



Airport Assets (Restructuring and Disposal) Act 2008

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Queensland

Airport Assets (Restructuring and Disposal) Act 2008

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Airport Assets (Restructuring and Disposal) Act 2008

An Act to facilitate disposal of particular airport businesses, including by facilitating the restructure or disposal of airport entities, and to make provision about land use planning for, and control of, particular airports after the disposal

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Airport Assets (Restructuring and Disposal) Act 2008*.

2 Commencement

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

- (a) section 130;
- (b) chapter 7, part 7, division 3.

3 Main purposes of Act

- (1) The main purposes of this Act are—
 - (a) to facilitate the carrying out of a project relating to the disposal of interests in airports at Cairns, Mackay and Brisbane; and

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- (b) to establish a planning regime for airport land at Cairns and Mackay; and
 - (c) to provide for particular matters about the continuing operation of airports at Cairns and Mackay.
- (2) It is the intention of the Parliament that the funds realised from the divestment of airport assets under this Act be applied towards health and other regional infrastructure and that any surplus be retained in the Queensland future growth fund for investment in future regional infrastructure.

Part 2 Interpretation

4 Dictionary

The dictionary in schedule 3 defines particular words used in this Act.

5 The project

The *project* is—

- (a) disposing of particular airport businesses, assets and liabilities of Cairns Ports and Mackay Ports; and
- (b) taking steps to facilitate the disposal mentioned in paragraph (a), including by—
 - (i) restructuring businesses, assets and liabilities of Cairns Ports and Mackay Ports, their subsidiaries and other airport entities; and
 - (ii) disposing of airport entities: and
- (c) disposing of shares in BAC Holdings held by Gateway; and
- (d) taking other steps relating to the disposal of Gateway's interest in BAC Holdings, including—
 - (i) restructuring Gateway and its assets for the purpose of the disposal; and

- (ii) facilitating agreement about the terms of a shareholders deed of covenant and facilitating execution of the deed; and
- (e) disposing of shares in Gateway held by POBC, and taking steps to facilitate that disposal.

6 Airport entities

Each of the following is an *airport entity*—

- (a) Cairns Ports;
- (b) Mackay Ports;
- (c) POBC;
- (d) Gateway;
- (e) QIC;
- (f) QIC Infrastructure Management as trustee for QIC Brisbane Airport Infrastructure Trust;
- (g) QTH;
- (h) a company of which Cairns Ports, Mackay Ports, POBC or QIC is the ultimate holding company;
- (i) a government company established for the project;
- (j) a company that was an airport entity under paragraph (h), all of whose shares have been transferred to the State, to QTH or to a government company mentioned in paragraph (i).

7 Airport land

Airport land is land that is Cairns airport land or Mackay airport land.

8 Cairns airport land

- (1) The following land is *Cairns airport land*—

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- (a) land that, on the completion day for Cairns International Airport, has a property description mentioned in schedule 1, part 1;
 - (b) land prescribed to be Cairns airport land under a regulation for this section.
- (2) However, land is not Cairns airport land if it is prescribed under a regulation for this section not to be Cairns airport land.
- (3) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1)(b) unless the Minister is satisfied the land is or will be used in connection with Cairns International Airport.
- (4) Subject to subsection (2), land mentioned in subsection (1)(a) continues to be Cairns airport land even if, after the completion day, it has a different property description.
- (5) To remove any doubt, it is declared that there is no Cairns airport land until the completion day for Cairns International Airport.

9 Mackay airport land

- (1) The following land is *Mackay airport land*—
 - (a) land that, on the completion day for Mackay Airport, has a property description mentioned in schedule 1, part 2;
 - (b) land prescribed to be Mackay airport land under a regulation for this section.
- (2) However, land is not Mackay airport land if it is prescribed under a regulation for this section not to be Mackay airport land.
- (3) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1)(b) unless the Minister is satisfied the land is or will be used in connection with Mackay Airport.

-
- (4) Subject to subsection (2), land mentioned in subsection (1)(a) continues to be Mackay airport land even if, after the completion day, it has a different property description.
 - (5) To remove any doubt, it is declared that there is no Mackay airport land until the completion day for Mackay Airport.

10 References to functions

In this Act—

- (a) a reference to a function includes a power; and
- (b) a reference to performing a function includes exercising a power.

Chapter 2 Restructure and disposal of airport entities and related matters

Part 1 Particular Ministerial powers and activities relating to the project

11 Associated activities

For the purpose of the project, the Minister may do any of the following—

- (a) examine a business, asset or liability of an airport entity, including a record relating to a business, asset or liability;
- (b) decide the most appropriate way of restructuring a business, asset or liability of an airport entity, including by deciding whether or not a business, asset or liability

of an airport entity is to be transferred to another airport entity;

- (c) decide the most appropriate way of disposing of an airport entity or of a business, asset or liability of an airport entity;
- (d) anything else necessary or incidental to facilitate the disposal of an airport entity or of a business, asset or liability of an airport entity or the continuing operation of an airport entity.

12 Transfer notice

- (1) For the purpose of the project, the Minister may, by gazette notice (a *transfer notice*), do any of the following—
 - (a) transfer shares in an airport entity to another airport entity or the State;
 - (b) transfer a business, asset or liability of an airport entity to another airport entity or the State;
 - (c) make provision about the consideration for shares or a business, asset or liability transferred under paragraph (a) or (b);
 - (d) grant a lease, easement or other right to an airport entity;
 - (e) vary or extinguish a lease, easement or other right held by an airport entity;
 - (f) in relation to a lease held under the *Land Act 1994*—
 - (i) transfer the lease; or
 - (ii) change a purpose for which the lease is issued; or
 - (iii) change a condition imposed on the lease; or
 - (iv) grant a sublease;
 - (g) in relation to a reserve under the *Land Act 1994*—
 - (i) change a community purpose for which the reserve is dedicated; or
 - (ii) remove a trustee of the reserve; or

- (iii) appoint a trustee of the reserve, subject to conditions or without conditions;
- (h) provide whether and, if so, the extent to which an airport entity is the successor in law of another airport entity or the State is the successor in law of an airport entity;
- (i) make provision for a legal proceeding that is being, or may be, taken by or against an airport entity to be continued or taken by or against another airport entity or the State;
- (j) make provision about the application of instruments to an airport entity, including—
 - (i) whether an airport entity is a party to an instrument; and
 - (ii) whether an instrument, or a benefit or right provided by an instrument, is taken to have been given to, by or in favour of an airport entity; and
 - (iii) whether a reference to an entity in an instrument is a reference to an airport entity; and
 - (iv) whether, under an instrument, an amount is or may become payable to or by an airport entity or other property is, or may be, transferred to or by an airport entity; and
 - (v) whether a right or entitlement under an instrument is held by an airport entity;
- (k) provide that—
 - (i) an instrument is a shareholders deed of covenant; and
 - (ii) a party to the BACH Shareholders Agreement or a holder of shares in BAC Holdings is a party to the instrument;
- (l) make provision for the transfer or secondment of an employee of an airport entity to another airport entity;
- (m) make provision about the employees of an airport entity and their rights;

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- (n) make provision about the records of an airport entity;
 - (o) make provision about an incidental, consequential or supplemental matter the Minister considers necessary or convenient for effectively carrying out the project.
- (2) A transfer notice may include conditions applying to something done or to be done under the notice.
 - (3) If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a transfer notice (for example, because of the size or nature of the matter), the Minister may provide for the matter by including a reference in the transfer notice to another document that is—
 - (a) signed by the Minister; and
 - (b) kept available, at a place stated in the transfer notice, for inspection by the persons to whom the matter relates.
 - (4) The transfer of a liability of an airport entity under a transfer notice discharges the entity from the liability, except to the extent stated in the notice.
 - (5) A transfer notice has effect despite any other law or instrument.

Example—

A transfer notice removing a trustee of a reserve under the *Land Act 1994* has effect despite the requirements that would otherwise apply to the removal if it were done by the land Minister under section 51(1) of that Act.

- (6) A transfer notice has effect on the day it is published in the gazette or a later day stated in it.
- (7) If a transfer notice makes provision for a matter under subsection (1)(j) in relation to an instrument, the responsible entity for the instrument must take the action necessary to register or record the effect of the transfer notice, including—
 - (a) updating a register or other record; and
 - (b) amending, cancelling or issuing an instrument.
- (8) In this section—

authority includes accreditation, allocation, approval, certificate, entitlement, exemption, licence, manual, notice, permit and plan.

employee, of an airport entity, does not include a director of the entity.

instrument includes an application or authority under an Act.

land Minister means the Minister administering the *Land Act 1994*.

lease includes sublease.

responsible entity, for an instrument, means the entity required or authorised by law to register or record matters in relation to the instrument.

