

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, August 2026*



Queensland

**No.
A BILL for**

An Act to amend the Environmental Offsets Regulation 2014, the State Development and Public Works Organisation Act 1971, the State Development and Public Works Organisation Regulation 2020 and the legislation mentioned in schedule 1 for particular purposes



Queensland

State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026

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2026

A Bill

for

An Act to amend the *Environmental Offsets Regulation 2014*, the *State Development and Public Works Organisation Act 1971*, the *State Development and Public Works Organisation Regulation 2020* and the legislation mentioned in schedule 1 for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Act 2026*.

Part 2 Amendment of State Development and Public Works Organisation Act 1971

2 Act amended

This part amends the *State Development and Public Works Organisation Act 1971*.

Note—

See also the amendments in schedule 1.

3 Insertion of new s 24A

After section 24—

insert—

24A References to project in part

In this part, a reference to a project may, if the context permits, be taken to be a reference to a coordinated project.

4 Amendment of s 26 (Declaration of coordinated project)

(1) Section 26—

insert—

(8A) If the project involves the carrying out of an activity requiring a regional interests development approval, the Coordinator-General must also give a copy of the gazette notice to the chief executive of the department in which the *Regional Planning Interests Act 2014*, part 3 is administered.

(8B) If the project involves an approval or decision under the *Transport Infrastructure Act 1994* mentioned in section 49N(b)(i) to (iv), the Coordinator-General must also give a copy of the gazette notice to the chief executive of the department in which that Act is administered.

(8C) If the project involves an approval or decision under the *Transport Infrastructure Act 1994* mentioned in section 49N(b)(iv), the Coordinator-General must also give a copy of the gazette notice to the railway manager under that Act.

(2) Section 26(8A) to (9)—

renumber as section 26(9) to (12).

5 Amendment of s 34D (Report evaluating EIS)

Section 34D(3)(b), ‘or 49G’—

omit, insert—

, 49G, 49L or 49O

6 Amendment of s 34G (Preparation of draft IAR)

(1) Section 34G(2)(c)—

insert—

[s 7]

- (iia) a regional interests development approval if the application for the approval would, under the *Regional Planning Interests Act 2014*, be notifiable;
- (2) Section 34G(2)(c)(iii)(A), ‘or the Environmental Protection Act, chapter 5,’—
omit, insert—
 - , the Environmental Protection Act, chapter 5 or the *Regional Planning Interests Act 2014*, part 3,
- (3) Section 34G(2)(c)(iia) and (iii)—
renumber as section 34G(2)(c)(iii) and (iv).

7 Amendment of s 34L (Report evaluating IAR)

Section 34L(3)(b), ‘or 49G’—

omit, insert—

, 49G, 49L or 49O

8 Amendment of s 35A (Lapsing of Coordinator-General’s report)

- (1) Section 35A(8), definition *relevant approval*—

insert—

- (fa) a regional interests development approval;
or

- (fb) an approval or decision under the *Transport Infrastructure Act 1994* mentioned in section 49N(b)(i) to (iv); or

- (2) Section 35A(8), definition *relevant approval*, paragraphs (fa) to (g)—
renumber as paragraphs (g) to (i).

9 Amendment of s 35I (Coordinator-General's change report)

Section 35I(2)(a), 'or 49G'—

omit, insert—

, 49G, 49L or 49O

10 Amendment of s 37 (Applications for material change of use or requiring impact assessment)

Section 37(1)(c)(ii), after 'section 34C(3)'—

insert—

or 34K(3)

11 Insertion of new pt 4, divs 6D and 6E

Part 4—

insert—

**Division 6D Relationship with Regional
Planning Interests Act
2014**

49H Application of division

This division applies if—

- (a) the project involves the carrying out of an activity requiring a regional interests development approval; and
- (b) an assessment application is made for the activity under the *Regional Planning Interests Act 2014*.

49I Definitions for division

In this division—

assessment application see the *Regional Planning Interests Act 2014*, section 28.

regional planning chief executive means the chief executive of the department in which the *Regional Planning Interests Act 2014*, part 3 is administered.

49J Regional planning chief executive to be given copy of Coordinator-General's report

The Coordinator-General must give the regional planning chief executive a copy of the Coordinator-General's report for the EIS or IAR for the project.

49K Modified application of provisions of Regional Planning Interests Act 2014

- (1) This section applies if the Coordinator-General gives the regional planning chief executive a copy of the Coordinator-General's report for the EIS or IAR for the project.
- (2) If the draft EIS or IAR for the project is accepted as the final EIS or IAR, the final EIS or IAR is taken to be the report mentioned in the *Regional Planning Interests Act 2014*, section 29(b) that must accompany the assessment application, but only to the extent the final EIS or IAR relates to the matters required for the report under section 29(b)(i) and (ii) of that Act.
- (3) If the draft EIS or IAR for the project is publicly notified under section 33 or 34H—
 - (a) the assessment application is not notifiable for the purposes of the *Regional Planning Interests Act 2014*, sections 30, 33 and 46; and

- (b) the *Regional Planning Interests Act 2014*, part 3, division 4 does not apply to the assessment application.
- (4) Despite subsection (3)(b), the *Regional Planning Interests Act 2014*, section 38 applies—
 - (a) only to the extent that section permits the owner of the land the subject of the project to inspect the submission or obtain a copy of the submission; and
 - (b) as if—
 - (i) a properly made submission under this Act about either of the following were a properly made submission about the assessment application under the *Regional Planning Interests Act 2014*—
 - (A) a draft EIS or draft IAR for the project;
 - (B) any additional information, required by the Coordinator-General for the project, that was publicly notified under section 34C(3) or 34K(3); and
 - (ii) the Coordinator-General were the assessor; and
 - (iii) a reference to the assessor's office were a reference to the Coordinator-General's office and any other place approved by the Coordinator-General.
- (5) The assessment application is not referable for the purposes of the *Regional Planning Interests Act 2014*, sections 26, 51 and 56.
- (6) The *Regional Planning Interests Act 2014*, part 3,

division 5 does not apply to the assessment application.

- (7) A requirement notice given under the *Regional Planning Interests Act 2014*, section 44 in relation to the assessment application must not require the applicant to notify the application under part 3, division 4 of that Act.
- (8) For the *Regional Planning Interests Act 2014*, section 47, the prescribed time frame for a decision about the assessment application is, despite that section, taken to be—
 - (a) 20 business days after the day the Coordinator-General gives the regional planning chief executive the copy of the Coordinator-General's report for the EIS or IAR; or
 - (b) a longer period decided by the regional planning chief executive for which prior notice has been given to the applicant.
- (9) The *Regional Planning Interests Act 2014*, section 49(1)(c) applies in relation to deciding the assessment application as if—
 - (a) the decision were for a notifiable assessment application; and
 - (b) the reference to properly made submissions were a reference to properly made submissions under this Act taken, under subsection (4)(b)(i), to be properly made submissions under the *Regional Planning Interests Act 2014*.
- (10) For the *Regional Planning Interests Act 2014*, section 49(1), in deciding the assessment application, the regional planning chief executive must also consider the Coordinator-General's report for the EIS or IAR.

49L Application of Coordinator-General's report to deciding assessment application

- (1) The Coordinator-General's report for the EIS or IAR for the project may state any of the following for an activity relating to the project—
 - (a) that any regional interests development approval given for the activity must be subject to stated conditions;
 - (b) that any regional interests development approval given must be only for a stated activity or a stated part of an activity.
- (2) Alternatively, the report may state that—
 - (a) the Coordinator-General has no conditions or requirements for the activity; or
 - (b) a regional interests development approval for the activity must not be given.
- (3) A condition mentioned in subsection (1)(a) must be consistent with the requirements for a regional interests condition under the *Regional Planning Interests Act 2014*, section 50.
- (4) The regional planning chief executive must comply with a matter stated in the report under subsection (1) or (2).
- (5) To remove any doubt, it is declared that subsections (1)(a) and (2)(a) do not limit the power of the regional planning chief executive to—
 - (a) consider and decide the assessment application; and
 - (b) impose conditions on any regional interests development approval given, if the conditions are not inconsistent with conditions stated under subsection (1)(a).
- (6) The report may state that a regional interests

development approval must not be given for the activity only if the Coordinator-General is satisfied there are environmental effects in relation to the development that can not be addressed adequately.

- (7) The report must give reasons for the statement mentioned in subsection (2)(b).
- (8) If there is any inconsistency between a condition mentioned in subsection (1)(a) for a regional interests development approval and a condition imposed by the regional planning chief executive on the approval under the *Regional Planning Interests Act 2014*, section 48(2), the condition mentioned in subsection (1)(a) prevails to the extent of the inconsistency.

49M Application of Coordinator-General's change report to assessment of requested amendment application

- (1) This section applies if, under section 35J(a), the proponent is given a copy of a Coordinator-General's change report.
- (2) The Coordinator-General must give a copy of the change report to the regional planning chief executive.
- (3) If the proponent has not made a requested amendment application in relation to the proposed change the subject of the change report, the proponent must make the application.
- (4) For the purposes of deciding a requested amendment application under the *Regional Planning Interests Act 2014*, section 55(5)—
 - (a) section 49(1)(c) of that Act applies in relation to deciding the requested amendment application as if—

- (i) the decision were for a notifiable assessment application; and
 - (ii) the reference to properly made submissions were a reference to properly made submissions under this Act about the proposed change; and
- (b) for section 49(1) of that Act, in deciding the requested amendment application, the regional planning chief executive must also consider the change report.
- (5) Subsection (6) applies if—
 - (a) the change report was given to the proponent after the regional planning chief executive decided a requested amendment application in relation to the proposed change the subject of the change report; and
 - (b) the proposed change involves the carrying out of an activity requiring a regional interests development approval; and
 - (c) the proponent proposes to carry out the activity.
- (6) The proponent must take, or cause to be taken, the required steps under the *Regional Planning Interests Act 2014* to obtain approval of the carrying out of the activity.
- (7) Sections 49J to 49L apply to the obtaining of the approval mentioned in subsection (6) as if—
 - (a) a reference to the Coordinator-General's report for the EIS or IAR for the project were a reference to the change report; and
 - (b) a reference to a properly made submission under this Act about the draft EIS or draft IAR were a reference to a properly made submission about the proposed change.
- (8) Subsection (6) applies in relation to the changes to

the carrying out of an activity even if there is an undecided appeal against the decision on the requested amendment application mentioned in subsection (5)(a).

