal, stand; but new section 120 applies in relation to the giving, after the commencement, of a new infrastructure charges notice for the development approval.

New section 371(5) provides that for subsections (2) to (4), new section 120 applies as if a reference in the section to a term that is defined under this Act and the repealed

Sustainable Planning Act 2009, includes a reference to the term as defined under the repealed *Sustainable Planning Act 2009.*

New section 372 (Infrastructure charges notices – old Act, s636 as in force between 4 July 2014 and 6 November 2014 applied) provides that this section applies in relation to an ICN given, for a development approval before commencement if the repealed *Sustainable Planning Act 2009*,, section 636 as in force from 7 November 2014 (the relevant provision) applied in relation to the levied charge under the notice and the levied charge does not comply with the relevant provision when the notice was given.

New section 372(2) declares than an infrastructure charges notice is taken to be, and to have always been, as valid and lawful as it would be or would have been had new section 120, other than new section 120(2)(b)(ii) been in force when the notice was given.

New section 372(3) provides that anything done, or omitted to be done, in relation to the infrastructure charges notice is taken to be, and to have always been, as valid and lawful as it would be or would have been had new section 120, other than new section 120(2)(b)(ii), been in force when the notice was given.

New section 372(4) provides that if the infrastructure charges notice has, before the commencement, been found by a court or tribunal to be invalid or has been set aside by a court or tribunal, the decision and any orders, declarations or directions in relation to the decision of the court or tribunal, stand; but new section 120 applies in relation to the giving, after the commencement, of a new infrastructure charges notice for the development approval.

New section 372(5) provides that for subsections (2) to (4), new section 120 applies as if a reference in the section to a term that is defined under this Act and the repealed *Sustainable Planning Act 2009*, includes a reference to the term as defined under the repealed *Sustainable Planning Act 2009.*

<u>Amendments to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*</u>

Amendment 41 inserts Part 2 Amendment of *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* after clause 85.

Clause 85L provides that this part amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

Clause 85M amends section 99BRCF (Power to adopt charges by board decision).

Section 99BRCF(2)(c) is amended to provide that an adopted charge must not be for trunk infrastructure related to public housing.

Also, an adopted charge must not be for trunk infrastructure related to other development prescribed by regulation. This mirrors the provisions in section 113 of the *Planning Act 2016*.
Section 99BRCF(4) inserts a definition for public housing.

Clause 85N replaces section 99BRCJ (Limitation of levied charge) for improved readability by framing in the positive what may be included in working out additional demand.

The purpose of section 99BRCJ being substituted is to provide certainty and clarity that distributor-retailers may, and have always been intended to be able to, levy an infrastructure charge for additional demand placed on trunk infrastructure generated by the connection. This applies regardless of whether an aspect of the development, such as the use of the premises, is accepted development.

New section 99BRCJ(1) provides that charges levied under an infrastructure notice for a water approval for premises may be only for additional demand placed on trunk infrastructure that will be generated by the connection the subject of the approval, referred to as an approved connection.

New sections 99BRCJ(2) and 99BRCJ(3) are instructive in working out additional demand.

Section 99BRCJ(2) provides that any existing demand for a water service or wastewater service may be included if the existing demand is not the subject of another water approval for the premises or if an infrastructure requirement given or imposed in relation to another water approval for the demand has not been complied with.

New 99BRCJ(3) provides that demand on trunk infrastructure generated by a prescribed development or use may also be included if an infrastructure requirement given or imposed in relation to the prescribed development or use has not been complied with or the prescribed development or use has not been carried out on the premises and either new 99BRCJ(3)(b)(i) or new 99BRCJ(3)(b)(ii) applies.

The ability to work out extra demand on trunk infrastructure generated by a prescribed development or use provides for a situation where for example, the use of a premises could establish without the need for a development approval so no extra demand on trunk infrastructure is worked out at the time. The provisions allow the extra demand on trunk infrastructure to be worked out and levied under an infrastructure charge notice when a subsequent development approval is given (such as for building work) or a subsequent use is carried out but prevent for any duplication of consideration of demand.

Section 99BRCJ(3)(b)(i) clarifies that new 99BRCJ(3) applies if the approved connection is for or relates to the prescribed development or use and the demand on trunk infrastructure generated by the prescribed development or use has not been included in working out additional demand for another infrastructure requirement.