13 Limitation on power to second employees of an airport entity

- (1) The secondment of an employee under a transfer notice must not, without the employee's consent, involve—
 - (a) a reduction in the employee's status; or
 - (b) any change in the employee's duties that would be unreasonable having regard to the employee's skills, abilities and experience.
- (2) An employee's status is not reduced for the purposes of subsection (1)(a) by—
 - (a) a reduction in the scope of the business operations for which the employee is responsible; or
 - (b) a reduction in the number of employees under the employee's supervision or management;

if the employee's functions in their general nature remain the same as, or similar to, the employee's functions before secondment.

14 Project direction

- (1) The Minister may give a direction (a *project direction*) to an airport entity or its board requiring the entity or board to do something the Minister considers necessary or convenient for effectively carrying out the project.
- (2) Without limiting subsection (1), a project direction may be about—
 - (a) forming a company for the purpose of transferring a business, asset or liability to the company; or
 - (b) winding up or deregistering a company; or
 - (c) making or executing an instrument; or
 - (d) making a particular decision about disposing of an interest held in an airport entity or a business, asset or liability; or
 - (e) making a particular decision for the purpose of returning the proceeds of a disposal mentioned in paragraph (d) to the State; or

Example—

a decision about a dividend or return of capital

 - (f) disclosing information.
- (3) A project direction must be in writing, signed by the Minister.
- (4) An airport entity must comply with a project direction given to it.
- (5) An airport entity's board must—
 - (a) if a project direction is given to the board—comply with the direction; or
 - (b) if a project direction is given to the entity—take the action necessary to ensure the entity complies with the direction.
- (6) An airport entity's employees must help the entity or board to comply with a project direction given to the entity or board.

- (7) This section does not apply to QIC, QIC Infrastructure Management or their boards.

Part 2 **Application of other laws and instruments**

15 Chapter applies despite other laws and instruments

A thing may be done under this chapter despite any other law or instrument.

Example—

In accordance with a project direction given to its board, a GOC may form a company that will become a subsidiary without obtaining the approval that would otherwise be required under the *Government Owned Corporations Act 1993*, section 163.

16 Excluded matter for Corporations Act

Anything done by the Minister under this chapter is an excluded matter for the Corporations Act, section 5F, in relation to the Corporations Act, chapter 2D.

17 Non-liability for duty

No duty under the *Duties Act 2001* is payable in relation to anything done under a transfer notice.

18 Non-application of Property Law Act 1974, s 121

The *Property Law Act 1974*, section 121, does not apply to a lease of airport land granted by an airport lessor.

19 Disposal of public records

- (1) This section applies if—
- (a) a thing is done under a transfer notice or project direction; and

- (b) the thing is, or involves, a disposal of a public record under the *Public Records Act 2002*.
- (2) To remove any doubt, it is declared that, for the purpose of section 13 of that Act, the public record is disposed of under legal authority, justification or excuse.

20 Decisions not reviewable

- (1) A decision under this chapter—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (2) In this section—

decision includes—

 - (a) a decision to give a transfer notice or project direction; and
 - (b) a decision or conduct leading up to or forming part of the process of making a decision.

Part 3 Miscellaneous

21 Time within which Minister may act

The Minister may not perform a function under this chapter on or after 1 July 2009.

22 Registering authority to note transfer or other dealing

- (1) The registrar of titles or other person required or authorised by law to register or record transactions affecting assets or liabilities—
 - (a) may, without formal application, register or record in the appropriate way a transfer or other dealing affecting an asset or liability under a transfer notice; and
 - (b) must, on written application by a transferee entity, register or record in the appropriate way the transfer of an asset or liability under a transfer notice to the transferee entity.
- (2) A transaction, related to an asset or liability transferred to a transferee entity, entered into by the transferee entity in the relevant transferor entity's name or the name of a predecessor in title to the relevant transferor entity, if effected by an instrument otherwise in registrable form, must be registered even though the transferee entity has not been registered as proprietor of the asset or liability.
- (3) If an asset or liability is registered in the name of a transferor entity, the registrar of titles or other registering authority may register a dealing for a transaction about the asset or liability without being concerned to enquire whether it is, or is not, an asset or liability transferred under a transfer notice.
- (4) In this section—

transferee entity means the entity to which an asset or liability is transferred under a transfer notice.

transferor entity means the entity from which an asset or liability is transferred under a transfer notice.

23 Confidentiality agreement with prospective purchasers

- (1) A prospective purchaser may enter into a confidentiality agreement with the State for the purpose of obtaining access to information in the possession or control of an airport entity.
- (2) The agreement must state—

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- (a) the information to which access may be given; and
 - (b) the employees or agents of the prospective purchaser to whom the access may be given; and
 - (c) any conditions of the agreement.
- (3) Information mentioned in subsection (2)(a) may be identified by description including by a stated category.
- (4) The persons mentioned in subsection (2)(b) may be identified by name, by a stated class, or by being a person approved by the State.
- (5) In this section—
- (a) a reference to an agreement includes a deed; and
 - (b) a reference to entering into an agreement with the State includes executing a deed in favour of the State.
- (6) In this section—
- prospective purchaser* means a person who has expressed to the State an interest in purchasing an airport entity, shares in an airport entity or part or all of a business of an airport entity.

24 Disclosure and use of information for the project

- (1) A person may disclose information in the possession or control of an airport entity, for the purpose of the project, to—
- (a) a person involved in the project; or
 - (b) a person to whom the information may be given under a confidentiality agreement; or
 - (c) an airport entity, or employee or agent of an airport entity.
- (2) An airport entity or its board must comply with a request by the Minister for the disclosure of information under subsection (1) to a person.
- (3) A person may use information in the possession or control of an airport entity for the purpose of the project.

- (4) Also, to remove any doubt, it is declared that a person may disclose or use information in compliance with a transfer notice or project direction.
- (5) A person who, acting honestly, discloses or uses information under this section is not liable, civilly, criminally or under an administrative process, for the disclosure or use.
- (6) In this section—
confidentiality agreement means an agreement mentioned in section 23, whether entered into or executed before or after the commencement of this section.

25 Effect on legal relationships

- (1) Nothing done under this chapter—
 - (a) makes a relevant entity liable for a civil wrong or contravention of a law, including for a breach of a contract, confidence or duty; or
 - (b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
 - (c) except as expressly provided under a transfer notice, is taken to fulfil a condition that—
 - (i) terminates, or allows a person to terminate, an instrument or obligation; or
 - (ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or
 - (iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or
 - (iv) requires any money to be paid before its stated maturity; or

- (d) releases a surety or other obligee, wholly or partly, from an obligation.
- (2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this chapter, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.

Example—

A contract entered into by an airport entity provides that the entity agrees not to transfer a particular asset without a particular person's consent and that, if the consent is given, it may be subject to particular conditions. If the asset is transferred to another airport entity under a transfer notice, the consent required under the contract is taken to have been given unconditionally.

- (3) If, apart from this subsection, giving notice to a person would be necessary to do something under this chapter, the notice is taken to have been given.
- (4) In this section—

relevant entity means—

- (a) the State or an employee or agent of the State; or
- (b) an airport entity or an employee or agent of an airport entity.

26 Things done under this chapter

To remove any doubt, it is declared that a thing is taken to be done under this chapter if it is done by, or in compliance with, a transfer notice or project direction, even if the thing includes taking steps under another Act.

Example—

An airport entity is a lessee of land under the *Land Act 1994*. In compliance with a project direction, the airport entity grants a sublease of the land. The grant of the sublease is taken to be done under this chapter. So, under section 25(2), any approval to the sublease that would otherwise be required under the *Land Act 1994*, section 332, is taken to have been given unconditionally.

27 Preservation of rights of seconded employees

- (1) This section applies if an employee of an airport entity (the *employer*) is seconded to another airport entity under a transfer notice.
- (2) The employee is taken to continue to be employed by the employer on the same terms and conditions as applied before the secondment, subject to any subsequent variation of those terms and conditions under any applicable law or contract.
- (3) The secondment does not—
 - (a) affect the employee's benefits, entitlements or remuneration; or
 - (b) prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (c) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
 - (d) constitute a termination of employment by the employer, retrenchment or redundancy.
- (4) The secondment continues, even if the other airport entity stops being an airport entity, until the secondment is ended by the employer or the employee's employment with the employer ends.
- (5) In this section—

employee, of an airport entity, does not include a director of the entity.