(9) In this section—

requested amendment application means an application made to the regional planning chief executive to make a requested amendment to a regional interests development approval under the *Regional Planning Interests Act 2014*, section 55(1).

Division 6E Relationship with Transport Infrastructure Act 1994

49N Application of division

This division applies if—

- (a) the project involves a State-controlled road or a railway under the *Transport Infrastructure Act 1994*; and
- (b) an application is made for 1 or more of the following under the *Transport Infrastructure Act 1994*—
 - (i) an approval mentioned in section 33(1) of that Act;
 - (ii) an approval mentioned in section 50(2)(a) of that Act;
 - (iii) a decision stating any of the matters mentioned in section 62(1)(a) to (k) of that Act;
 - (iv) an approval mentioned in section 255(1)(a) of that Act.

49O Application of Coordinator-General's report to approval or decision for project involving State-controlled road or railway

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions (*Coordinator-General's conditions*) for the approval or decision mentioned in section 49N(b)(i) to (iv).
- (2) If Coordinator-General's conditions are included in the report—
 - (a) the Coordinator-General must give the report to—
 - (i) the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; and
 - (ii) if the approval is an approval mentioned in section 49N(b)(iv)—the railway manager under the *Transport Infrastructure Act 1994*; and
 - (b) the conditions of the approval or decision are taken to include the Coordinator-General's conditions.

49P Coordinator-General's conditions override other conditions

- (1) This section applies if—
 - (a) the approval or decision mentioned in section 49N(b)(i) to (iv) is granted or made; and
 - (b) the conditions of the approval or decision include a Coordinator-General's condition; and
 - (c) there is any inconsistency between the Coordinator-General's condition and

[s 12]

another condition of the approval or decision.

(2) The Coordinator-General's condition prevails to the extent of the inconsistency.

(3) In this section—

Coordinator-General's condition means—

(a) a Coordinator-General's condition that, under section 49O, is taken to have been included in an approval or decision; or

(b) a condition that is substantially the same as a condition mentioned in paragraph (a).

12 Amendment of s 54A (Application of div 8)

Section 54A(b), 'divisions 5, 6, 6A and 7'—

omit, insert—

divisions 5 to 7

13 Replacement of pt 5 (Prescribed development)

Part 5—

omit, insert—

Part 5 Infrastructure coordination plans

Division 1 Preliminary

55 Main purposes of part

The main purposes of this part are as follows—

(a) to promote and support development for, or associated with, extracting or otherwise

dealing with minerals or energy resources of the State;

- (b) to facilitate a coordinated and efficient approach for the provision of infrastructure required by, or associated with, projects for development mentioned in paragraph (a);
- (c) to provide for particular planning applications to be decided efficiently, with certainty and in a way that achieves the purposes mentioned in paragraphs (a) and (b).

55A How main purposes are to be achieved

The main purposes of this part are to be achieved mainly by—

- (a) providing for investigations in relation to infrastructure required by, or associated with, resources projects to be carried out; and
- (b) providing for the making of an infrastructure coordination plan for infrastructure mentioned in paragraph (a) to enable the infrastructure to be provided in a coordinated and efficient way; and
- (c) enabling the Minister to decide the process for assessing and deciding particular planning applications affected by an investigation mentioned in paragraph (a) or an infrastructure coordination plan.

55B Definitions for part

In this part—

affected person, in relation to a development investigation, means—

- (a) a person mentioned in section 56B(2)(a) to (e); or
- (b) a decision maker for a relevant planning application in relation to whom section 56B(5) applies.

decision maker means—

- (a) for a relevant planning application that is a development application or extension application—the assessment manager for the application under the Planning Act; or
- (b) for a relevant planning application that is a change application—the responsible entity for the application under the Planning Act.

development assessment process see the Planning Act, schedule 2.

development investigation means an investigation the Coordinator-General is directed to carry out under section 56(1).

Note—

See section 56N in relation to when a development investigation ends.

infrastructure coordination plan means an infrastructure coordination plan made under section 57C.

investigation notice, for a development investigation, means the gazette notice for the investigation published under section 56A(1).

minerals or energy resources, of the State—

- (a) means a mineral or other naturally occurring substance, whether a solid, liquid or gas, that under a Resource Act is the property of the State; and
- (b) includes a naturally occurring substance from which energy, that under a Resource

Act is the property of the State, may be extracted.

owner, of land, for division 2, subdivision 2, see section 56C.

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

planning application means—

- (a) a development application that is a properly made application under the Planning Act for—
 - (i) making a material change of use of premises; or
 - (ii) carrying out operational work; or
 - (iii) reconfiguring a lot; or
- (b) a change application—
 - (i) made under the Planning Act for a development application mentioned in paragraph (a); and
 - (ii) accepted by the responsible entity for the application under section 79(4) of that Act; or
- (c) an extension application—
 - (i) made under the Planning Act for a development approval for development mentioned in paragraph (a)(i), (ii) or (iii); and
 - (ii) accepted by the assessment manager for the application under section 86(3) of that Act.

pre-plan period, for a development investigation, means the period—

- (a) starting on the day the investigation notice for the investigation is published; and
- (b) ending on the day any of the following happens in relation to the investigation or an infrastructure coordination plan for infrastructure required by, or associated with, the resources project the subject of the investigation—
 - (i) the Minister gives a direction under section 56J to discontinue the whole investigation;
 - (ii) the Minister decides not to give a direction under section 57(2);
 - (iii) the Minister gives a direction under section 57E(2);
 - (iv) the Minister decides, under section 57D(2), not to recommend the making of a regulation under section 57D(1);
 - (v) the infrastructure coordination plan takes effect.

relevant planning application see section 55C.

Resource Act see the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 9.

resources project means a project for development for, or associated with, extracting or otherwise dealing with minerals or energy resources of the State.

55C Meaning of *relevant planning application*

- (1) For this part, a ***relevant planning application*** is—
 - (a) in relation to a development investigation, a planning application involving land identified—

- (i) in the investigation notice for the investigation; or
 - (ii) in an amendment notice for the investigation; or
- (b) in relation to an infrastructure coordination plan that is in effect—
 - (i) a planning application involving land identified in the plan; or
 - (ii) a planning application of a class identified in the plan as relevant planning applications to which the plan applies.
- (2) However, a planning application is not a relevant planning application if—
 - (a) a decision notice for the application has been given to the applicant under the Planning Act, section 63, 83 or 87; or
 - (b) the application is a development application and—
 - (i) a deemed approval for the application has been given under the Planning Act, section 64; or
 - (ii) there has been a deemed refusal for the application under the Planning Act; or
 - (c) the application has been called in under the Planning Act; or
 - (d) the application has been declared to be an application for State facilitated development under the Planning Act, section 106D; or
 - (e) the application is a change application for which the responsible entity is—
 - (i) the Planning and Environment Court; or

(ii) the Minister administering the Planning Act.

(3) In this section—

amendment notice means a notice published under section 56I(4).

Division 2 Development investigations

Subdivision 1 Direction to carry out development investigation

56 Power of Minister to give direction to carry out development investigation

(1) The Minister may, by written notice, direct the Coordinator-General to carry out an investigation in relation to infrastructure required by, or associated with—

- (a) a resources project; or
- (b) 2 or more resources projects if the Minister is satisfied it is appropriate to investigate infrastructure in relation to the projects together, having regard to the main purposes of this part.

Example of when the Minister may be satisfied it is appropriate to investigate infrastructure in relation to resources projects together—

A project for extracting graphite is located in western Queensland. A second project for a processing facility is located in Townsville. To supply graphite in a form suitable for use in manufacturing batteries, rail infrastructure is required to transport the graphite extracted in western Queensland to the processing facility in Townsville.

- (2) Also, the Minister may direct the Coordinator-General to include in the investigation existing or proposed infrastructure if—
 - (a) the Minister considers the resources project the subject of the investigation may increase demand in an area of the State for the infrastructure; or
 - (b) the Minister considers the infrastructure may assist in facilitating a coordinated and efficient approach for the provision of infrastructure required by, or associated with, the resources project the subject of the investigation.
- (3) If a direction is given under subsection (1)(b), a reference in this part to the resources project the subject of the investigation is taken to be a reference to all of the resources projects together.
- (4) The Minister may give a direction under subsection (1)(b) regardless of whether the resources projects—
 - (a) have the same proponent; or
 - (b) are to be located in the same area; or
 - (c) involve the same minerals or energy resources.
- (5) The Minister may give a direction under subsection (1) only if the Minister considers—
 - (a) the resources project the subject of the investigation may be of major economic significance to the State; and
 - (b) the resources project may create a need, or increase demand, for infrastructure in an area of the State; and
 - (c) that it may be in the interests of the State to facilitate a coordinated and efficient

approach for the provision of infrastructure required by, or associated with, the resources project; and

- (d) the findings of an investigation are likely to help the Minister decide whether an infrastructure coordination plan should be made.

56A Requirements for investigation notice

- (1) As soon as practicable after a direction is given under section 56(1), the Coordinator-General must publish a gazette notice about the direction.
- (2) The notice must—
 - (a) state that, under section 56(1), the Minister has given the Coordinator-General a direction to carry out a development investigation in relation to infrastructure required by, or associated with, the resources project the subject of the investigation; and
 - (b) identify the land on which the resources project is located, or is proposed to be located; and
 - (c) identify any existing or proposed infrastructure that, under section 56(2), the Minister has directed the Coordinator-General to include in the investigation; and
 - (d) state that the development assessment process for relevant planning applications is affected by the giving of the direction.
- (3) The Coordinator-General must publish a copy of the notice on the department's website.

56B Requirements for affected person's notice

- (1) This section applies if, under section 56(1), the Minister directs the Coordinator-General to carry out a development investigation.
- (2) As soon as practicable after the Minister gives the direction, the Coordinator-General must give written notice (an *affected person's notice*) about the development investigation to the following persons—
 - (a) the Planning Act chief executive;
 - (b) a local government whose local government area includes all or part of the land identified in the investigation notice for the development investigation;
 - (c) each person who is responsible for operating existing infrastructure, or who is to be responsible for operating proposed infrastructure, identified in the investigation notice;
 - (d) each proponent of the resources project the subject of the development investigation;
 - (e) any other person prescribed by regulation.
- (3) The affected person's notice must—
 - (a) state that, under section 56(1), the Minister has given the Coordinator-General a direction to carry out an investigation in relation to infrastructure required by, or associated with, the resources project the subject of the investigation; and
 - (b) identify the land on which the resources project is located, or is proposed to be located; and
 - (c) identify any existing or proposed infrastructure that, under section 56(2), the Minister has directed the

Coordinator-General to include in the investigation; and

- (d) state that division 4, subdivisions 1 and 2 apply in relation to the development assessment process for a relevant planning application during the pre-plan period for the development investigation.
- (4) Subsection (5) applies if the Planning Act chief executive is aware—
 - (a) a relevant planning application was made before the pre-plan period started; and
 - (b) the decision maker for the application has not received an affected person's notice under subsection (2).
- (5) The Planning Act chief executive must give a copy of the affected person's notice to the decision maker for the relevant planning application.