Section 99BRCJ(3)(b)(ii) clarifies that new 99BRCJ(3) applies if an infrastructure requirement applying to the premises on which the prescribed development or use will be carried out was given or imposed on the basis of a development or use of a lower scale or intensity being carried out on the premises.

New section 99BRCJ recognises scenarios where a use of premises could establish without a development approval but ultimately, the development or use (potentially

involving building works, reconfiguring a lot, operational works) may generate extra demand on infrastructure. The infrastructure charge may be for extra demand, considering the use, placed on trunk infrastructure generated by the connection the subject of the approval.

For example, the 'prescribed development or use' in section 99BRCJ(4)(c) and (d) are present and past uses of the land and would not be included in the extra demand calculation for subsection 99BRCJ(3)(b) which applies to a prescribed development or use that has not been carried out on the premises.

However, section 99BRCJ(4) '*prescribed development or use'* (c) and (d) could be included in working out demand under section 99BRCJ(3)(a) – that is, if there is an infrastructure requirement given or imposed in relation to them that has not been complied with.

Clause 85O inserts new Chapter 6, Part 16 into the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

New section 159 provides definitions for Part 16.
Broadly, this part seeks to validate infrastructure charges notices given for a water approval before commencement of these amendments.

New section 160(1) provides that any infrastructure charges notice given or purportedly given, for a water approval, between 5 December 2014 and before commencement, and does not comply with the relevant provision, is taken to be, and to have always been, as valid and lawful.

New section 160(2) declares that the infrastructure charges notice is taken to be and to have always been, as valid and lawful as it would be or would have been had the new s99BRCJ been in force when the notice was given.

New section 160(3) provides that anything done, or omitted to be done, in relation to the infrastructure charges notice is taken to be, and to have always been, as valid and lawful as it would be or would have been had new section 99BRCJ been in force when the notice was given.

New section 160(4) clarifies that if an infrastructure charges notice has, before commencement, been found by a court or tribunal to be invalid or set aside, the decision of the court or tribunal and any orders, declarations or directions made by the court or tribunal in relation to the decision stand, but new section 99BRCJ applies in relation to the giving of a new infrastructure charges notice for the water approval after the commencement.

New section 160(5) provides that for new sections 160(2) to 160(4), that new 99BRCJ applies as if a reference in the section to the *Planning Act 2016* includes a reference to the repealed *Sustainable Planning Act 2009* and a reference in the section to a term that is defined under the *Planning Act 2016* and repealed *Sustainable Planning Act 2009* includes a reference to the term as defined under the repealed *Sustainable Planning Act 2009.*

New section 161(1) provides that any infrastructure charges notice given or purportedly given, for a water approval, before 5 December 2014 and before commencement, and does not comply with the relevant provision, is taken to be, and to have always been, valid and lawful.

New section 161(2) declares that the infrastructure charges notice is taken to be and to have always been, as valid and lawful as it would be or would have been had the new s99BRCJ been in force when the notice was given.

New section 161(3) provides that anything done, or omitted to be done, in relation to the infrastructure charges notice is taken to be, and to have always been, as valid and lawful as it would be or would have been had new section 99BRCJ, other than new section 99BRCJ(3)(b)(ii), been in force when the notice was given.

New section 161(4) clarifies that if an infrastructure charges notice has, before commencement, been found by a court or tribunal to be invalid or set aside, the decision of the court or tribunal and any orders, declarations or directions made by the court or tribunal in relation to the decision stand, but new section 99BRCJ applies in relation to the giving of a new infrastructure charges notice for the water approval after the commencement.

New section 161(5) provides that for new sections 161(2) to 161(4), that new 99BRCJ applies as if a reference in the section to the *Planning Act 2016* includes a reference to the repealed *Sustainable Planning Act 2009* and a reference in the section to a term that is defined under the *Planning Act 2016* and repealed *Sustainable Planning Act 2009* includes a reference to the term as defined under the repealed *Sustainable Planning Act 2009.*

Amendments to the Queensland Building and Construction and Commission Act 1991

Amendment 42 amends the Bill to insert new Chapter 4D Queensland home warranty scheme eligibility amendments (Clauses 85P – 85W).

Clause 85P provides that Chapter 4D amends the *Queensland Building and Construction Commission Act 1991*.

