

State Development and Other Legislation Amendment Bill 2006

Amendments agreed to during Consideration

1 Clause 7 (Insertion of new pt 5A)—

At page 11, after line 21—

insert—

- ‘ (5) This section applies subject to section 76EA.

‘76EA Process applying to particular declarations

- ‘(1) This section applies if the Minister intends to declare a project with a capital investment value of not more than \$50 million to be a prescribed project.
- ‘(2) Before making the declaration, the Minister—
- (a) must give each interested person for the project a written notice that—
 - (i) describes the project and the area in which the project is proposed to be undertaken; and
 - (ii) states the grounds on which the Minister considers the project should be declared a prescribed project; and
 - (iii) invites the person to give the Minister a submission about the proposed declaration within the period stated in the notice; and
 - (b) must consider each properly made submission given to the Minister about the proposed declaration.
- ‘(3) The stated period for subsection (2)(a)(iii) must be at least 10 business days after the interested person is given the notice.
- ‘(4) The Minister must, within 10 business days after making a decision about declaring the project to be a prescribed project, give to each interested person who gave the Minister a

properly made submission a written notice stating the Minister's reasons for the decision.

‘(5) In this section—

capital investment value, for a project, includes all costs necessary to establish and operate infrastructure associated with the project, including, for example, the cost of—

- (a) fixed or mobile plant and equipment; and
- (b) designing and constructing buildings or other structures; and
- (c) engaging consultants.

interested person, for a project, means each local government for the area in which the project is proposed to be undertaken.

properly made submission means a submission that—

- (a) is in writing and is signed by the local government that made the submission; and
- (b) is received within the stated period for making the submission; and
- (c) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.’.

2 **Clause 7 (Insertion of new pt 5A)—**

At page 17, line 16, after ‘assistance’—

insert—

‘or recommendations’.

3 **Clause 7 (Insertion of new pt 5A)—**

At page 18, after line 2—

insert—

- ‘ ‘(3) Subsection (4) applies if, other than for the giving of the step in notice, under the relevant law for the prescribed decision a local government could have imposed a condition, in relation

to the decision, for infrastructure to which the Integrated Planning Act, chapter 5, part 1, applies.

- ‘(4) The local government may, before the Coordinator-General makes a decision under section 76O about the prescribed decision, give the Coordinator-General a written recommendation to impose the condition.’.

4 Clause 7 (Insertion of new pt 5A)—

At page 20, after line 15—

insert—

- ‘(4A) If the Coordinator-General receives a recommendation under section 76M(4) to impose a condition in relation to the prescribed decision, the Coordinator-General must impose the condition unless the Minister directs otherwise.
- ‘(4B) The Coordinator-General’s decision to impose a condition under subsection (4A) is taken to be a decision for the purposes of the Integrated Planning Act, section 5.1.8(2)(b).’.

5 Clause 7 (Insertion of new pt 5A)

At page 25, lines 16 to 18—

omit, insert—

- ‘(a) a decision of the Minister to declare a project to be—
- (i) a critical infrastructure project; or
 - (ii) a prescribed project if the project is a critical infrastructure project; or’.

6 After clause 13—

At page 29, after line 17—

insert—

‘13A Insertion of new pt 6, div 8

‘Before part 7—

insert—

‘Division 8 Easements for critical infrastructure projects

‘153A Definitions for div 8

‘In this division—

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

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

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

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

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

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

‘153B Registration of critical infrastructure easement

‘(1) This section applies to land that—

- (a) is the subject of a critical infrastructure project; and
- (b) is burdened by a relevant public utility easement.

‘(2) On receiving an instrument of easement for the land, the registrar must record the particulars of the easement in the appropriate register if—

- (a) the instrument—
 - (i) relates only to the land affected by the relevant public utility easement; and

- (ii) is signed by the Minister; and
 - (b) the easement is in favour of the Coordinator-General.
- ‘(3) Despite the *Land Act 1994*, section 363 or the *Land Title Act 1994*, section 83, the easement may be registered under the Acts—
 - (a) without the instrument being signed by a person other than the Minister; and
 - (b) for an easement under the *Land Act 1994*—without the approval of the Minister under that Act.
- ‘(4) The easement is taken to be a public utility easement under the *Land Act 1994*, chapter 6, part 4, division 8, or the *Land Title Act 1994*, part 6, division 4.