Subdivision 2 Carrying out development investigations

56C Definition for subdivision

In this subdivision—

owner, of land, includes—

- (a) an occupier of the land; and
- (b) a person who reasonably appears to be an occupier of, or in charge of, the land.

56D Matters for development investigation

In carrying out a development investigation, the Coordinator-General must consider—

- (a) whether the resources project the subject of the investigation will, or is likely to, create a need, or increase demand, for infrastructure in an area of the State; and

Examples—

- 1 The resources project is to be located in an undeveloped area and will create a need for electricity infrastructure in the area.
 - 2 The resources project includes accommodation for workers in a particular area, and their families, and is likely to increase demand for housing and education services in the area.
- (b) options for meeting a need, or increased demand, for infrastructure identified under paragraph (a), having regard to the main purposes of this part.

56E Persons authorised to carry out development investigation

The Coordinator-General may, in writing, authorise any of the following persons to exercise a power under section 56F in relation to a development investigation—

- (a) a public sector employee of the department;
- (b) any other person engaged by the Coordinator-General to provide advice or services for the purposes of carrying out the investigation.

Example of a person for paragraph (b)—

a contractor engaged by the Coordinator-General to carry out geotechnical surveys

56F General powers for development investigation

The Coordinator-General, or a person authorised by the Coordinator-General under section 56E,

may do any of the following for the purposes of carrying out a development investigation—

- (a) enter and re-enter the land identified in the investigation notice, including any additional land identified in a notice published under section 56I(4);
- (b) to the extent reasonably necessary for that purpose, do anything on the land;

Examples of things that may be done under paragraph (b)—

- 1 conduct surveys, make a valuation and take levels
 - 2 dig, bore, clear vegetation, or otherwise disturb the land, to the extent reasonably necessary
- (c) bring anything onto the land;
- (d) temporarily leave machinery, equipment or another item on the land.

Note—

See section 56N in relation to when a development investigation ends.

56G Procedure for entering land for development investigation

- (1) Before land is entered for the first time for carrying out a development investigation, the Coordinator-General must give the owner of the land a written notice complying with subsection (2).
- (2) The notice must state the following—
 - (a) the Coordinator-General, or a person authorised in writing by the Coordinator-General under section 56E, is authorised under section 56F to enter the

-
- land to carry out a development investigation;
- (b) the purpose of the entry, including the powers intended to be exercised;
 - (c) a general outline of the activities intended to be carried out on the land;
 - (d) the approximate period for which the Coordinator-General, or the person authorised by the Coordinator-General, will be carrying out activities on the land;
 - (e) the rights of the owner of the land under section 56H for compensation for any loss or damage suffered by the owner in relation to the exercise of a power under section 56F.
- (3) Also, a person authorised to enter the land by the Coordinator-General under section 56E must, on request, show the owner of the land a copy of the person's written authority.
- (4) The Coordinator-General or the person authorised by the Coordinator-General may enter land only if—
- (a) the owner of the land gives written consent to the entry; or
 - (b) at least 7 days have passed since the Coordinator-General gave the owner a notice under subsection (1).

56H Compensation for exercise of power under s 56F

- (1) This section applies if the Coordinator-General or a person authorised by the Coordinator-General enters land under section 56F.
- (2) The owner of the land may, by written notice given to the Coordinator-General, claim compensation for loss or damage suffered by the

owner in relation to the exercise of a power under section 56F.

- (3) A claim under subsection (2) must be made—
 - (a) within 1 year after the Coordinator-General or a person authorised by the Coordinator-General last entered the land under section 56F to carry out the development investigation; or
 - (b) at a later time allowed by the Land Court.
- (4) The amount of compensation is—
 - (a) the amount agreed between the Coordinator-General and the owner of the land; or
 - (b) if the Coordinator-General and the owner of the land can not agree on the amount within a reasonable time—the amount decided by the Land Court.
- (5) However, the amount of compensation agreed or decided must not be more than the amount of compensation that would have been payable under the *Acquisition of Land Act 1967* had the land been taken under that Act.

56I Approval to investigate other land or infrastructure

- (1) This section applies if, while carrying out a development investigation, the Coordinator-General considers it is reasonably necessary to enter land (the ***additional land***) other than the land identified in the investigation notice for the investigation.
- (2) The Coordinator-General may recommend to the Minister that a direction be given to the Coordinator-General to include the additional land for the purposes of the development

investigation.

- (3) The Minister may give a direction mentioned in subsection (2) if the Minister is satisfied—
- (a) the additional land is—
- (i) land on which the resources project the subject of the development investigation is, or is proposed to be, located; or
- (ii) land on which existing or proposed infrastructure mentioned in section 56(2) is located; and
- (b) it is reasonably necessary for the Coordinator-General to enter the land for the purpose of carrying out the development investigation.
- (4) If a direction is given under subsection (3), the Coordinator-General must publish a gazette notice amending the investigation notice for the development investigation to identify the additional land as land the subject of the direction.
- (5) Section 56A(3) applies in relation to the gazette notice published under subsection (4) as if it were a gazette notice published under section 56A(1).
- (6) Section 56B applies in relation to a direction given under subsection (3) as if it were a direction given under section 56(1).

56J Direction to discontinue development investigation

- (1) The Minister may, at any time before the Coordinator-General gives the Minister an investigation report under section 56M, direct the Coordinator-General to discontinue a development investigation or a stated part of the investigation.

- (2) If a direction is given under subsection (1), the Coordinator-General must—
- (a) discontinue the development investigation or the stated part of the investigation; and
 - (b) give written notice that the development investigation or the stated part of the investigation has been discontinued to the following persons—
 - (i) each affected person;
 - (ii) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (iii) each applicant for a relevant planning application mentioned in subparagraph (ii).

Notes—

- 1 The giving of a direction under this section ends the pre-plan period for the development investigation. Division 4, subdivision 1 stops applying on the day the direction is given (see section 58).
- 2 See also sections 58F and 58G in relation to the return of a relevant planning application to the decision maker for the application on the giving of a direction under this section.

Subdivision 3 Reporting on development investigations

56K Coordinator-General must prepare investigation report

- (1) The Coordinator-General must prepare a report about the Coordinator-General's findings of a development investigation (an *investigation report*).

- (2) The investigation report must include—
- (a) the Coordinator-General's recommendation about whether an infrastructure coordination plan should be made for some or all of the infrastructure required by, or associated with, the resources project the subject of the development investigation; and
 - (b) the reasons for the Coordinator-General's recommendation; and
 - (c) information about the following matters—
 - (i) the nature of the resources project the subject of the investigation;
 - (ii) any need, or increased demand, for infrastructure in an area of the State likely to be created by the resources project;
 - (iii) the options for meeting a need, or increased demand, identified under subparagraph (ii);
 - (iv) any known benefit or limitation of each option, having regard to the main purposes of this part;
 - (v) any other matter the Minister reasonably requires for deciding whether an infrastructure coordination plan should be made.
- (3) In making the recommendation mentioned in subsection (2)(a), the Coordinator-General must consider—
- (a) the economic significance of the resources project the subject of the development investigation to the State; and
 - (b) whether it would be in the interests of the State for an infrastructure coordination plan to be made; and

- (c) whether an infrastructure coordination plan would facilitate a coordinated and efficient approach for the provision of infrastructure required by, or associated with, the resources project the subject of the investigation.
- (4) This section does not apply to the extent the development investigation is discontinued under section 56J(1).

56L Consultation on investigation report

- (1) The Coordinator-General must give a copy of the investigation report prepared under section 56K to the following persons—
 - (a) each affected person;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).
- (2) The Coordinator-General must give each person who receives a copy of the investigation report a notice inviting the person to make submissions to the Coordinator-General about the report.
- (3) The notice must state—
 - (a) the period, of at least 20 business days, within which the person may make submissions to the Coordinator-General about the investigation report; and
 - (b) how the submissions may be made.
- (4) The person may make submissions to the Coordinator-General about the investigation report within the period stated in the notice.

56M Finalising investigation report

- (1) The Coordinator-General must consider any submissions made under section 56L(4).
- (2) The Coordinator-General may make any amendments to the investigation report, including in response to any submissions made, that the Coordinator-General considers appropriate.
- (3) The Coordinator-General must give the Minister—
 - (a) the investigation report including any amendments made under subsection (2); and
 - (b) if submissions were made under section 56L(4)—a report outlining the submissions and any changes made in response to the submissions.

56N Ending of development investigation

A development investigation ends when the Coordinator-General gives the Minister an investigation report under section 56M(3), unless the investigation is earlier discontinued.

Division 3 Infrastructure coordination plans

Subdivision 1 Making and approval of infrastructure coordination plans

57 Direction to make infrastructure coordination plan

- (1) This section applies if the Coordinator-General

gives the Minister an investigation report under section 56M for a development investigation.

- (2) The Minister must decide whether to direct the Coordinator-General to make an infrastructure coordination plan for some or all of the infrastructure required by, or associated with, the resources project the subject of the development investigation.
- (3) The Minister may give a direction under subsection (2) only if—
 - (a) the Minister has considered the investigation report; and
 - (b) the Minister is satisfied of the following matters—
 - (i) the resources project the subject of the development investigation will be of major economic significance to the State;
 - (ii) the resources project is likely to create a need, or increase demand, for infrastructure in an area of the State;
 - (iii) it is in the interests of the State for the State to facilitate a coordinated and efficient approach for the provision of infrastructure required by, or associated with, the resources project.
- (4) A direction given to the Coordinator-General under subsection (2) must be in writing.
- (5) A direction under subsection (2) may state the date by which the Coordinator-General must give the Minister a draft infrastructure coordination plan.
- (6) The Coordinator-General must give written notice of the Minister's decision under subsection (2) to each person mentioned in section 56L(1)(a)

to (c).