Clause 85Q amends section 67WA of the QBCC Act to insert a definition for ***contract*** for Part 5. It states that ***contract*** for the carrying out of residential work is defined in new section 67WBA.

New section 67WBA provides a definition for ***contract*** for part 5 of the Act. It clarifies a contract includes an arrangement that but for the operation of section 13(5) or 14(10) of schedule 1B of the Act, would have effect as a contract for the carrying out of residential construction work. The intent of this section is to clarify that contracts that are not in written form, dated and/or signed by both parties is a contract for the purposes of a commencement of cover and a consumer's eligibility for cover under the statutory insurance scheme.

It also provides an example of a contract being an arrangement between a licensed contractor and a person, reached through an exchange of emails, for the carrying out residential construction work for the person.

Clause 85S inserts new schedule 1 Part 19 (Declaratory and validation provisions for Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025) into the Act.

New section 89 of part 19 provides definitions for this part. It states that ***affirmative decision*** for Part 19 is defined in section 91 of the schedule.

It defines ***binding declaration*** which means a declaration made by the tribunal under the QCAT Act, section 60(1); and includes an order made by the tribunal under the QCAT Act, section 60(2) to give effect to the declaration. It also defines ***consumer*** as the meaning given under section 67WA of the Act including a defrauded person under section 68H(1)(c); and a person declared to be, or to have been, a consumer under section 93 of the schedule.

New section 89 also states that ***essential requirements*** is defined in section 90 of the schedule; and that ***non-compliant arrangement*** is defined in section 92(1) of the schedule.

It defines ***rectification decision***, in relation to residential construction work, to mean a decision about the scope of works to be undertaken under the statutory insurance scheme to rectify or complete the work. It also defines a ***review decision*** to mean a decision made by the tribunal under the QCAT Act, section 24(1)(a) or (b).

New section 89 of part 19 states a ***termination decision***, in relation to residential construction work carried out under a non-compliant arrangement, means a decision that the arrangement was terminated in circumstances that, had the arrangement been a contract, would have constituted a valid termination of the contract; and that had the consequence of allowing a claim for non-completion of the work under the statutory insurance scheme.

New section 90 of part 19 provides the meaning for ***essential requirements*** for a contract for the carrying out of residential construction work are that the contract must be in writing and dated and signed by or for each party to the contract.

New section 91 of part 19 provides the meaning for ***affirmative decision*** in relation to residential construction work to be each of the following decisions of the commission: a rectification decision relating to the work; a termination decision relating to the work; a decision to allow a claim for the work under the statutory insurance scheme; a decision to pay an amount for a claim for the work under the statutory insurance scheme; or a decision under section 71 of the Act to recover an amount for the work.

New section 92 of part 19 provides that an arrangement, entered into before the commencement, for the carrying out of residential construction work that did not comply with the essential requirements for a contract but otherwise would have had effect if the arrangement had complied with the essential requirements for a contract for the carrying out of the work (a ***non-compliant arrangement***) is taken to be, and always to have been, a contract for the carrying out of the residential construction work under part 5 of the Act.

This provision retrospectively validates a contract that did not meet the essential requirements to be a contract for the purposes of Part 5 at the time it was entered into.

This section clarifies that cover comes into force in the circumstances of a non-compliant arrangement.

New section 93 of part 19 provides that a person who is a party to a non-compliant arrangement and who would have been a consumer but for the operation of Schedule 1B, is, or was, a consumer for the residential construction work as the non-compliant arrangement were, and had always been, a contract for the carrying out of the work under part 5 of the Act.

This provision retrospectively validates a person's eligibility for cover under the statutory insurance scheme for a contract that did not meet the essential requirements at the time it was entered for the purposes of part 5.

New section 94 of part 19 validates certain decisions of the commission made in relation to residential construction work that was the subject of a non-compliant arrangement. It states that an affirmative decision of the commission, other than a rectification decision or termination decision for which the tribunal has made a review decision or binding declaration, is as valid as it would have been if the non-compliant arrangement had been a contract for the carrying out of the residential construction work under part 5 of the Act. It also states that any action taken in reliance on the affirmative decision is also taken to be as lawful and valid as it would have been if not for the contract being a non-compliant arrangement.