‘153C Terms of easement

‘A critical infrastructure easement may include the following terms—

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

‘153D Effect of registration of easement

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

exercise of the rights would interfere with the exercise of rights under the critical infrastructure easement.

‘153E Transfer of easement

- ‘(1) With the Minister’s written approval, a critical infrastructure easement may be transferred to—
 - (a) another public utility provider; or
 - (b) a person approved by the Minister as suitable to provide a public utility service in relation to the critical infrastructure easement.
- ‘(2) On receiving an instrument evidencing the transfer, the registrar must record the transfer in the appropriate register.
- ‘(3) The transfer may be recorded in the appropriate register—
 - (a) without the approval of a person other than the Minister; and
 - (b) if the appropriate register is a register under the *Land Act 1994*—without the approval of the Minister under that Act.
- ‘(4) A person approved by the Minister under subsection (1)(b) is taken to be a public utility provider for the purposes of the critical infrastructure easement.
- ‘(5) In this section—
public utility provider means a public utility provider under—
 - (a) the *Land Act 1994*, chapter 6, part 4, division 8; or
 - (b) the *Land Title Act 1994*, part 6, division 4.

‘153F Amendment of easement

- ‘(1) A critical infrastructure easement may, with the Minister’s written approval, be amended under, as appropriate—
 - (a) the *Land Act*, section 370; or
 - (b) the *Land Title Act*, section 91.
- ‘(2) However, the amendment may be registered—

- (a) without the instrument of amendment being signed by a person other than the easement holder; and
- (b) for an amendment under the *Land Act 1994*—without the approval of the Minister under that Act.

‘153G Minister to give notice of registration or amendment

- ‘(1) The Minister must, as soon as practicable after a critical infrastructure easement is registered or amended under this division, give written notice of the registration or amendment to each person who has an interest in land the subject of the easement.
- ‘(2) The notice must include all of the following—
 - (a) for registration of an easement—particulars of the easement;
 - (b) for amendment of an easement—particulars of the amendment;
 - (c) information about the person’s right to claim compensation under section 153I, and the process for claiming the compensation.

‘153H Application of particular provisions

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

‘153I Compensation

- ‘(1) Subsection (2) applies to a person who has an interest in land burdened by a critical infrastructure easement—
 - (a) when it is registered under section 153B; or
 - (b) when its terms are amended under section 153F.
- ‘(2) The person has a right to claim compensation under the *Acquisition of Land Act 1967* in relation to the extent to which

the person's interest is affected by the registration or amendment.

- ‘(3) For claiming the compensation, the process stated in the *Acquisition of Land Act 1967* for the payment of compensation for land taken under that Act applies with any necessary changes as if the registration or amendment were a taking of land under that Act by the State.
- ‘(4) Other than as stated in this section, a person has no right to compensation for the registration or amendment of a critical infrastructure easement under this division.’.

7 Clause 14 (Amendment of schedule (Dictionary))—

At page 29, after line 26—

insert—

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

8 Clause 14 (Amendment of schedule (Dictionary))—

At page 29, after line 28—

insert—

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

9 Clause 14 (Amendment of schedule (Dictionary))—

At page 29, line 29, ‘, for part 5A,’—

omit.

10 Clause 14 (Amendment of schedule (Dictionary))—

At page 30, after line 2—

insert—

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

11 Clause 14 (Amendment of schedule (Dictionary))—

At page 30, after line 11—

insert—

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

12 Clause 14 (Amendment of schedule (Dictionary))—

At page 30, after line 12—

insert—

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

13 After clause 22—

At page 32, after line 21—

insert—

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

‘Section 296(2)—

insert—

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

14 After clause 25 (Amendment of s 89 (Easements for public utility providers))—

At page 34, after line 13—

insert—

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

‘Section 154(2)—

insert—

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