57A Requirements for infrastructure coordination plan

- (1) An infrastructure coordination plan must—
 - (a) identify each resources project in relation to which the plan applies, including by reference to—
 - (i) the infrastructure comprising the resources project; and
 - (ii) the land on which the resources project is, or is proposed to be, located; and
 - (b) identify any other infrastructure required by, or associated with, the resources project; and
 - (c) identify the land, if known, on which infrastructure mentioned in paragraph (b) is, or is proposed to be, located; and
 - (d) state the persons who are parties to the plan; and
 - (e) describe how the provision of infrastructure mentioned in paragraphs (a) and (b) is to be coordinated; and
 - (f) state any steps to be taken by a party to the plan in relation to coordinating the provision of infrastructure mentioned in paragraphs (a) and (b); and
 - (g) state any steps to be taken by a party to the plan to further identify or progress aspects of—
 - (i) the resources project; or
 - (ii) infrastructure mentioned in paragraph (a) or (b); or

- (iii) the coordination of the provision of infrastructure mentioned in paragraphs (a) and (b); and
- (h) state that all parties must take reasonable steps to ensure they comply with any obligations under the plan; and
- (i) state the day the plan ends.
- (2) An infrastructure coordination plan may identify a class of planning applications that are relevant planning applications to which the plan applies.
- (3) Subsections (1) and (2) do not limit what may be included in an infrastructure coordination plan.

57B Draft infrastructure coordination plan for consultation

- (1) This section applies if, under section 57(1), the Minister directs the Coordinator-General to make an infrastructure coordination plan.
- (2) The Coordinator-General must prepare a draft infrastructure coordination plan complying with section 57A.
- (3) The Coordinator-General must give a copy of the draft infrastructure coordination plan to the following persons—
 - (a) each person proposed to be a party to the plan;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).
- (4) The Coordinator-General must give each person who receives a copy of the draft infrastructure coordination plan a notice inviting the person to

make submissions to the Coordinator-General about the draft.

- (5) The notice must state—
 - (a) the period, of at least 20 business days, within which the person may make submissions to the Coordinator-General about the draft infrastructure coordination plan; and
 - (b) how the submissions may be made.
- (6) The person may make submissions to the Coordinator-General about the draft infrastructure coordination plan within the period stated in the notice.

57C Making of infrastructure coordination plan

- (1) The Coordinator-General must consider any submissions made under section 57B(6).
- (2) The Coordinator-General may make any amendments to the draft infrastructure coordination plan, including in response to any submissions made, that the Coordinator-General considers appropriate.
- (3) The Coordinator-General must give the Minister—
 - (a) the draft infrastructure coordination plan including any amendments made under subsection (2); and
 - (b) if submissions were made under section 57B(6)—a report outlining the submissions and any changes made in response to the submissions.
- (4) The Minister may direct the Coordinator-General to make any amendments to the draft infrastructure coordination plan the Minister

considers appropriate.

- (5) The Coordinator-General must—
 - (a) after making the amendments directed by the Minister under subsection (4), make the infrastructure coordination plan; and
 - (b) give written notice to the persons mentioned in section 57B(3)(a) to (c) of any amendments made to the draft infrastructure coordination plan under this section.

57D Approval of infrastructure coordination plan

- (1) An infrastructure coordination plan made under section 57C takes effect when the plan is approved by regulation.
- (2) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1) only if satisfied the infrastructure coordination plan provides for infrastructure required by, or associated with, each resources project identified in the plan to be provided in a coordinated and efficient way.
- (3) The Coordinator-General must give notice of the approval to the following persons—
 - (a) each party to the plan;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).
- (4) The notice must state—
 - (a) that the infrastructure coordination plan has been approved under this section and is in effect; and

- (b) that the Minister will decide how relevant planning applications mentioned in subsection (3)(b) will be managed under division 4, subdivision 2.
- (5) The Coordinator-General must keep a copy of the infrastructure coordination plan on the department's website.
- (6) If the Minister decides, under subsection (2), not to recommend to the Governor in Council the making of a regulation under subsection (1), the Coordinator-General must give notice of the Minister's decision to the persons mentioned in subsection (3)(a) to (c).

Notes—

- 1 A decision of the Minister mentioned in subsection (6) ends the pre-plan period for a development investigation. Division 4, subdivision 1 stops applying on the day the Minister makes the decision (see section 58).
- 2 See also sections 58F and 58G in relation to the return of a relevant planning application to the decision maker for the application on the making of a decision of the Minister mentioned in subsection (6).

57E Direction to not make infrastructure coordination plan

- (1) This section applies if a direction has been given under section 57(2) to the Coordinator-General to make an infrastructure coordination plan for some or all of the infrastructure required by, or associated with, the resources project the subject of a development investigation.
- (2) The Minister may, at any time before an infrastructure coordination plan is made under section 57C, direct the Coordinator-General not to make the plan.

- (3) If a direction is given under subsection (2), the Coordinator-General must give notice of the direction to the following persons—
- (a) each person proposed to be a party to the plan;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).

Notes—

- 1 The giving of a direction under this section ends the pre-plan period for a development investigation. Division 4, subdivision 1 stops applying on the day the direction is given (see section 58).
- 2 See also sections 58F and 58G in relation to the return of a relevant planning application to the decision maker for the application on the giving of a direction under this section.

Subdivision 2 Amendment of infrastructure coordination plans

57F Direction to amend infrastructure coordination plan

- (1) The Minister may direct the Coordinator-General to make a stated amendment of an infrastructure coordination plan that is in effect.
- (2) A direction under subsection (1) may state the date by which the Coordinator-General must give the Minister the infrastructure coordination plan as amended.

57G Process for making minor amendment

- (1) This section applies if a direction is given under section 57F(1) and the Coordinator-General considers the amendment stated in the direction is—
 - (a) the correction of an error; or
Examples of an error—
typographical or grammatical error, misspelled name
 - (b) another amendment that is not a change in substance.
- (2) The Coordinator-General must prepare the infrastructure coordination plan as amended.
- (3) The Coordinator-General must give notice of the amendment of the infrastructure coordination plan to the following persons—
 - (a) each party to the plan;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).
- (4) The notice must state that the infrastructure coordination plan as amended is in effect.
- (5) The Coordinator-General must keep a copy of the infrastructure coordination plan as amended on the department's website.
- (6) The infrastructure coordination plan in effect is the plan as amended under this section.

57H Process for making amendment other than minor amendment

- (1) This section applies if a direction is given under

section 57F(1) and section 57G does not apply.

- (2) The Coordinator-General must prepare a draft of the infrastructure coordination plan as proposed to be amended and give the documents mentioned in subsection (3) to the following persons—
 - (a) each party to the plan;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).
- (3) For subsection (2), the documents are each of the following—
 - (a) written notice of the direction;
 - (b) a copy of the draft of the infrastructure coordination plan as proposed to be amended (the *draft amendment*);
 - (c) a notice inviting the person to make submissions to the Coordinator-General about the draft amendment within the period, and in the way, stated in the notice.
- (4) Each person mentioned in subsection (2)(a), (b) or (c) may make submissions, within the period stated in the notice, to the Coordinator-General about the draft amendment.
- (5) Section 57C applies in relation to the draft amendment as if—
 - (a) the draft amendment were a draft infrastructure coordination plan prepared under section 57B; and
 - (b) a reference in section 57C to submissions made under section 57B(6) were a reference to submissions made under subsection (4); and

- (c) the reference in section 57C(5)(b) to the persons mentioned in section 57B(3) were a reference to the persons mentioned in subsection (2).
- (6) Section 57E applies in relation to the draft amendment as if it were a draft infrastructure coordination plan prepared under section 57B.

57I Approval of amended infrastructure coordination plan other than for minor amendment

- (1) An amendment of an infrastructure coordination plan made under section 57H takes effect when the plan as amended (the *amended infrastructure coordination plan*) is approved by regulation.
- (2) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1) only if satisfied the amended infrastructure coordination plan—
 - (a) complies with section 57A(1); and
 - (b) provides for infrastructure required by, or associated with, each resources project identified in the plan, to be provided in a coordinated and efficient way.
- (3) Section 57D(3) to (5) applies in relation to the amended infrastructure coordination plan as if it were an infrastructure coordination plan approved under section 57D.

Subdivision 3 Miscellaneous

57J Period of infrastructure coordination plan

An infrastructure coordination plan has effect for the period—

- (a) starting on the day the plan is approved under section 57D; and
- (b) ending on the day stated in the plan as the day the plan ends.

Division 4 Relevant planning applications

Subdivision 1 Referral of relevant planning applications to Coordinator-General

58 Application of subdivision

This subdivision applies if—

- (a) a development investigation has started but the pre-plan period for the development investigation has not ended; or
- (b) an infrastructure coordination plan is in effect.

58A Requirement to refer relevant planning application to Coordinator-General

- (1) The decision maker for a relevant planning application must, in accordance with subsections (2) and (3), refer the application to the Coordinator-General.
- (2) For subsection (1), the relevant planning application must be referred to the Coordinator-General as soon as practicable after—
 - (a) if the application was made before a development investigation started—the

pre-plan period for the investigation starts;
or

(b) otherwise—

(i) for a relevant planning application that is a development application—the assessment manager for the application accepts it as a properly made application under the Planning Act; or

(ii) for a relevant planning application that is a change application—the responsible entity for the application accepts it under the Planning Act, section 79(4); or

(iii) for a relevant planning application that is an extension application—the assessment manager for the application accepts it under the Planning Act, section 86(3).

(3) The decision maker for the relevant planning application must—

(a) in referring the application to the Coordinator-General, give the Coordinator-General all material about the application, and any other material relevant to assessing the application, the decision maker has at the time of the referral; and

(b) give the Coordinator-General any other material about the application, or that is relevant to assessing the application, as it becomes available to the decision maker.

58B Decision maker must give applicant notice of referral etc.

(1) If a relevant planning application is referred to the Coordinator-General under section 58A, the

decision maker for the application must give the applicant a written notice stating—

- (a) the application has been referred to the Coordinator-General under that section; and
 - (b) the development assessment process for the application is suspended under section 58C(2); and
 - (c) the Minister is required under section 58D to decide how the application will be managed.
- (2) Also, the decision maker for the relevant planning application must give a copy of the notice mentioned in subsection (1) to—
- (a) any referral agency in relation to the application; and
 - (b) for a development application or change application—any principal submitter for a properly made submission under the Planning Act; and
 - (c) if there are proceedings relating to the application in the Planning and Environment Court—the Planning and Environment Court.

58C Suspension of development assessment process

- (1) This section applies if a relevant planning application is referred to the Coordinator-General under section 58A.
- (2) The development assessment process for the application is suspended from the following day—
 - (a) if, before the referral day, the application was publicly notified but the period for making submissions had not ended—the

day after the last day for making submissions under the Planning Act, section 53(4)(b);

(b) otherwise—the referral day.