28 Preservation of rights of transferred employees

- (1) This section applies to the transfer of an employee of an airport entity (the *former employer*) to another airport entity as part of the project.
- (2) The transfer does not—

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- (a) affect the employee's benefits, entitlements or remuneration; or
 - (b) prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (c) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
 - (d) constitute a termination of employment by the former employer, retrenchment or redundancy; or
 - (e) entitle the employee to a payment or other benefit because he or she is no longer employed by the former employer; or
 - (f) require the former employer to make any payment in relation to the employee's accrued rights to recreation, sick, long service or other leave irrespective of any arrangement between the former employer and the employee.
- (3) In this section—
employee, of an airport entity, does not include a director of the entity.

29 Evidentiary aids

- (1) This section applies to a proceeding under this chapter.
- (2) A certificate signed by the Minister stating any of the following matters is conclusive evidence of the matter—
 - (a) that a stated thing was, or is being, done for the purpose of the project;
 - (b) that a stated person is, or was at a stated time, involved in the project;
 - (c) that a stated company was established for the project;

- (d) that a stated direction given by the Minister related to the project.
- (3) A document certified by the Minister to be a copy of a project direction is conclusive evidence of the direction.

Chapter 3 Land use plans and development on airport land

Part 1 Land use plans for airport land

Division 1 Preliminary

30 Definitions for pt 1

In this part—

core matters, in relation to a land use plan (including its preparation), means each of the following matters—

- (a) land use and development;
- (b) core airport infrastructure;
- (c) valuable features.

land use and development, for an area, includes each of the following—

- (a) the location of, and the relationships between, the land uses in the area;
- (b) the current effects of land use in the area;
- (c) the likely effects of any proposed development of the airport land;
- (d) the accessibility to, and within, the airport land.

valuable features includes each of the following, whether terrestrial or aquatic—

- (a) resources or areas that are of ecological significance (such as habitats, wildlife corridors, buffer zones, places supporting biological diversity or resilience, and features contributing to the quality of air, water (including catchments or recharge areas) and soil);
- (b) areas contributing significantly to amenity (such as areas of high scenic value, physical features that form significant visual backdrops or that frame or define places or localities, and attractive built environments);
- (c) areas or places of cultural heritage significance (such as areas or places of indigenous cultural significance, or aesthetic, architectural, historical, scientific, social or technological significance, to the present generation or past or future generations);
- (d) resources or areas of economic value (such as extractive deposits, fishery resources, forestry resources, water resources, sources of renewable and non-renewable energy and good quality agricultural land).

Division 2 Airport lessee's first land use plan

31 Notice of first land use plan

- (1) The Minister must, as soon as practicable after the completion day for each airport, publish notice in the gazette of the land use plan (the *first land use plan*) for the airport lessee's airport land.
- (2) Section 35, other than section 35(1)(c) and (d), applies to the first land use plan.
- (3) The Minister may act under subsection (1) in relation to a land use plan only if satisfied—
 - (a) the plan satisfactorily deals with the core matters relevant to the plan; and

-
- (b) State interests will not be adversely affected by the plan.
 - (4) The Minister must give a copy of the gazette notice and the first land use plan to—
 - (a) the airport lessee; and
 - (b) the local government.
 - (5) The local government must make a note on each relevant map in the local government’s planning scheme that—
 - (a) identifies the airport land to which the first land use plan applies; and
 - (b) states that interested persons may obtain details of the land use plan from the airport lessee for the airport land.

32 Status of first land use plan

The first land use plan for an airport lessee’s airport land—

- (a) becomes the land use plan for the airport land on and from the day notice of the plan is published in the gazette; and
- (b) is taken to be the land use plan for the airport land approved under this part until it is replaced or amended under the part.

Division 3 Initial requirement to make new plan or amend first land use plan

33 Requirement to replace or amend first land use plan

- (1) Within 2 years after the completion day for its airport, the airport lessee must, under division 4, prepare a statement of proposal and a draft plan in relation to—
 - (a) replacing the lessee’s first land use plan; or
 - (b) amending the lessee’s first land use plan to include the matters mentioned in section 35(1)(c) and (d).

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- (2) Subsection (1)(b) does not limit the matters that may be included in the first land use plan.
- (3) Divisions 4 and 5, other than section 34, apply to the preparation and approval of the replacement land use plan or amendment.

Division 4 Land use plans—generally

34 Requirement to prepare land use plan

At least every 8 years after the day an airport lessee's first land use plan is replaced or amended in compliance with section 33, the lessee must prepare a land use plan for the lessee's airport land for approval under this division.

35 Content of land use plan

- (1) A land use plan for an airport lessee's airport land must—
 - (a) state details of—
 - (i) the airport land; and
 - (ii) the current and intended uses of the airport land; and
 - (b) coordinate and integrate the core matters relevant to the land use plan; and
 - (c) include a schedule of charges (a *charges schedule*) the local government may, subject to section 43, levy for infrastructure provided by the local government in relation to development on the airport land; and
 - (d) include an infrastructure interface plan for the land use plan; and
 - (e) include any other matter prescribed by regulation.
- (2) A land use plan for airport land may, for the Planning Act, do 1 or more of the following—

- (a) categorise development on the airport land as assessable development or accepted development;
 - (b) state whether development categorised as assessable development under the plan requires code assessment or impact assessment under the Planning Act;
 - (c) state assessment benchmarks for the Planning Act that assessable development under the plan must be assessed against;
 - (d) categorise particular development on the airport land that is inconsistent with the plan as assessable development requiring impact assessment under the Planning Act.
- (3) Also, a land use plan may—
- (a) state that particular development is consistent or inconsistent with the plan; or
 - (b) state that any part of the airport land is intended to remain undeveloped land or part of a buffer zone; or
 - (c) include details of any land proposed to become part of the airport land.
- (4) Despite subsection (2)(a) and (d), the land use plan must not, for the Planning Act, categorise any of the following development on the airport land as assessable development—
- (a) development that is a material change of use of premises for core airport infrastructure if the development is consistent with the plan;
 - (b) development categorised as accepted development under a regulation made under the Planning Act;
 - (c) development that a local categorising instrument under the Planning Act is prohibited, under section 43(5)(b) of that Act, from stating is assessable development.

36 Statement of proposal for preparation of land use plan or amendment of plan

- (1) An airport lessee must prepare a statement (*statement of proposal*) about—
 - (a) the preparation of a land use plan; or
 - (b) an amendment of a land use plan, unless the amendment—
 - (i) is to remove land from the land use plan; or
 - (ii) relates to land that is already airport land and the amendment does not change any use—
 - (A) from development that is inconsistent with the plan to development that is consistent with the plan; or
 - (B) from assessable development to accepted development under the Planning Act; or
 - (iii) is a minor amendment of the land use plan.
- (2) The statement of proposal must—
 - (a) identify matters the airport lessee anticipates the land use plan will address; and
 - (b) state how the airport lessee intends to address each relevant aspect of the core matters in the land use plan.
- (3) The airport lessee must give a copy of the statement of proposal to—
 - (a) the local government; and
 - (b) the planning Minister.

37 Draft plan for preparation or amendment of land use plan

After complying with section 36, and section 38 to the extent the section relates to a statement of proposal, an airport lessee must—

-
- (a) take appropriate account of issues raised as a result of consultation under section 38 in relation to the statement of proposal; and
 - (b) prepare a draft (*draft plan*) of—
 - (i) if the statement of proposal is for the preparation of a land use plan—the land use plan; or
 - (ii) if the statement of proposal is for an amendment of a land use plan—the amendment of the land use plan; and
 - (c) give a copy of the draft plan to—
 - (i) the local government; and
 - (ii) the planning Minister.

38 Consultation on statement of proposal or draft plan

- (1) This section applies if an airport lessee prepares a statement of proposal under section 36 or a draft plan under section 37.
- (2) The airport lessee must publish, at least once in a newspaper circulating generally in the area to which the statement of proposal or the draft plan relates, a notice stating the following—
 - (a) the name of the airport lessee;
 - (b) the name of the airport to which the statement of proposal or draft plan relates;
 - (c) that the airport lessee has prepared a statement of proposal or a draft plan, and that it is available for inspection and purchase;
 - (d) a contact telephone number for information about the statement of proposal or draft plan;
 - (e) that any person may make written submissions about the statement of proposal or draft plan to the airport lessee;
 - (f) that the local government may make written submissions about the statement of proposal or draft plan to the planning Minister;

- (g) the period (the *consultation period*) during which submissions mentioned in paragraph (e) or (f) may be made;
 - (h) the requirements for properly making a submission.
- (3) The consultation period must be—
- (a) for a statement of proposal—at least 20 business days after the notice is first published under subsection (2); or
 - (b) for a draft plan—at least 40 business days after the notice is first published under subsection (2).