New section 95 of part 19 validates certain actions of the commission taken in relation to its administration of the statutory insurance scheme that was the subject of a non-compliant arrangement. These actions include accepting insurance premiums, issuing of a notice of cover, recovery or attempted recovery of unpaid insurance premiums or amounts paid by the commission for a claim, seeking or accepting of tenders, authorising of the carrying out, and paying a claim for building work under the statutory insurance scheme. It states that these actions are taken to be as valid as they would have been if not for the contract being a non-compliant arrangement.

New section 96 of part 19 provides a limited avenue (within 6 months after commencement) for a consumer affected by a rejection decision to apply to the commission for review of the decision. It states that a ***rejection decision*** is a decision made by the commission, whether in the first instance or as an internal review decision, to either disallow a claim wholly or in part, or that the arrangement could not be validly terminated, because wholly or partly the commission considered the arrangement did not comply with the essential requirements for a contract for the carrying out of the work.

New section 96 provides that the application for review of the rejection decision is taken to be a reviewable decision to which part 7, division 3, subdivision 1 of the Act (other than sections 86A and 86B(b)) applies.

New section 97 of part 19 validates certain affirmative tribunal decisions made in relation to residential construction work that was the subject of a non-compliant arrangement. It states that an ***affirmative tribunal decision*** is: a review decision or binding declaration that was consistent with a rectification decision relating to the work or confirmed a termination decision relating to the work; an order under section 93(2) of the Act for the payment of an amount under section 71 relating to the work; or

another decision, declaration or order made on the basis that the non-compliant arrangement was a contract for the carrying out of the work.

New section 97 states that the rights, interests and liabilities of all persons affected by the affirmative tribunal decision or a related action for the decision are the same, and are taken to have always been the same, as they would have been if the non-compliant arrangement had been a contract for the carrying out of the residential construction work under part 5 of the Act.

New section 98 of part 19 provides a limited avenue (within 6 months after commencement) for a person affected by a tribunal decision to disallow a claim to apply to the tribunal, under the QCAT Act, section 138, to reopen the proceeding for which the decision was made (the reopening application). The tribunal decisions to which the section applies is either a decision to disallow a claim for the work under the statutory insurance scheme wholly or in part, or a decision that the arrangement could not be validly terminated under the statutory insurance scheme, and the decision was made wholly or partly because the tribunal considered the arrangement did not comply with the essential requirements for a contract for the carrying out of the work.

New section 98 states that section 138(2) of the QCAT Act does not apply to the reopening application meaning the application does not need to state the reopening grounds, be made within the period and stated within the rules and need not be accompanied by the prescribed fee. Section 98 also states that the tribunal may grant the reopening application if the tribunal considers subsection (1)(c) applies to the decision and the decision may not have been made if the arrangement had complied with the essential requirements for a contract. For a reopening application, section 140 of the QCAT Act applies as if the tribunal had decided the proceeding should be reopened under section 139 of that Act. Chapter 2, part 7, division 7 of that Act applies in relation to reopening the proceeding and hearing and deciding the issues in the proceeding.

New section 99 of part 19 provides that no compensation is payable by the State or the commission to any person for or in connection with the enactment or operation of a relevant amendment or anything done to carry out or give effect to a relevant amendment.

Clause 85T omits the definition written form from Schedule 1B of the Act.

Clause 85U replaces the term *written form* with ‘in writing’ in section 13(2) of Schedule 1B of the Act. This reflects a more contemporary drafting approach consistent with the *Acts Interpretation Act 1954.*

Clause 85V replaces the term *written form* with ‘in writing’ in section 14(2) of Schedule 1B of the Act. This reflects a more contemporary drafting approach consistent with the *Acts Interpretation Act 1954.*

Clause 85W omits the definitions of *contract* and *written form* and inserts a new definition for ***contract*** (as per section 67WBA) or for part 7 means a contract for carrying out tribunal work in Schedule 2 Dictionary

Amendment 43 identifies two new, consequential amendments to Schedule 2 of the *Environmental Offsets Act 2014*. Specifically, this amendment changes paragraph (a)(i)(B) and (a)(ii)(A) of Schedule 2 of the *Environmental Offsets Act 2014* to reference the new definition of enforcement authority in the *Planning Act 2016* proposed as section 160A(2) of this Bill.

Amendment 44 amends the long title of the Bill to include the *Queensland Building and Construction Commission Act 1991* and *the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009.*