(3) To remove any doubt, it is declared that despite anything in the development assessment rules, the application does not lapse while subsection (2) applies.

(4) In this section—

development assessment rules see the Planning Act, schedule 2.

publicly notified means publicly notified under the Planning Act, section 53, including as it applies under section 82 of that Act.

referral day, in relation to a relevant planning application referred to the Coordinator-General under section 58A, means the day of the referral.

Subdivision 2 Return of relevant planning applications to decision maker

58D When Minister must decide how application will be managed

- (1) This section applies if any of the following things happens (each a *relevant event*) in relation to a relevant planning application—
- (a) the application is referred to the Coordinator-General under section 58A during the pre-plan period for a development investigation;
 - (b) the application is referred to the Coordinator-General under section 58A

- while an infrastructure coordination plan is in effect;
- (c) for an application mentioned in paragraph (a) that has not otherwise been returned to the decision maker—an infrastructure coordination plan, for infrastructure required by, or associated with, the resources project the subject of the development investigation, takes effect.
- (2) Within 10 business days after the day the relevant event happens, the Minister must decide—
- (a) to return the relevant planning application to the decision maker for the application for administering under the Planning Act; or
 - (b) either—
 - (i) for a relevant event mentioned in subsection (1)(a), if the pre-plan period has not ended—to allow the suspension of the development assessment process for the application under section 58C(2) to continue during the pre-plan period; or
 - (ii) for any other relevant event—to give a proposal to decide under section 58I for the application.
- (3) The Coordinator-General must give written notice of a decision made by the Minister under subsection (2)(a) or (b)(i) to the following persons—
- (a) the decision maker for the relevant planning application;
 - (b) the applicant;
 - (c) any referral agency in relation to the application.
- (4) If the Minister decides, under subsection (2)(a), to

return the relevant planning application to the decision maker for the application, the notice must state the point in the development assessment process for the application at which the process restarts under the Planning Act.

- (5) If a decision is not made under subsection (2) within the period mentioned in that subsection, the Minister is taken to have decided to return the relevant planning application to the decision maker for the application under subsection (2)(a).
- (6) This section does not limit section 58E.

58E Minister's power to return application to decision maker

- (1) This section applies if—
 - (a) a relevant planning application has been referred to the Coordinator-General under section 58A; and
 - (b) section 58C(2) applies to the application; and
 - (c) if an infrastructure coordination plan is in effect—the Minister has not given a notice mentioned in section 58J(3)(c) for the application.
- (2) The Minister may decide, at any time, to return the relevant planning application to the decision maker for the application for administering under the Planning Act.
- (3) The Coordinator-General must give written notice of the Minister's decision under subsection (2) to the following persons—
 - (a) the decision maker for the relevant planning application;
 - (b) the applicant;

- (c) any referral agency in relation to the application.
- (4) The notice must state the point in the development assessment process for the relevant planning application at which the process restarts under the Planning Act.

58F Requirement to give notice about return of particular applications to decision maker

- (1) This section applies if—
 - (a) section 58C(2) applies in relation to a relevant planning application; and
 - (b) either of the following happens—
 - (i) under division 2 or 3, the pre-plan period for the development investigation ends without an infrastructure coordination plan taking effect;
 - (ii) an infrastructure coordination plan that was in effect ends.
- (2) The Coordinator-General must give written notice that the relevant planning application is returned to the decision maker for the application for administering under the Planning Act to the following persons—
 - (a) the decision maker;
 - (b) the applicant;
 - (c) any referral agency in relation to the application.
- (3) The notice must state the point in the development assessment process for the relevant planning application at which the process restarts under the Planning Act.

58G Effect of return of application to decision maker

- (1) This section applies if a relevant planning application is referred to the Coordinator-General under section 58A and—
 - (a) the Minister decides to return the application to the decision maker under section 58D or 58E; or
 - (b) section 58F applies to the application.
- (2) Section 58C(2) stops applying in relation to the relevant planning application on the giving of a notice of return.
- (3) The development assessment process for the relevant planning application restarts from the point in the process stated in the notice of return.
- (4) Subject to subsection (3), the decision maker for the relevant planning application must administer the application under the Planning Act, chapter 3, parts 1 to 5.
- (5) In this section—

notice of return means—

- (a) a notice given under section 58D(3) for a decision made under section 58D(2)(a); or
- (b) a notice given under section 58E(3) or 58F(2).

Subdivision 3 Decision of relevant planning applications by Minister

58H Application of subdivision

This subdivision applies if—

- (a) an infrastructure coordination plan is in effect; and
- (b) a relevant planning application has been referred to the Coordinator-General under section 58A; and
- (c) section 58C(2) applies to the application.

58I Minister may propose to assess and decide application

- (1) This section applies if the Minister considers it is likely to be necessary and appropriate for the Minister to assess and decide the relevant planning application to achieve the main purposes of this part.
- (2) The Minister may give a written notice (*a proposal to decide*) stating that the Minister proposes to assess and decide the relevant planning application under this subdivision to the following persons—
 - (a) the decision maker for the relevant planning application;
 - (b) the applicant;
 - (c) any referral agency in relation to the application;
 - (d) for an application that is a development application or change application—any principal submitter for a properly made submission under the Planning Act.
- (3) The proposal to decide must—
 - (a) be accompanied by a copy of the infrastructure coordination plan; and
 - (b) identify the relevant planning application; and
 - (c) state—

- (i) that the Minister proposes to assess and decide the application in accordance with this subdivision; and
 - (ii) the reasons for the Minister's belief mentioned in subsection (1); and
 - (iii) the point in the development assessment process for the application from which the Minister proposes the process will restart under the Planning Act; and
 - (iv) the effect of the Minister deciding the application on appeal rights under the Planning Act; and
- (d) invite each person to whom the proposal to decide is given to make submissions to the Minister about the Minister's proposal to assess and decide the application; and
- (e) state—
- (i) the period, of at least 5 business days, within which the person may make submissions to the Minister; and
 - (ii) how the submissions may be made.

58J Notice of Minister's decision about proposal to decide application

- (1) This section applies if the Minister has given the persons mentioned in section 58I(2)(a) to (d) a proposal to decide under that section for the relevant planning application.
- (2) A person mentioned in section 58I(2)(a), (b), (c) or (d) may, within the period stated in the proposal to decide, make submissions to the Minister about the Minister's proposal to assess and decide the relevant planning application.
- (3) The Minister must—

- (a) consider each submission made under subsection (2); and
- (b) decide whether the Minister will assess and decide the relevant planning application; and
- (c) give notice of the decision mentioned in paragraph (b) and the reasons for the decision to—
 - (i) the persons mentioned in section 58I(2)(a) to (d); and
 - (ii) if there are proceedings relating to the application in the Planning and Environment Court—the Planning and Environment Court.
- (4) For subsection (3)(b), the Minister may decide to assess and decide the relevant planning application only if satisfied it is necessary and appropriate for the Minister to do so to achieve the main purposes of this part.

58K Requirement for Minister to decide application

- (1) This section applies if—
 - (a) the Minister gives a notice mentioned in section 58J(3)(c) for the relevant planning application; and
 - (b) the notice states the Minister will assess and decide the application.
- (2) Despite section 58C(2), the Minister must, within the required period and in accordance with this section, assess and decide the relevant planning application under the Planning Act.
- (3) Subject to subsections (6) and (7), the development assessment process for the relevant planning application restarts under the Planning

Act at the point in the process decided by the Minister.

- (4) If the Minister does not decide the relevant planning application within the period mentioned in subsection (2), the Minister is taken to have refused the application under the Planning Act.
- (5) The decision maker must give all reasonable help that the Minister requires to assess or decide the relevant planning application.
- (6) If, but for this division, an applicant would have been required to give notice of the relevant planning application under the Planning Act—
 - (a) the Planning Act, section 53 does not apply to the application; and
 - (b) the Coordinator-General must publicly notify—
 - (i) the application; and
 - (ii) an invitation to make submissions to the Minister by a stated day that is at least 15 days after the day the invitation is notified.
- (7) However, subsection (6) does not apply if—
 - (a) the relevant planning application was notified under the Planning Act, section 53 before being referred to the Coordinator-General under section 58A; and
 - (b) the Minister has been given a copy of each properly made submission within the meaning of the Planning Act.
- (8) The following provisions of the Planning Act do not apply to the relevant planning application—
 - (a) for a development application—
 - (i) section 45(3) to (8); and

- (ii) chapter 3, part 3, division 1; and
 - (iii) sections 60 to 62, to the extent those sections impose obligations on the assessment manager; and
 - (iv) sections 64 and 275ZI;
 - (b) for a minor change application—sections 81 and 81A;
 - (c) for a change application other than a minor change application—section 82;
 - (d) for an extension application—section 87(1) to (4).
- (9) In this section—
- required period*, in relation to the relevant planning application, means—
- (a) 30 business days after the day the notice mentioned in section 58J(3)(c) was given to the decision maker and the applicant for the application; or
 - (b) if, before the 30 business days end—
 - (i) the Minister gives a notice extending the period to the decision maker and the applicant for the application—50 business days after the day the notice mentioned in section 58J(3)(c) was given; or
 - (ii) the Minister and the applicant for the application agree on a different number of business days after the day the notice mentioned in section 58J(3)(c) was given—the agreed number of business days after the day the notice mentioned in section 58J(3)(c) was given.

58L Considerations for Minister deciding application

- (1) In deciding the relevant planning application under section 58K, the Minister must consider the following matters—
 - (a) the main purposes of this part;
 - (b) the infrastructure coordination plan;
 - (c) any submission—
 - (i) made to the Minister in accordance with the invitation notified under section 58K(6)(b)(ii); or
 - (ii) given to the Minister as mentioned in section 58K(7)(b);
 - (d) any other matter prescribed by regulation.
- (2) The Minister may consider any other matter the Minister considers relevant.
- (3) The Minister need not consider any referral agency's response for the relevant planning application given to the decision maker for the application.
- (4) In this section—
referral agency's response see the Planning Act, schedule 2.

58M Notice of Minister's decision

- (1) This section applies if the Minister decides the relevant planning application under section 58K.
- (2) The Minister must give written notice of the Minister's decision on the relevant planning application to the following persons—
 - (a) the decision maker and applicant for the application;

- (b) a person who made a submission considered by the Minister under section 58L(1)(c);
 - (c) any referral agency in relation to the application;
 - (d) if there are proceedings relating to the application in the Planning and Environment Court—the Planning and Environment Court.
- (3) The notice must state the reasons for the Minister's decision.
- (4) The requirements for the content of notices under the Planning Act, sections 63, 83 and 87(5) apply only to the extent the Minister considers relevant.