39 Consideration of draft plan and local government submissions

- (1) On receiving a draft plan, the planning Minister must consider whether or not any State interests would be adversely affected by the proposed draft plan.
- (2) Also, before approving a draft plan or recommending approval of a draft plan to the Governor in Council under this division, the planning Minister must—
 - (a) consider any submissions given to the planning Minister by a local government under section 38(2); and
 - (b) give the local government a written notice about the planning Minister's considerations under paragraph (a).

40 Directions for amendment of draft plan

- (1) The planning Minister may return a draft plan prepared by the airport lessee for amendment in the way directed by the planning Minister.
- (2) A copy of the direction must be published in the gazette within 21 days after it is given.

41 Approval of land use plans

- (1) The planning Minister may approve a draft plan if satisfied that—
 - (a) the draft plan, or land use plan as amended by the draft plan, satisfactorily deals with the core matters relevant to the land use plan; and
 - (b) the airport lessee has taken appropriate account of issues raised in written submissions made to it under section 38(2); and
 - (c) the local government does not have a substantial objection to the draft plan; and
 - (d) State interests will not be adversely affected by the draft plan.
- (2) If the planning Minister is satisfied about subsection (1)(a), (b) and (d) but is satisfied that the local government has a substantial objection to the draft plan, the draft plan may only be approved by the Governor in Council.
- (3) Approval of a land use plan, or an amendment of a land use plan, must be notified in the gazette within 21 days after it is given.
- (4) The approval takes effect when it is notified in the gazette.

42 Airport lessee to publish approved plan

Each airport lessee must ensure the airport lessee's current land use plan approved under this part is published on the airport lessee's website.

Division 5 Local government charges for infrastructure

43 Charges for particular infrastructure

- (1) In preparing a charges schedule for a land use plan, the airport lessee must consult with—

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- (a) the local government; and
 - (b) the planning Minister.
- (2) A charge under the charges schedule may only be levied for the following infrastructure provided by the local government—
- (a) drainage;
 - (b) public transport;
 - (c) roads;
 - (d) sewerage and water supply headworks.
- (3) A charge included under the charges schedule must be worked out on the basis of the relevance of the infrastructure for which the charge is to be made to the actual proposed development.

Division 6 Other matters

44 Notification about airport land and land use plans on planning schemes

- (1) If a land use plan for airport land is approved or amended under division 4, the planning chief executive must—
- (a) give written notice of the details of the plan or amendment to the local government; and
 - (b) make a note on each relevant map in the local government's planning scheme held by the planning chief executive.
- (2) On receiving the notice under subsection (1), the local government must make a note on each relevant map in the local government's planning scheme.
- (3) The note must—
- (a) identify the airport land to which the land use plan applies; and

- (b) state that interested persons may obtain details of the land use plan from the airport lessee for the airport land.

45 Effect of land ceasing to be airport land

- (1) This section applies if land (*former airport land*) ceases to be airport land.
- (2) The airport lessee for the airport land must give written notice of the particulars of the former airport land to—
 - (a) the local government for the local government area within which the former airport land is situated; and
 - (b) the planning chief executive.
- (3) An entity given a notice under subsection (2) must make a note on each relevant map in the local government's planning scheme held by the entity.
- (4) The note must indicate that the former airport land is no longer subject to the land use plan.
- (5) On and from the day land ceases to be airport land, the land use plan that, other than for this section, would apply to the land is taken not to apply to the land.
- (6) Subsection (5) applies to former airport land even if the land use plan has not been amended to show the former airport land is not included in the plan.

46 Ministerial direction to airport lessee

- (1) This section applies if the planning Minister is satisfied a minor amendment of a land use plan for airport land is required.
- (2) The planning Minister may, by written notice, direct the airport lessee to make the minor amendment within a stated reasonable period.
- (3) The notice must state the reasons for deciding to give the direction.

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- (4) Before giving a direction to an airport lessee under subsection (2), the planning Minister must consult with the lessee.
- (5) The airport lessee must comply with the direction.

Part 2 Relationship with Planning Act and particular matters about development on airport land

Division 1 Preliminary

47 Application of Planning Act

- (1) Subject to this part, the Planning Act applies for development on airport land.
- (2) If there is an inconsistency between this part and the Planning Act, this part prevails to the extent of the inconsistency.

Division 2 Particular provisions about development on airport land

48 Airport land not subject to local planning instrument

- (1) Airport land is not subject to a local planning instrument under the Planning Act.
- (2) Subsection (1) has effect despite the Planning Act, chapter 2, part 3.

51 Restriction on conditions of development approvals

- (1) The assessment manager for a development application for development on airport land may impose a contribution condition on the development approval for the application

only in relation to the following infrastructure provided by a local government—

- (a) drainage;
 - (b) public transport;
 - (c) roads;
 - (d) sewerage and water supply headworks.
- (2) A condition can not be imposed on a development approval for reconfiguring a lot on airport land if the condition requires a monetary payment to anyone for the reconfiguration.
- (3) In this section—

contribution condition, for a development approval, means a condition of the approval requiring the payment of an amount to a local government for infrastructure provided by the local government in relation to the development.

52 Particular provisions of Planning Act do not apply in relation to airport land

- (1) The Planning Act, section 263 does not apply in relation to airport land.
- (2) A person is not entitled to claim compensation under the Planning Act, chapter 2, part 4, division 2 or any other law in relation to a change to a land use plan affecting the person's interest in any airport land.

53 Modified application of Planning Act, s 265

- (1) A person may apply to the planning chief executive for a planning and development certificate under the Planning Act, section 265 for premises on airport land.
- (2) The application must be accompanied by the fee prescribed under a regulation.
- (3) For subsection (1)—

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- (a) the Planning Act, section 265(3) applies as if a reference in the subsection to a local government were a reference to the planning chief executive; and
- (b) a regulation made under the Planning Act, section 265(4) applies—
 - (i) as if a reference in the regulation to a local government were a reference to the planning chief executive; and
 - (ii) as if a reference in the regulation to a planning scheme were a reference to a land use plan; and
 - (iii) as if a reference in the regulation to an LGIP were a reference to a charges schedule for a land use plan; and
 - (iv) as if the regulation provides that a planning and development certificate must also be accompanied by—
 - (A) any statement of proposal for the airport land notified under section 38(2), if a draft plan in relation to the statement of proposal has not yet been approved under section 41; or
 - (B) any draft plan for the airport land notified under section 38(2) but not yet approved under section 41; and
 - (v) with other necessary changes.

54 When development on local heritage place is not assessable development

- (1) Subsection (2) applies if a regulation made under the Planning Act categorises development on local heritage places as assessable development.
- (2) The development is not assessable development under the Planning Act to the extent the local heritage place is on an airport lessee's airport land.

(3) Subsections (1) and (2) apply to development on the local heritage place whether or not it became a local heritage place before or after the completion day for the airport lessee's airport.

(4) In this section—

local heritage place means a place on a local heritage register within the meaning of the *Queensland Heritage Act 1992*.

55 Restriction on designation of premises under Planning Act for development of infrastructure

(1) Despite the Planning Act, chapter 2, part 5, only the planning Minister may, under that part, make a designation of premises that is, or includes, airport land.

(2) Development carried out on premises that are the subject of a designation under the Planning Act made by a Minister is accepted development to the extent the development—

(a) is carried out under the designation; and

(b) would, other than for this subsection, be assessable development under a land use plan for airport land.

(3) Subsection (2) does not limit the Planning Act, section 44(6)(b).

Division 3 Notice of development approval

57 Requirement to give notice of development approval and infrastructure agreement

(1) If the planning chief executive gives a development approval for development on airport land, the planning chief executive must, within 5 business days after giving the approval, give a copy of the approval to the local government.

(2) If an applicant for a development approval for development on airport land enters into an infrastructure agreement under the

Planning Act in relation to the development, the applicant must give a copy of the agreement to—

- (a) the local government; and
- (b) if the planning chief executive is not a party to the agreement—the planning chief executive.

Division 4 Protection of existing uses and rights

58 Existing lawful uses, works and approvals

- (1) If, immediately before a land use plan for airport land is amended or replaced, a use of premises on the airport land was a lawful use of premises under the Planning Act, the plan as amended or replaced does not—
 - (a) stop the use from continuing; or
 - (b) further regulate the use; or
 - (c) require the use to be changed.
- (2) If a land use plan for airport land is amended or replaced after building or other works have been lawfully constructed or effected on the airport land, the plan as amended or replaced does not require the building or works to be altered or removed.
- (3) If a land use plan for airport land is amended or replaced after a development approval is given for premises wholly or partly on the airport land, the plan as amended or replaced does not—
 - (a) stop or further regulate the development; or
 - (b) otherwise affect the approval to any extent to which the approval remains in effect.

59 Implied and uncommenced right to use

- (1) This section applies if—

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- (a) a development approval comes into effect for premises wholly or partly on airport land; and
 - (b) when the application for the approval was properly made under the Planning Act or the repealed *Sustainable Planning Act 2009*, a material change of use for a use that the application implies did not require a development permit under the land use plan for the airport land; and
 - (c) after the application was properly made, but before the use started—
 - (i) the land use plan was amended or replaced and the material change of use is assessable development under the plan as amended or replaced; or
 - (ii) the premises, to the extent they are on airport land, stopped being airport land and the material change of use is categorised as assessable development under a local planning instrument under the Planning Act.
- (2) The use is taken, for the Planning Act, to be a lawful use in existence immediately before the plan as amended or replaced took effect, or the local planning instrument started applying to the premises, if—
- (a) the development approval has not lapsed; and
 - (b) the use starts within 5 years after the completion of the development the approval is for.

Division 5 Other matters

60 Delegation of particular functions of planning chief executive

- (1) The planning chief executive may, in relation to a development application for airport land, delegate the planning chief executive's relevant administrative functions to the local government.

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- (2) If the planning chief executive delegates any relevant administrative functions to the local government, the planning chief executive must—
 - (a) give written notice of the delegation to the airport lessee for the airport land; and
 - (b) publish the notice on the website of the department in which the Planning Act is administered.
- (3) In this section—

relevant administrative functions, in relation to a development application, means the planning chief executive's functions under the Planning Act for matters relating to the administration and enforcement, under that Act, of a development approval given for the application.

61 Amendment of planning schemes

- (1) This section applies to the planning scheme of a local government for the local government area within which airport land is situated.
- (2) The local government must amend its planning scheme to reflect consequential changes to the scheme required because of the application of this chapter.
- (3) Despite the Planning Act—
 - (a) a notice or amended notice given under section 18(3) of that Act for an amendment mentioned in subsection (2), must not state the things mentioned in section 18(5)(a) to (g) of that Act; and
 - (b) an amendment mentioned in subsection (2) does not require the approval of the planning Minister before the amendment is made.

Chapter 4 Control of activities at airports

Part 1 Airport notices

62 Airport lessor may control activities by airport notice

An airport lessor may display or publish a notice (an *airport notice*) to control any of the following activities or conduct on its airport land or a part of its airport land—

- (a) movement of persons including, for example, where the movement of members of the public, or another identified group, is restricted or prohibited;
- (b) entry, movement, standing or parking of vehicles;
- (c) movement, standing or parking of aircraft;
- (d) movement, handling or storage of baggage or goods;
- (e) other activities or conduct to the extent necessary to ensure the security or safety of persons or property.

63 Display or publication of airport notices

- (1) To have effect, an airport notice must—
 - (a) be displayed on or near the thing to which it relates; or
 - (b) be published on the airport lessor's website.
- (2) Before an airport notice mentioned in subsection (1)(b) has effect, the airport lessor issuing the airport notice must publish it on at least 2 occasions in a newspaper circulated in the area to which the airport notice relates.
- (3) A copy of an airport notice must be available during normal business hours for inspection, or for purchase at a reasonable cost, at the office of the airport lessor that is in, or nearest to, the area to which the notice relates.

64 Airport notice may refer to documents held by airport lessor

- (1) An airport notice may require a person to comply, in whole or in part, with a requirement of a stated document held by the airport lessor.
- (2) However, the requirement must be able to be made by an airport notice under this part.
- (3) If the document is a standard, the airport notice must state that a copy of the standard is available during normal business hours for inspection, or for purchase at a reasonable cost, at a stated office of the airport lessor that is in, or nearest to, the area to which the notice relates.
- (4) If the document is not a standard, the airport notice must—
 - (a) include a copy of the document; or
 - (b) do both of the following—
 - (i) include a summary of the requirement;
 - (ii) state that a copy of the document is available during normal business hours, free of charge, at a stated office of the airport lessor that is in, or nearest to, the area to which the notice relates.
- (5) In this section—

standard means a code, guide, rule, specification, standard or other document adopted, made or published by any of the following entities—

- (a) the Civil Aviation Safety Authority;
- (b) the International Civil Aviation Organisation;
- (c) the Office of Transport Security;
- (d) the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered.

65 Airport notices generally

- (1) An airport notice—

- (a) must indicate the area to which the airport notice applies; and
 - (b) if contravention of a requirement of the airport notice is an offence against this chapter—must state that fact and the maximum penalty for the offence.
- (2) Evidence that a sign was displayed on or near the thing to which it relates is evidence that the notice was displayed by the airport lessor.
- (3) An airport notice displayed on or near the thing to which it relates must be clearly visible to passers-by.

66 Notices at entrances

- (1) This section applies if—
- (a) an airport lessor erects or displays a notice at each entrance commonly used by persons to gain access to its airport land; and
 - (b) the notice contains information about the airport land; and
 - (c) in a case where use of its airport land or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and
 - (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and
 - (e) a person gains access to the airport land by using another entrance.
- (2) The person is taken to be aware of the information in the notice.

67 Offence of not complying with an airport notice

A person must comply with each requirement of an airport notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—

- (a) for a contravention of a requirement about the parking of an aircraft—50 penalty units; or
- (b) for a contravention of a requirement about the movement, handling or storage of goods—50 penalty units; or
- (c) for a contravention of a requirement about any other matter—25 penalty units.

Part 2 Authorised officers

68 Appointment and qualifications of authorised officers

- (1) An airport lessor may appoint a person as an authorised officer for the airport.
- (2) However, the airport lessor may appoint a person as an authorised officer for the airport only if the airport lessor is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.
- (3) A regulation may make provision about the appointment of authorised officers, including qualifications required for appointment.

69 Appointment conditions and limit on powers

- (1) An authorised officer holds office on any conditions stated in—
 - (a) the authorised officer's instrument of appointment; or
 - (b) a signed notice given to the authorised officer; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer's powers under this Act.
- (3) In this section—

signed notice means a notice signed by the airport lessor or an officer of the airport lessor who is authorised by it to sign notices.

70 Issue of identity card

- (1) The airport lessor must issue an identity card to each authorised officer.
- (2) The identity card must—
 - (a) contain a recent photo of the authorised officer; and
 - (b) contain a copy of the authorised officer's signature; and
 - (c) identify the person as an authorised officer for the airport under this Act; and
 - (d) state an expiry date for the card.

71 Production or display of identity card

- (1) In exercising a power under this Act in relation to a person, an authorised officer must—
 - (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.

72 When authorised officer ceases to hold office

- (1) An authorised officer ceases to hold office if—
 - (a) the term of office stated in a condition of office ends; or
 - (b) under another condition of office, the authorised officer ceases to hold office.

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- (2) Subsection (1) does not limit the ways an authorised officer may stop holding office.
- (3) In this section—
condition of office means a condition on which the authorised officer holds office.

73 Return of identity card

A person who ceases to be an authorised officer for an airport must return the person's identity card to the airport lessor within 14 days after ceasing to be an authorised officer unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Part 3 Directions

74 Authorised officer may give directions

- (1) An authorised officer for an airport may give a verbal direction to a person on the airport land if giving the direction is reasonably necessary to—
 - (a) ensure the safety or security of the airport land, its users or the airport lessor's employees or invitees; or
 - (b) prevent the person's activities or conduct from affecting the airport's operation.

Examples of directions that may be given for subsection (1)—

- a direction to control the parking of an aircraft or the movement, stopping or parking of a vehicle
 - a direction to control the movement, handling or storage of goods that are loaded, waiting to be loaded, unloaded or being transhipped
 - a direction to control the movement of persons
- (2) Subsection (3) applies if an authorised officer—

-
- (a) finds a person committing an offence, or reasonably suspects that a person has just committed an offence, against section 85; or
 - (b) reasonably believes that a person's presence at the airport facilities may pose a threat to the safety or security of the airport facilities, its users or the airport lessor's employees or invitees; or
 - (c) reasonably believes that a person is in an area of the airport facilities without lawful justification or excuse.
- (3) An authorised officer may give a verbal direction to the person to—
- (a) immediately leave the airport facilities, or an area of the airport facilities; or
 - (b) immediately leave the airport facilities, or an area of the airport facilities, and not return for at least 24 hours.
- (4) An authorised officer must identify himself or herself as an authorised officer if the authorised officer gives a verbal direction by radio, megaphone or another form of distance communication.