58N No appeal against Minister's decision of application

If the relevant planning application is decided by the Minister under section 58K, the application is an excluded application for the purposes of the Planning Act.

58O Report about decision of application

- (1) The Minister must prepare a report about each relevant planning application decided by the Minister under this subdivision.
- (2) The report must—
- (a) explain the reasons for the Minister's decision; and
 - (b) include a copy of the notice mentioned in section 58J(3)(c); and
 - (c) include a copy of the notice of the Minister's decision given under section 58M(2).

- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after notice of the Minister's decision is given under section 58M(2).

58P Operation of Planning Act if application decided by Minister

- (1) This section applies if the Minister decides the relevant planning application under this subdivision.
- (2) The Planning Act applies as if the decision had been made by the decision maker for the relevant planning application.
- (3) This section does not limit section 58N.

Subdivision 4 Other provisions

58Q Changing relevant planning application

- (1) Nothing in this division prevents an applicant making a minor change, within the meaning of the Planning Act, to a relevant planning application by written notice given to the decision maker for the application.
- (2) The decision maker for the relevant planning application must give the Coordinator-General written notice of the change as soon as practicable after it is received from the applicant.

58R Withdrawal of relevant planning application

- (1) Nothing in this division prevents an applicant withdrawing a relevant planning application by written notice given to the decision maker for the application.

- (2) The decision maker for the relevant planning application must give the Coordinator-General written notice of the withdrawal as soon as practicable after it is received from the applicant.

58S Register of relevant planning applications

- (1) The Coordinator-General must establish and maintain on the department's website a register of relevant planning applications referred to the Coordinator-General under section 58A.
- (2) The register must contain the following information for each relevant planning application—
 - (a) details of any of the following decisions made by the Minister—
 - (i) a decision under subdivision 2;
 - (ii) a decision to give a proposal to decide under section 58I;
 - (iii) a decision not to assess and decide the application under section 58J;
 - (b) if the application has been decided by the Minister under section 58K—the reasons for the Minister's decision;
 - (c) if the application has been withdrawn—that the application was withdrawn.
- (3) The register may contain other information that the Coordinator-General considers appropriate for inclusion in the register.

58T Declaration by Planning and Environment Court

- (1) Any person may start a proceeding in the Planning and Environment Court seeking a declaration about—

- (a) a matter done, to be done or that should have been done for this division in relation to a relevant planning application; or
 - (b) the interpretation of—
 - (i) this division; or
 - (ii) another provision of this part to the extent the other provision applies for this division.
- (2) The Planning and Environment Court may also make an order about a declaration it makes under subsection (1).

Division 5 Information concerning development

59 Minister may obtain information

- (1) This section applies if the Minister has reason to believe a person has information the Minister requires to perform a function under this part.

Example of a person who may have information mentioned in subsection (1)—

a person who is the proponent of a resources project the subject of a development investigation

- (2) The Minister may, by written notice given to the person, require the person to give the information to the Minister.
- (3) A notice under subsection (2) must state—
- (a) the information the Minister requires; and
 - (b) the way the information must be given; and
 - (c) the date by which the information must be given to the Minister.
- (4) A person who is given a notice under subsection

(2) must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (5) It is a reasonable excuse for an individual not to comply with a notice given under subsection (2) if complying with the notice might tend to incriminate the individual or expose the individual to a penalty.
- (6) The Minister may use information obtained under this section for performing a function under this part.

Note—

See sections 13 and 157OA in relation to the Coordinator-General's powers to obtain information.

14 Replacement of ss 76A and 76B

Sections 76A and 76B—

omit, insert—

76A Purposes of part

The purposes of this part are—

- (a) to recognise, promote and enable the development of projects of significance to the State or a region; and
- (b) to prioritise the development of projects mentioned in paragraph (a) that are—
- (i) critical or essential for the State for economic, environmental or social reasons; or
 - (ii) a high priority for the State because the projects will, or are likely to, significantly contribute to the achievement of the Queensland Government's economic,

environmental or social objectives for the State or a region; and

- (c) without limiting paragraphs (a) and (b), to ensure the following matters for the projects mentioned in the paragraphs—
 - (i) decision-making and processes relating to the projects are efficient and effective;
 - (ii) the projects, particularly projects mentioned in paragraph (b), are delivered as quickly as possible while minimising detrimental environmental effects;
 - (iii) the purposes mentioned in paragraphs (a) and (b) and subparagraphs (i) and (ii) and other matters of significance to the State or a region are taken into account in decision-making and processes relating to the projects.

76B How the purposes are to be primarily achieved

The purposes of this part are to be primarily achieved by providing for the following—

- (a) the declaration of particular projects as prescribed projects and particular prescribed projects as State strategic projects;
- (b) the giving of notices to decide, progression notices and step in notices by the Coordinator-General;
- (c) the giving of State significance notices by the Minister;
- (d) the making of modification orders;
- (e) the imposition of conditions to allow projects to proceed while ensuring proper

management of environmental effects,
including, for example, by the use of
voluntary environmental agreements.

15 Amendment of s 76D (Definitions for pt 5A)

- (1) Section 76D, heading, ‘pt 5A’—

omit, insert—

part

- (2) Section 76D, definitions *critical infrastructure project* and
registered owner—

omit.

- (3) Section 76D—

insert—

decision-making period, for a prescribed
decision, means the period stated in or otherwise
applying under the relevant law within which the
decision maker must make the prescribed
decision, ignoring any extension or possible
extension of the period under the relevant law.

State significance notice see section 76RB(1).

State strategic project means a project the
Minister declares, under section 76EB, to be a
State strategic project.

- (4) Section 76D, definition *prescribed decision*, paragraph 2—

omit, insert—

2 However, a ***prescribed decision***—

- (a) includes a decision required to be made
by a Minister only in relation to a State
significance notice; and
- (b) does not include a decision required to
be made by the Governor in Council.

16 Amendment of s 76E (Declaration of prescribed project)

(1) Section 76E(1)(c)—

omit.

(2) Section 76E(1)(d) and (e)—

renumber as section 76E(1)(c) and (d).

(3) Section 76E(1)—

insert—

Note—

See also section 76EB in relation to declaring a prescribed project to be a State strategic project.

(4) Section 76E(4)—

omit.

(5) Section 76E(5)—

renumber as section 76E(4).

17 Insertion of new s 76EB

After section 76EA—

insert—

76EB Declaration of State strategic project

(1) This section applies if the Minister considers the undertaking of a project that is or is proposed to be a prescribed project is—

(a) critical or essential for the State for economic, environmental or social reasons;
or

(b) a high priority for the State because the project will, or is likely to, significantly contribute to the achievement of the Queensland Government's economic, environmental or social objectives for the State or a region.

- (2) The Minister may declare the project to be a State strategic project.
- (3) The declaration—
 - (a) must be made by gazette notice; and
 - (b) may be made with the declaration of the project as a prescribed project under section 76E or at a later time; and
 - (c) ends when the declaration of the project as a prescribed project ends.
- (4) Despite subsection (1), the Minister can not declare a project to be a State strategic project if the project is—
 - (a) development for a solar farm, wind farm or battery storage facility that is prescribed under the *Planning Act 2016*, section 106T to be development for which social impact assessment is required under that Act; or
 - (b) a data centre operated for 1 or more of the following purposes—
 - (i) research and development;
 - (ii) a commercial purpose;
 - (iii) a purpose prescribed by regulation.
- (5) In subsection (4)—
 - (a) the terms solar farm, wind farm and battery storage facility have the same meaning they have for the prescription of the development under the *Planning Act 2016*, section 106T; and
 - (b) a data centre is a building or other structure used wholly or mainly for providing compute resources, electronic data storage or computer networking services.

18 Insertion of new ss 76HA and 76HB

After section 76H—

insert—

76HA Access to land by proponent of prescribed project

- (1) This section applies if a proponent of a prescribed project—
 - (a) considers particular land—
 - (i) may be suitable for the development of the project; or
 - (ii) may impact the development of the project, whether because of the nature of the land or infrastructure or other things on the land; and
 - (b) despite making reasonable efforts, has not been able to negotiate entry to the land with the owner of the land to investigate the land's suitability for, or potential impact on, the development of the project.
- (2) The proponent may apply to the Coordinator-General for an access authority for the land under part 6A.

Note—

Part 6A provides for obtaining an access authority, what is authorised under an access authority, and requirements about acting under an access authority.

- (3) In this section—
owner, of land, see section 153L.

76HB Enabling works by proponent of State strategic project

- (1) This section applies if a proponent of a State strategic project—

- (a) considers—
 - (i) it is necessary to carry out enabling works on particular land for the project; and
 - (ii) having regard to the minor and temporary nature of the enabling works, it would be appropriate to carry out the enabling works under an access authority; and
- (b) despite making reasonable efforts, has not been able to negotiate the carrying out of the enabling works with the owner of the land.
- (2) The proponent may apply to the Coordinator-General for an access authority for the land under part 6A that authorises the carrying out of the enabling works on the land.

Note—

Part 6A provides for obtaining an access authority, what is authorised under an access authority, and requirements about acting under an access authority.

- (3) In this section—
owner, of land, see section 153L.

19 Amendment of s 76J (Notice to decide)

Section 76J(2)—

omit, insert—

- (2) The stated period must be at least the following number of days after the notice is given—
 - (a) if there is a decision-making period for the prescribed decision and the period is less than 20 business days—the number of days in the decision-making period;
 - (b) otherwise—20 business days.

20 Replacement of s 76L (When step in notice may be given)

Section 76L—

omit, insert—

76L When step in notice may be given

- (1) The Coordinator-General may give a step in notice for a prescribed decision or process only if the Coordinator-General is satisfied that, to achieve the purposes of this part, it is necessary and appropriate for the Coordinator-General to become the decision maker for the decision or process.
- (2) A step in notice may be given for a prescribed decision—
 - (a) at any time before the decision maker makes the decision; or
 - (b) if the decision maker has made, or is taken to have made, the decision—
 - (i) within 10 business days after the end of the appeal or review period for the decision; or
 - (ii) if an appeal or review under the relevant law about the decision has been started within the appeal or review period—within 10 business days after the appeal or review is started; or
 - (iii) if the relevant law does not confer a right to appeal against, or seek a review of, the decision under the relevant law—within 10 business days after the decision is made or is taken to have been made.

Note—

See also section 76N(1)(e) and (f) in relation to decisions that are made before a step in notice is given.

- (3) A step in notice may be given for a prescribed decision that is the subject of a State significance notice.
- (4) A step in notice may be given for a prescribed process at any time before the decision maker completes the process.
- (5) In this section—
appeal or review period, for a prescribed decision, means the period within which an appeal against, or review of, the decision may be started under the relevant law.

21 Amendment of s 76N (Effects of step in notice)

- (1) Section 76N(1)(c)(ii), from ‘under’ to ‘(d)’—
omit.
- (2) Section 76N(1)—
insert—
 - (da) if the decision maker has made, or is taken to have made, the prescribed decision or a decision in the prescribed process—the decision, and any notice about the decision, stops having effect; and
- (3) Section 76N(1)(da) to (f)—
renumber as section 76N(1)(e) to (g).

22 Insertion of new pt 5A, divs 3A and 3B

Part 5A—

insert—

Division 3A State significance notice

76RA Application of division

This division applies in relation to a prescribed decision despite anything stated in the relevant law.

76RB State significance notice

- (1) The Minister may give to the decision maker and applicant for a prescribed decision a written notice (a *State significance notice*) advising the decision maker and applicant that the decision maker must make the decision as provided under this division.
- (2) The Minister may give a State significance notice for a prescribed decision only if—
 - (a) the prescribed project to which the decision relates is a State strategic project; and
 - (b) the Minister is satisfied that, to achieve the purposes of this part, it is necessary and appropriate for the Minister's advice and other matters to be taken into account by the decision maker in considering or making the decision.
- (3) The State significance notice must—
 - (a) be accompanied by a copy of—
 - (i) the declaration of the prescribed project to which the prescribed decision relates; and
 - (ii) the declaration of the prescribed project as a State strategic project; and
 - (b) identify the prescribed decision; and
 - (c) state matters the Minister considers should be taken into account in considering or making the decision; and
 - (d) state that the decision maker must—

- (i) take the following matters into account in considering or making the decision—
 - (A) the purposes of this part;
 - (B) the matters mentioned in paragraph (c); and
 - (ii) make the decision in consultation with the Minister as provided under section 76RD.
- (4) The State significance notice may also state the period within which a written notice mentioned in section 76RD(2) must be given to the Minister.
- (5) The period stated under subsection (4) must be at least the following number of days after the State significance notice is given—
 - (a) if there is a decision-making period for the prescribed decision and the period is less than 20 business days—the number of days in the decision-making period;
 - (b) otherwise—20 business days.

76RC Matters to consider for making prescribed decision

In considering or making a prescribed decision to which a State significance notice relates, the decision maker must take into account—

- (a) the purposes of this part; and
- (b) the matters mentioned in the State significance notice under section 76RB(3)(c).

76RD Consultation with Minister about prescribed decision

- (1) This section states, for a prescribed decision to which a State significance notice relates, the process for the decision maker to consult with the Minister before making the decision.
- (2) The decision maker must give the Minister a written notice stating—
 - (a) the decision the decision maker proposes to make, and any conditions the decision maker proposes to impose on the decision; and
 - (b) how the matters mentioned in section 76RC were taken into account in deciding the matters mentioned in paragraph (a).
- (3) If the State significance notice states the period within which a written notice mentioned in subsection (2) must be given to the Minister, the notice must be given to the Minister within the stated period.
- (4) The Minister must, as soon as practicable after receiving the written notice under subsection (2), give the decision maker a written notice either—
 - (a) giving advice to be considered by the decision maker; or
 - (b) notifying the decision maker that the Minister has no advice.
- (5) The written notice given under subsection (4) must state the day on which the decision maker must make the prescribed decision.
- (6) If the Minister gives a written notice under subsection (4)(a), the decision maker must, before making the prescribed decision, consider whether any changes should be made to the proposed decision, or the proposed conditions, mentioned

in subsection (2)(a), having regard to the advice.

- (7) Subsection (8) applies if the Minister does not give a written notice under subsection (4) within 15 business days after receiving the written notice under subsection (2) (the *advice period*).
- (8) The Minister is taken to have given a notice under subsection (4)(b) on the last day of the advice period.

76RE When prescribed decision must be made

- (1) The prescribed decision to which a State significance notice relates must be made—
 - (a) on the day stated in the written notice given to the decision maker under section 76RD(4); or
 - (b) if section 76RD(8) applies, within the following number of days after the last day of the advice period mentioned in that subsection—
 - (i) if there is a decision-making period for the prescribed decision and the period is less than 20 business days—the number of days in the decision-making period;
 - (ii) otherwise—20 business days.
- (2) Subsection (1) applies—
 - (a) whether or not there is a decision-making period for the prescribed decision; and
 - (b) if there is a decision-making period for the prescribed decision—even if the decision-making period would otherwise have ended before the day mentioned in subsection (1).
- (3) If there is a decision-making period for the

prescribed decision and the State significance notice is repealed before the decision is made—

- (a) the Minister must, in the notice repealing the State significance notice, state the period within which the decision maker must make the decision under the relevant law; and
 - (b) the decision must be made under the relevant law within the period stated in the notice.
- (4) The period stated in the notice under subsection (3) must be at least the prescribed number of days after the repeal.
- (5) In this section—

prescribed number of days means the number of days that were remaining in the decision-making period for the prescribed decision when the State significance notice was given, plus 1 day.

76RF Effect of prescribed decision

- (1) A prescribed decision to which a State significance notice relates made by the decision maker in accordance with sections 76RC to 76RE is as valid as the prescribed decision would have been if the relevant law had required the prescribed decision to be made in accordance with the sections.
- (2) Subsection (3) applies if the prescribed decision, or the effect of the prescribed decision, is that any of the following is approved, with or without conditions—
- (a) the prescribed project;
 - (b) an aspect or part of the prescribed project;
 - (c) another matter relating to the prescribed project.

- (3) Subject to subsection (4), the prescribed decision can not be reviewed or appealed against under the relevant law to the extent the decision relates to the approval.
- (4) Subsection (3)—
 - (a) does not apply to a review or appeal under the relevant law started by the applicant; and
 - (b) has no effect on the *Judicial Review Act 1991*.

Division 3B Modification orders

76RG Definitions for division

In this division—

modification order see section 76RH(3).

modified Act, in relation to a modification order, means an Act having provisions whose application in relation to a project is excluded or modified by the order as mentioned in section 76RH(1) or (2)(a).

responsible Minister, for an Act, means the Minister administering the Act.

76RH Modification order

- (1) A regulation may prescribe that a stated provision of an Act (the ***modified provision***) that, but for this division, would apply to undertaking a State strategic project, or provide for a State strategic project to be undertaken—
 - (a) does not apply in relation to the State strategic project; or
 - (b) applies in relation to the State strategic project with stated modifications.

- (2) The regulation may also prescribe any or all of the following—
- (a) how other provisions of the Act mentioned in subsection (1), or provisions of other Acts, apply in relation to the State strategic project having regard to the modified provision not applying or applying with stated modifications in relation to the project;
 - (b) conditions that apply in relation to undertaking the State strategic project to prevent, control or mitigate detrimental environmental effects that may arise from the modified provision not applying or applying with stated modifications in relation to the project;
 - (c) that the regulation applies to the State strategic project for a stated period;
 - (d) matters of a transitional nature relating to the transition—
 - (i) from the application of a modified Act to the State strategic project before the regulation takes effect; and
 - (ii) to the application of the modified Act to the State strategic project after the regulation takes effect;
 - (e) matters of a transitional nature relating to the transition—
 - (i) from the application of a modified Act to the State strategic project under the regulation; and
 - (ii) to the application of the modified Act to the State strategic project after the regulation stops applying to the project.

Note—

See also section 76RR in relation to transitional arrangements for the repeal of a modification order.

- (3) A regulation made under this section is a ***modification order***.

76RI Restriction on Minister recommending order

- (1) The Minister may recommend to the Governor in Council the making of a modification order for a State strategic project only if the Minister is satisfied—
- (a) having regard to the reason the project was declared to be a State strategic project, it is in the interests of the State that decision-making processes for the project proceed without unnecessary or unreasonable impediment; and
 - (b) the order is necessary—
 - (i) to prevent or reduce duplication of a process or requirement applying to the project; or
 - (ii) to exclude or modify a process or requirement applying to the project that does not provide or appropriately provide for a project of that kind; and

Example for subparagraph (ii)—

The State strategic project involves the use of technology that has not previously been used in Queensland and the process or requirement does not provide or appropriately provide for the use of the technology.

- (c) the detrimental environmental effects (if any) that may arise from the making of the order—

- (i) are not significant; or
 - (ii) can be appropriately dealt with under an Act, including under provisions of an Act to be modified as mentioned in section 76RH(2)(a); or
 - (iii) can be prevented, controlled or mitigated by the imposition of conditions mentioned in section 76RH(2)(b); and
- (d) the detrimental effect (if any) on the achievement of the object of each modified Act that may arise from the making of the order—
 - (i) is not significant; or
 - (ii) is outweighed by the benefit to the State of the project proceeding.
- (2) Also, before recommending to the Governor in Council the making of a modification order for a State strategic project, the Minister must consult—
 - (a) the proponent of the project; and
 - (b) the responsible Minister for each modified Act; and
 - (c) each local body the Minister considers may be affected by the making of the order.
- (3) This section is subject to sections 76RJ to 76RN.

76RJ Order can not override requirement for key authorisation

- (1) A modification order can not provide that—
 - (a) a key authorisation that would otherwise be required in relation to a project, or a part of a project, is not required; or

- (b) a requirement to comply with a key authorisation does not apply.
- (2) Subsection (1) does not prevent a modification order from excluding or modifying the application of a provision of an Act that provides for—
 - (a) the circumstances in which a key authorisation may be granted, including, for example—
 - (i) criteria (however described) that must be satisfied for the grant of the authorisation; or
 - (ii) restrictions (however described) on the grant of the authorisation; or
 - (b) a process or requirement that applies in relation to granting a key authorisation.

- (3) In this section—

grant includes approve and issue.

key authorisation means any of the following—

- (a) an environmental authority, PRCP schedule or ERC decision under the *Environmental Protection Act 1994*;
- (b) a resource authority within the meaning of the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 10;
- (ba) a regional interests development approval under the *Regional Planning Interests Act 2014*;
- (c) a development approval, PDA development approval or SDA approval;
- (d) a cultural heritage management plan under the *Aboriginal Cultural Heritage Act 2003* or the *Torres Strait Islander Cultural Heritage Act 2003*;

- (e) consent of an owner of land required for the making of an application for an authority, lease, licence, permit or other approval;
- (f) an interest in, or right to access or use, land, including, for example, a covenant or easement.