75 If a person does not comply with a direction

- (1) If the person does not comply with a verbal direction given by an authorised officer under section 74, the authorised officer may give the person a written notice stating—
- (a) the authorised officer's name; and
 - (b) the direction; and
 - (c) a brief statement about the authorised officer's reason for giving the direction; and
 - (d) a further reasonable time within which the person must comply with the direction; and
 - (e) when the direction was given.
- (2) If it is not possible or reasonable for the authorised officer to give the person a written notice at the time the person does not

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comply with a verbal direction given by an authorised officer under section 74, the authorised officer—

- (a) may give the person a further verbal direction stating the information mentioned in subsection (1)(a) to (d); and
 - (b) must give the person the written notice the person would have received at the time the person did not comply with the verbal direction as soon as practicable after giving the further verbal direction.
- (3) At the time the authorised officer gives the person a written notice under subsection (1), or a further verbal direction under subsection (2)(a), the authorised officer must warn the person that the person may commit an offence unless the person complies with the direction within the stated time.

76 Offence of not complying with a direction

Unless a person has a reasonable excuse, a person must comply with a direction given to the person by an authorised officer under section 75, within the reasonable time stated in a written notice under section 75(1) or as part of a further verbal direction under 75(2)(a).

Maximum penalty—

- (a) if the contravention results in a significant delay to airport operations—200 penalty units; or
- (b) otherwise—
 - (i) for a contravention of a direction to leave the airport facilities or an area of the airport facilities, or leave the airport facilities or an area of the airport facilities and not return for 24 hours—100 penalty units; or
 - (ii) for a contravention of a direction about the parking of an aircraft—50 penalty units; or
 - (iii) for a contravention of a direction about the movement, handling or storage of goods—50 penalty units; or

- (iv) for a contravention of another direction—25 penalty units.

Part 4 Moving contravening property

77 Moving contravening property

- (1) This section applies if—
- (a) an authorised officer for an airport reasonably believes that an aircraft, vehicle or goods in an airport or at an airport facility is contravening property; and
 - (b) the authorised officer reasonably believes that it is necessary to move the contravening property having regard to—
 - (i) the efficient operation of the airport; or
 - (ii) the safety or security of the airport, its users or the airport lessor's employees or invitees; and
 - (c) the authorised officer—
 - (i) can not immediately find the person in charge of the contravening property; or
 - (ii) reasonably believes the person in charge of the contravening property can not, or will not, move the contravening property immediately.
- (2) The authorised officer may—
- (a) take steps necessary and reasonable to have the contravening property moved; and
 - (b) if the contravening property is property in the form of goods that are perishable, or of little or no value, treat the goods as abandoned property under part 6.

- (3) In this section—

contravening property means an aircraft, vehicle or goods that is parked or left in an airport or at an airport facility in contravention of—

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- (a) a requirement of an airport notice; or
- (b) a direction of an authorised officer under part 3.

person in charge, of contravening property, means—

- (a) for contravening property that is an aircraft—the aircraft’s pilot or another person in charge of the aircraft; or
- (b) for contravening property that is a vehicle—the driver of the vehicle or another person in charge of the vehicle; or
- (c) for contravening property that is property in the form of goods—the owner of the goods or another person in charge of the goods.

Part 5 Other powers and offences

78 Power to require name and address

- (1) An authorised officer for an airport may require a person on the airport land to state the person’s name and address if the authorised officer—
 - (a) finds the person committing an offence against this chapter; or
 - (b) reasonably suspects the person has just committed an offence against this chapter.
- (2) When making the requirement, the authorised officer must warn the person that it is an offence to fail to state the person’s name and address unless the person has a reasonable excuse.
- (3) The authorised officer may require the person to give evidence of the correctness of the person’s stated name and address if the authorised officer reasonably suspects the stated name or address is false.
- (4) A person must comply with the authorised officer’s requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

- (5) The person does not commit an offence against this section if—
- (a) the authorised officer required the person to state the person's name and address in the circumstances mentioned in subsection (1)(a) or (b); and
 - (b) the person is not proved to have committed the offence.
- (6) In this section—
- offence against this chapter* includes an offence against section 105 for an attempt to commit an offence against this chapter.

79 Inspection of documents

- (1) An authorised officer for an airport may require a person, who is or may be liable to pay a charge to the airport operator, to produce for the authorised officer's inspection, documents that are—
- (a) under the person's control; and
 - (b) relevant to deciding—
 - (i) whether the person is liable to pay the charge; or
 - (ii) the amount of the charge.
- (2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (2)—50 penalty units.

80 Inspection of aircraft, vehicles and goods

- (1) This section applies only to the extent necessary to allow an authorised officer for an airport to decide—
- (a) whether a charge is payable in relation to an aircraft or goods; and
 - (b) the amount of the charge.

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- (2) A person in charge of a conveyance on the airport land must allow the authorised officer to enter and inspect the conveyance, or inspect goods on or in the conveyance, if asked by the authorised officer.

Maximum penalty—50 penalty units.

- (3) In this section—

conveyance means an aircraft or vehicle.

81 Obstructing authorised officer

- (1) A person on airport land must not obstruct an authorised officer for the airport in the exercise of a power under this part, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) In this section—

obstruct includes hinder, resist, insult, attempt to obstruct and threaten to obstruct.

82 False or misleading statement

- (1) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) It is enough for a complaint for an offence against subsection (1) to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

83 False or misleading document

- (1) A person must not give an authorised officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person when giving the document—
 - (a) tells the authorised officer, to the best of the person’s ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) It is enough for a complaint for an offence against subsection (1) to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.

84 Impersonating an authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty—50 penalty units.

85 Conduct causing public nuisance

A person at an airport operator’s airport facilities must not be disorderly or create a disturbance.

Maximum penalty—50 penalty units.

86 Interfering with airport notices

- (1) This section applies to an airport notice other than an airport notice published on an airport lessor’s website.
- (2) A person must not unlawfully interfere with the airport notice.
Maximum penalty—25 penalty units.
- (3) In this section—
interfere, with an airport notice, includes removing, defacing or damaging the airport notice.

Part 6 **Disposal of abandoned property**

87 **Definitions for pt 6**

In this part—

abandoned property means property that an airport operator reasonably believes has been abandoned on the airport operator's airport land including, for example, goods, an aircraft, a vehicle or a thing attached to, or contained in, an aircraft or a vehicle.

insufficient value property means abandoned property that—

- (a) is of no value; or
- (b) if sold by an airport operator, would not be likely to return sufficient proceeds of sale to cover the total of the following amounts—
 - (i) the expenses reasonably incurred by the airport operator in selling the property;
 - (ii) the expenses reasonably incurred by the airport operator in dealing with the property under this part;
 - (iii) the charges, interest and other expenses owing to the airport operator in relation to the property.

88 **Reasonable steps must be taken to find owner**

- (1) This section applies to abandoned property found on the airport operator's airport land, unless—
 - (a) it is insufficient value property; or
 - (b) it is perishable and it is impracticable for the airport operator to keep it having regard to its nature and condition.
- (2) The airport operator—

-
- (a) must take reasonable steps to locate the owner of the property; and
 - (b) may have the property moved to a place it considers appropriate.
- (3) If the airport operator has located the owner of the property within 28 days after the property was found, the airport operator must give the owner a written notice—
- (a) describing the property; and
 - (b) stating the property has been found; and
 - (c) explaining how it may be recovered; and
 - (d) stating the property may be sold or disposed of if it is not recovered.
- (4) If the airport operator has not located the owner of the property within 28 days after finding the property, the airport operator must publish a notice in a newspaper circulating generally in the State that includes the matters mentioned in subsection (3)(a) to (d).

89 A person may claim property

The airport operator must return abandoned property to a person if the person, within 28 days after the notice is given or published under section 88—

- (a) satisfies the airport operator that the person is the owner of the property; and
- (b) pays the expenses reasonably incurred by the airport operator in dealing with the property under this part.

90 If property not claimed

If a person does not claim the abandoned property within 28 days after an airport operator has given or published a notice under section 88 about it, the airport operator may sell the property.

91 Sale of perishable property

The airport operator may sell abandoned property if it is perishable and it is impracticable for the airport operator to keep it having regard to its nature and condition.

92 Proceeds from the sale of abandoned property

- (1) If abandoned property is sold by an airport operator, the proceeds of the sale must be applied in the following order—
 - (a) in payment of the expenses reasonably incurred by the airport operator in selling the property;
 - (b) in payment of the expenses reasonably incurred by the airport operator in dealing with the property under this part;
 - (c) in payment of charges, interest and other expenses owing to the airport operator in relation to the property;
 - (d) in payment of any balance to the owner.
- (2) If the proceeds of the sale are less than the total of the expenses mentioned in subsection (1)(a), (b) and (c), the difference is a debt owing to the airport operator by the owner.
- (3) If the proceeds of the sale are more than the total of the expenses mentioned in subsection (1)(a), (b) and (c), and the airport operator can not locate the owner, the airport operator must pay the amount of the difference to the public trustee.
- (4) The public trustee must pay the amount into the unclaimed moneys fund kept under the *Public Trustee Act 1978*.
- (5) Compensation may not be recovered against the airport operator in relation to a payment made honestly and without negligence under this section.

93 Abandoned property of no value

An airport operator may dispose of abandoned property that is insufficient value property in the way the airport operator considers appropriate.

Part 7 General

94 Delegation

- (1) An airport lessor may delegate a function under this chapter to an airport operator.
- (2) It is a condition of a lease of airport land that the airport lessee must comply with, or ensure the airport manager complies with, the lawful directions of the airport lessor in relation to the performance of any delegated functions.
- (3) A regulation or the conditions of a delegation may require an airport operator to establish a system for monitoring, and receiving and dealing with complaints about, the performance of delegated functions.
- (4) In this section—
delegated function means a function of an airport lessor delegated to an airport operator.

95 Appointment of airport manager

- (1) The airport lessor for an airport may appoint a person as airport manager of the airport.
- (2) An airport lessee for an airport may, with the written approval of the airport lessor, appoint a person as airport manager of the airport.

96 Liability for acts of authorised officers, and related matters

- (1) If a person is appointed as an authorised officer by a delegate of an airport lessor—
 - (a) the person is not an officer, employee or agent of the airport lessor only because of that appointment; and
 - (b) the airport lessor is not civilly liable for an act done, or omission made, by the person as an authorised officer.

- (2) If subsection (1) prevents a civil liability attaching to an airport lessor, the liability attaches instead to the delegate.
- (3) An authorised officer is not civilly liable for an act done, or omission made, by the officer for an airport operator honestly and without negligence.
- (4) If subsection (3) prevents a civil liability attaching to an authorised officer, the liability attaches instead to the airport operator that appointed the officer.

Chapter 5 Local government matters and land tax

97 Application of particular local laws to airport land

- (1) A regulation may provide that a stated local law does not apply, or does not apply to a stated extent, or applies with stated changes, to stated airport land.
- (2) The regulation may fix, as the time of effect, the day fixed for another matter under a gazette notice made under another provision of this Act.

Example—

The regulation may fix, as the time of effect, the day on which notice is published of the first land use plan for airport land under section 31.

- (3) In this section—

time of effect means the day on which a stated local law stops applying, or stops applying to a stated extent, or starts applying with stated changes, to stated airport land.

98 Delayed application of new local laws to airport land

- (1) This section applies to a local law made after the completion day for Cairns International Airport or Mackay Airport.

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- (2) Subject to subsection (3), the local law does not apply to the relevant airport land until whichever of the following days is later—
 - (a) the day that is 3 months after the day the local law is made;
 - (b) the day the local law commences.
 - (3) Subsection (2) stops applying to the local law on the commencement of a regulation under section 97 about the application or non-application of the local law to the airport land.

99 Owner of land for rating or land tax purposes

- (1) This section applies in relation to airport land if there is an airport lessee for the land.
- (2) This section applies for the purposes of—
 - (a) a provision of the *City of Brisbane Act 2010* or the *Local Government Act 2009* about levying or payment of rates; and
 - (b) the *Land Tax Act 2010* or the repealed *Land Tax Act 1915*.
- (3) The airport lessee is taken to be the owner of the land.
- (4) The airport lessor for the land is taken not to be the owner of the land.

Chapter 6 Other matters

100 Declaration of airport lessors and lessees

- (1) The Minister may, by gazette notice—
 - (a) declare an entity to be the airport lessor for Cairns International Airport; or

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- (b) declare an entity to be the airport lessor for Mackay Airport; or
 - (c) if an entity holds any Cairns airport land under a lease, sublease or licence from the airport lessor for Cairns International Airport—declare the entity to be an airport lessee for Cairns International Airport; or
 - (d) if an entity holds any Mackay airport land under a lease, sublease or licence from the airport lessor for Mackay Airport—declare the entity to be an airport lessee for Mackay Airport.
- (2) For subsection (1)(c) or (d), it does not matter whether the entity enters into the lease, sublease or licence with the airport lessor or is an assignee of that instrument.

101 Airport lessor may substitute for airport lessee

- (1) This section applies if, at any time after the commencement of the section—
- (a) an entity ceases to be an airport lessee for airport land; and
 - (b) another entity has not become the airport lessee for the airport land.
- (2) If chapter 3 requires or permits something to be done by an airport lessee in relation to the airport land, the thing may be done by the airport lessor for the airport land.

102 Delegations

The Minister may delegate the Minister's functions under this Act, except section 12, 31 or 100, to the chief executive.

103 Conduct of company directors, employees or agents

- (1) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation about particular conduct, it is sufficient to show—

- (a) the conduct was engaged in by a representative of the corporation within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (2) Conduct engaged in on behalf of a corporation by a representative of the corporation within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes it took reasonable precautions and exercised proper diligence to avoid the conduct.
- (3) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of an individual about particular conduct, it is sufficient to show—
- (a) the conduct was engaged in by a representative of the individual within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (4) Conduct engaged in on behalf of an individual by a representative of the individual within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the individual unless the individual establishes the individual took reasonable precautions and exercised proper diligence to avoid the conduct.
- (5) In this section—

engaging in conduct includes failing to engage in conduct.

representative means—

- (a) in relation to a corporation—an executive officer, employee or agent of the corporation; or
- (b) in relation to an individual—an employee or agent of the individual.

state of mind of a person includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

104 Proceedings for offences

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence must start—
 - (a) within 1 year after the commission of the offence; or
 - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.
- (3) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

105 Attempts to commit offences

- (1) A person must not attempt to commit an offence against this Act.

Maximum penalty—half the maximum penalty for committing the offence.
- (2) The Criminal Code, section 4 (Attempts to commit offences) applies to subsection (1).

106 Penalties payable to consolidated fund

All penalties ordered to be paid in relation to offences against this Act must be paid into the consolidated fund.

107 Regulations

The Governor in Council may make regulations under this Act.

Chapter 7 **Transitional provisions for Planning (Consequential) and Other Legislation Amendment Act 2016**

108 Definitions for chapter

In this chapter—

amending Act means the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

former, in relation to a provision, means the provision as in force immediately before the provision was amended or repealed under the amending Act.

repealed Planning Act means the repealed *Sustainable Planning Act 2009*.

109 Existing priority infrastructure interface plans

A priority infrastructure interface plan for a land use plan for airport land in force immediately before the commencement is taken to be an infrastructure interface plan.

110 Existing development applications

- (1) Subsection (2) applies to an existing development application mentioned in former section 50.
- (2) Former section 50 continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) Subsection (4) applies to an existing development application mentioned in former section 51.
- (4) Former section 51 continues to apply in relation to the application as if the amending Act had not been enacted.
- (5) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 288 applies.

111 Existing process for amending planning scheme to make a change required by former s 61(2)

- (1) This section applies if—
 - (a) a process for amending a planning scheme had started under the repealed Planning Act, but had not ended before the repealed Planning Act was repealed; and
 - (b) the proposed amendment relates to a change mentioned in former section 61(2).
- (2) Former section 61(3) continues to apply in relation to making the amendment, as if the amending Act had not been enacted.

Schedule 1 Airport land

sections 7, 8 and 9

Part 1 Cairns airport land

Lot on plan	County	Parish	Area
Lot 1 on RP 738764	Nares	Cairns	0.4708ha
Lot 2 on RP 738764	Nares	Cairns	1.825ha
Lot 3 on RP 738764	Nares	Cairns	12.7542ha
Lot 398 on RP 715442	Nares	Cairns	6.054ha
Lot 1 on RP 731801	Nares	Cairns	3.521ha
Lot 1 on RP 736303	Nares	Cairns	19.6177ha
Lot 4 on SP146888	Nares	Cairns	123.4ha
Lot 1 on RP 747652	Nares	Smithfield	4.674ha
Lot 1 on RP 748893	Nares	Smithfield	0.2409ha
Lot 1 on RP 748896	Nares	Smithfield	6.484ha
Lot 2 on RP 748896	Nares	Smithfield	60.7518ha
Lot 3 on RP 710432	Nares	Smithfield	0.8094ha
Lot 1 on RP 736304	Nares	Cairns	517.2473ha
Lot 5 on SP 146888	Nares	Cairns	5.231ha
Lot 748 on CPNR 6651	Nares	Cairns	5.241ha

Part 2 **Mackay airport land**

Lot on plan	County	Parish	Area
Lot 1 on RP 711078	Carlisle	Howard	0.3541ha
Lot 1 on RP 713704	Carlisle	Howard	1.7637ha
Lot 1 on RP 723311	Carlisle	Howard	56ha
Lot 1 on RP 842090	Carlisle	Howard	0.36445ha
Lot 2 on RP 723311	Carlisle	Howard	0.7249ha
Lot 2 on RP 842090	Carlisle	Howard	15.43ha
Lot 3 on RP 723311	Carlisle	Howard	1.554ha
Lot 3 on RP 842090	Carlisle	Howard	0.6917ha
Lot 19 on SP 145073	Carlisle	Howard	3.142ha
Lot 381 on RP 711085	Carlisle	Howard	0.1416ha
Lot 405 on CP 842088	Carlisle	Howard	167.3ha
Lot 443 on RP 724222	Carlisle	Howard	25.9841ha

Schedule 2 Core airport infrastructure

schedule 3, definition *core airport infrastructure*

The following are core airport infrastructure for airport land—

- (a) facilities on the airport land directly connected with the operation of an airport on the land, including, for example the following—
 - (i) taxiways, runways and air terminal aprons;
 - (ii) aircraft movement areas, parking areas and standing areas;
 - (iii) aircraft hangars;
 - (iv) aircraft repair and maintenance facilities, and aircraft refuelling and fuel storage facilities;
 - (v) storage and maintenance facilities for airline equipment and vehicles, including, for example, ramp handling equipment;
 - (vi) communication and traffic control facilities;
 - (vii) emergency service and meteorological facilities;
 - (viii) pilot briefing facilities and associated support facilities;
 - (ix) heliports;
 - (x) flight training facilities, flight catering facilities, air freight and cold storage facilities;
 - (xi) airline support facilities, including, for example, lounges, service desks and baggage handling facilities;
 - (xii) customs, immigration and quarantine facilities, including facilities for under-bond storage and housing animals;
 - (xiii) airport plant and equipment, including, for example, stand-by power generation facilities;

- (xiv) airport passenger and general aviation terminals, but not including any facilities within the terminals mentioned in paragraph (b) or (c);
- (xv) offices for airport or airline management, or offices associated with any facilities mentioned in subparagraphs (i) to (xiv);
- (xvi) airport signage;
- (xvii) fill or excavation works carried out in relation to any matter mentioned in subparagraphs (i) to (xvi);
- (b) facilities on the airport land, other than facilities mentioned in paragraph (a), related to the operation of an airport on the land, including, for example the following—
 - (i) vehicle parking facilities;
 - (ii) vehicle rental and valet parking facilities;
 - (iii) facilities associated with vehicle rental and valet parking facilities, including, for example, facilities for vehicle refuelling, fuel storage and vehicle maintenance and washing;
- (c) facilities within an existing airport terminal building, including, for example, the following—
 - (i) advertising signage;
 - (ii) retail outlets appropriate for providing services to airline passengers, including newsagencies, bookstores, gift or souvenir stores, toy stores, pharmacies or arts and craft stores;
 - (iii) duty free stores;
 - (iv) freight facilities, other than for air freight;
 - (v) medical centres;
 - (vi) restaurants, cafes, fast food outlets or snack food vending machines;
 - (vii) offices;
 - (viii) a chapel;
 - (ix) tourism or accommodation booking offices;

- (x) development for water supply, sewerage, drainage waste storage and collection, electricity supply and any other facility owned or operated by a local government or a public sector entity within the meaning of the Planning Act.

Schedule 3 Dictionary

section 4

abandoned property, for chapter 4, part 6, see section 87.

accepted development see the Planning Act, section 44(4).

agent includes a financier, insurer or advisor.

airport means Cairns International Airport or Mackay Airport.

airport entity see section 6.

airport land see section 7.

airport lessee means an entity declared to be an airport lessee under section 100.

airport lessor means an entity declared to be an airport lessor under section 100.

airport manager means a person appointed as airport manager under section 95.

airport notice see section 62.

airport operator, for an airport, means an airport lessee or airport manager for the airport or, if there is no airport lessee or airport manager for the airport, the airport lessor for the airport.

airport sublessee means a person who leases any airport land from an airport lessee or another airport sublessee.

assessable development see the Planning Act, section 44(3).

asset includes a right.

BAC Holdings means BAC Holdings Limited ACN 108 568 038.

BACH Shareholders Agreement means the agreement between BAC Holdings and its shareholders, dated on or about 30 June 2004, as in force from time to time.

Cairns airport land see section 8.

Cairns Ports means Cairns Ports Ltd ACN 131 836 014.

charges schedule, for a land use plan, see section 35(1)(c).

completion day means—

- (a) for Cairns International Airport—the day on which an entity is declared, under section 100(1)(c), to be an airport lessee for the airport; or
- (b) for Mackay Airport—the day on which an entity is declared, under section 100(1)(d), to be an airport lessee for the airport.

core airport infrastructure—

- 1 *Core airport infrastructure* means core airport infrastructure stated in schedule 2.
- 2 To remove any doubt, it is declared that *core airport infrastructure* does not include the following—
 - (a) carrying out manufacturing, other than food preparation;
 - (b) hotels, motels or any type of residential dwelling;
 - (c) department stores, discount department stores, retail warehouses, showrooms or wholesale facilities.

core matters, for chapter 3, part 1, see section 30.

development means development under the Planning Act.

development application means a development application for a development approval under the Planning Act.

development approval means a development approval under the Planning Act.

disposal includes divestment.

draft plan see section 37(b).

employee includes officer.

first land use plan see section 31(1).

Gateway means Gateway Investments Corporation Pty Ltd ACN 086 967 464.

government company means a corporation incorporated under the Corporations Act all the stock or shares in the capital of which is or are beneficially owned by the State.

infrastructure interface plan, for a land use plan for airport land, means a document prepared by, or for, an airport lessee describing how development that is consistent with the land use plan is intended to coordinate with the LGIP of the local government in relation to the types of local government infrastructure relevant to the airport land.

information includes a document.

instrument includes an oral agreement.

insufficient value property, for chapter 4, part 6, see section 87.

land means any land, whether above or below the ordinary high water mark at spring tides.

land use and development, for chapter 3, part 1, see section 30.

land use plan, for airport land, means the land use plan, approved under chapter 3, part 1, that regulates development on the airport land.

LGIP, of a local government, means an LGIP made by the local government under the Planning Act.

local government, for a provision of this Act about airport land, or a land use plan for airport land, means the local government for the local government area within which the airport land is situated.

Mackay airport land see section 9.

Mackay Ports means Mackay Ports Ltd ACN 131 965 707.

material change of use, of premises, see the Planning Act, schedule 2.

minor amendment, of a land use plan for airport land, means an amendment that—

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- (a) corrects or otherwise changes—
- (i) a spelling, grammatical, mapping or typographical error in the plan; or
 - (ii) an explanatory matter about the plan, this Act or the Planning Act; or
 - (iii) the format or presentation of the plan; or
 - (iv) a factual matter incorrectly stated in the plan; or
 - (v) a redundant or outdated term; or
 - (vi) inconsistent numbering of provisions in the plan; or
 - (vii) a cross-reference in the plan; or
- (b) the planning Minister considers only reflects—
- (i) this Act or the Planning Act; or
 - (ii) a part of a State planning policy or regional plan made under the Planning Act, if the planning Minister considers adequate public consultation was carried out in relation to the making of the part.

Office of Transport Security means the office of that name within the Commonwealth department within which the *Aviation Transport Security Act 2004* (Cwlth) is administered.

officer includes a director.

person involved in the project means an employee or agent of the State who is involved in carrying out the project in the course of the employment or agency.

Planning Act means the *Planning Act 2016*.

planning chief executive means the chief executive of the department in which the Planning Act is administered.

planning Minister means the Minister administering the Planning Act.

planning scheme means a planning scheme under the Planning Act.

POBC means Port of Brisbane Corporation Limited ACN 124 048 522.

project see section 5.

project direction see section 14(1).

QIC means the Queensland Investment Corporation.

QIC Infrastructure Management means QIC Infrastructure Management Pty Ltd ACN 096 932 188.

QTH means Queensland Treasury Holdings Pty Ltd ACN 011 027 295.

record includes any document.

right includes power, privilege and immunity.

shareholders deed of covenant means a deed of covenant, complying with clause 7.1 of the BACH Shareholders Agreement, that must be executed before an entity may become an equity holder under that agreement.

State interest see the Planning Act, schedule 2.

statement of proposal see section 36(1).

transfer notice see section 12(1).

ultimate holding company has the meaning given by the Corporations Act, section 9, as if section 48(2) and (3) of that Act did not apply.

valuable features, for chapter 3, part 1, see section 30.

vehicle includes any type of transport that moves on wheels and a hovercraft but does not include an aircraft, train or tram.