PDA development approval means a PDA development approval under the *Economic Development Act 2012*.

76RK Order can not substitute particular decision-makers

A modification order can not provide that a decision that, under an Act, must be made by the Governor, the Governor in Council or a Minister (the ***relevant entity***) may be made by an entity other than the relevant entity or the relevant entity's delegate.

76RL Order can not be made for particular provisions

A modification order can not exclude or modify the application of a provision of an Act to the extent the provision relates to—

- (a) an assessment under a bilateral agreement made under the Commonwealth Environment Act; or
- (b) an assessment that the Commonwealth Minister has, under the Commonwealth Environment Act, section 87(4), decided to use for an assessment under that Act;
- (c) the protection of rights and interests of Aboriginal peoples and Torres Strait Islander peoples, including, for example, under an indigenous land use agreement.

**76RM Restriction on excluding or modifying
liability for State taxes and other amounts**

- (1) A modification order can not—
 - (a) exclude or modify—
 - (i) a person’s liability to pay a State tax; or
 - (ii) a provision of an Act providing for the payment of a State tax or the recovery of unpaid amounts of a State tax; or
 - (b) exclude or modify a person’s liability to pay a fee or charge that is not a State tax, other than to the extent provided under this section.
- (2) A modification order may waive all or part of, or provide for an entity to waive all or part of, a liability to pay a fee or charge that is not a State tax if—
 - (a) the fee or charge is payable for an application or process under an Act; and
 - (b) the provisions about dealing with the application or conducting the process are excluded or modified by the modification order; and
 - (c) the Minister is satisfied that the amount of the fee or charge that would otherwise be payable for the application or process is unreasonable, having regard to—
 - (i) the cost of dealing with the application or conducting the process under the modification order; and
 - (ii) the advice of the Treasurer; and
 - (iii) any other matter the Minister considers appropriate.
- (3) In this section—

State tax—

- (a) means a tax, impost, rate, royalty, levy or duty payable to the State; and
- (b) includes any interest, penalty or other amount payable in relation to a tax, impost, rate, royalty, levy or duty mentioned in paragraph (a).

76RN Restriction on excluding or modifying review or appeal

- (1) A modification order can not exclude or modify a review of, or appeal against, a decision made under a modified Act, as applying under the modification order, other than to the extent provided under this section.
- (2) A modification order may provide that a decision made under a modified Act, as applying under the modification order, can not be reviewed or appealed against under an Act to the extent the decision, or the effect of the decision, is that any of the following is approved, with or without conditions—
 - (a) the State strategic project;
 - (b) an aspect or part of the State strategic project;
 - (c) another matter relating to the State strategic project.
- (3) However, a modification order can not exclude or modify—
 - (a) a review or appeal under an Act started by the proponent of the State strategic project; or
 - (b) the application of the *Judicial Review Act 1991*.

- (4) A modification order may provide for matters about a review of, or appeal against, a decision made under a modified Act, as applying under the modification order, that are necessary to ensure the review or appeal is decided on the basis of the provisions of modified Acts as they applied to making the decision under the modification order.

Example for subsection (4)—

A modification order modifies the application of the Planning Act, section 45 for the assessment of development that is part of a State strategic project. The modification order may provide that a reference to the Planning Act, section 45 in the *Planning and Environment Court Act 2016*, section 46 is taken to be a reference to the Planning Act, section 45 as it applies in relation to the development under the modification order.

76RO Compliance with condition

- (1) This section applies if a modification order states a condition relating to undertaking the State strategic project to which the order applies.
- (2) The proponent must, in undertaking the State strategic project, comply with the condition.

Maximum penalty—1,665 penalty units.

- (3) To remove any doubt, it is declared that a contravention of a condition mentioned in subsection (1) does not affect the operation of the modification order.

76RP Effect of modification order

- (1) This section applies to a modification order made in relation to a State strategic project.
- (2) Each modified Act applies in relation to the State strategic project as provided under the modification order.

- (3) Any condition or requirement applying to undertaking the State strategic project, under a modified Act, is of no effect to the extent the condition or requirement is inconsistent with the modification order or a condition stated in the order.

76RQ Amending or repealing modification order

- (1) The Minister may recommend to the Governor in Council the amendment or repeal of a modification order only if the Minister—
- (a) has given each relevant entity a written notice stating—
 - (i) the proposed amendment or repeal of the order; and
 - (ii) that the entity may make written submissions to the Minister about the proposed amendment or repeal within a stated period of at least 10 business days; and
 - (b) has had regard to each submission made in response to the notice within the period stated in the notice.
- (2) However, the Minister is not required to comply with subsection (1)(a) and (b) in relation to the repeal of a modification order if—
- (a) the period, stated in the order under section 76RH(2)(c), for which the order applies to the State strategic project has ended; or
 - (b) the Minister is satisfied that the modification order otherwise has no further effect; or
 - (c) the regulation repealing the modification order includes a modification order that is

substantially the same as the repealed modification order.

(3) In this section—

relevant entity, for a State strategic project the subject of a modification order, means each of the following—

- (a) the proponent of the project;
- (b) the responsible Minister for each modified Act;
- (c) any local body the Minister considers is affected by the order;
- (d) any other entity that was consulted on the making of the order under section 76RI.

76RR Transitional arrangements for amendment or repeal of order

- (1) This section applies if a modification order applying to a State strategic project or former State strategic project is amended or repealed.
- (2) A regulation may provide for—
 - (a) how each modified Act applies to the State strategic project or former State strategic project after the amendment or repeal; and
 - (b) how another Act applies to the State strategic project or former State strategic project because of the application of a modified Act as provided under the regulation.
- (3) Without limiting subsection (2), the regulation may provide for matters of a transitional nature relating to the transition—
 - (a) from the application of the modified Act or another Act to the State strategic project or former State strategic project under the

modification order before the amendment or repeal; and

- (b) to the application of the modified Act or another Act to the State strategic project or former State strategic project after the amendment or repeal.
- (4) The Minister may recommend to the Governor in Council the making of a regulation under this section providing for a matter mentioned in subsection (3) in relation to the repeal of a modification order only if the Minister is satisfied—
 - (a) the regulation is not inconsistent with any matters stated in the modification order under section 76RH(2)(e); or
 - (b) any inconsistency with matters stated in the modification order under section 76RH(2)(e) is appropriate in the circumstances.
- (5) In this section—

former State strategic project means a project that was the subject of a declaration under section 76EB that has ended.

modified Act, in relation to a former State strategic project, includes an Act that was a modified Act before the ending of the declaration of the project under section 76EB.

23 Amendment of s 76W (Application of Judicial Review Act 1991)

- (1) Section 76W(a), (b) and (c), ‘critical infrastructure project’—
omit, insert—
State strategic project
- (2) Section 76W—

insert—

(ca) a decision of the Minister to give a State significance notice; or

(cb) a decision of the Minister to give a notice under section 76RD(4); or

(3) Section 76W(d), ‘or (c)’—

omit, insert—

, (c), (d) or (e)

(4) Section 76W(ca) to (d)—

renumber as section 76W(d) to (f).

24 Amendment of s 79A (Content of approved development scheme)

(1) Section 79A(1), from ‘regulate development’—

omit, insert—

regulate development—

(a) in all or part of the area; or

(b) outside the area if the development is SDA-related development for the area.

(1A) Section 79A(3)(a), ‘regulated development’—

omit, insert—

development regulated under the scheme

(2) Section 79A(3)(b)—

insert—

(vi) the Coordinator-General approving a plan of subdivision for land in the State development area;

(3) Section 79A(3)—

insert—

- (d) prescribe the circumstances in which the Coordinator-General may accept an application under section 84D;
- (e) identify development, other than development that is to be carried out entirely within the area, as SDA-related development for the area.

Note—

See also section 81B in relation to SDA rules for a matter mentioned in paragraph (b), (c) or (d) that may apply to the State development area.

(4) Section 79A—

insert—

- (4) However, an approved development scheme may, under subsection (3)(e), identify development as SDA-related development for the State development area only if the Coordinator-General is satisfied—
 - (a) another Act or law that regulates the development may have an adverse effect on the delivery of the development if the identification was not made; and
 - (b) 1 of the following applies—
 - (i) the development provides infrastructure for the area to address the impacts of any development within the area, whether or not the infrastructure also has another function or purpose;
 - (ii) the development—
 - (A) is necessary or desirable to give effect to the purpose of, or objectives for, the area stated in the approved development scheme for the area; and

- (B) can not reasonably be located or accommodated entirely within the area.
- (5) If the approved development scheme identifies development as SDA-related development for the State development area, the scheme must also—
 - (a) identify whether the development is SDA assessable development or SDA self-assessable development; and
 - (b) include a description of the land on which the development is proposed to be located; and
 - (c) include a description of the development, including plans and supporting documentation.

25 Insertion of new ss 81A and 81B

After section 81—

insert—

81A Making SDA rules

- (1) The Coordinator-General may make an instrument prescribing or stating matters mentioned in section 79A(3)(b), (c) or (d).
- (2) The instrument—
 - (a) does not take effect unless the instrument is approved by the Minister and the Governor in Council; and
 - (b) takes effect on the day the making of the instrument is notified under subsection (3)(a) or a later day stated in the instrument.
- (3) If the Minister and Governor in Council approve the instrument, the Coordinator-General must—

- (a) notify the making of the instrument in the gazette; and
 - (b) publish a copy of the instrument on the department's website.
- (4) The provisions of an instrument approved under this section are the *SDA rules*.

81B Application of SDA rules to State development area

- (1) The SDA rules for a matter mentioned in section 81A(1) apply in relation to a State development area to the extent—
 - (a) the approved development scheme for the area does not provide for the matter; and
 - (b) the rules for the matter are not inconsistent with the approved development scheme.
- (2) To the extent the SDA rules for a matter apply in relation to a State development area under subsection (1), a reference in this Act to the approved development scheme, for the area, relating to the matter is taken to include a reference to the SDA rules for the matter.
- (3) An approved development scheme for a State development area may be varied under section 80 to remove a provision for a matter mentioned in section 81A(1) so that the SDA rules for the matter apply to the matter under subsection (1).
- (4) Subsection (3) applies regardless of when the SDA rules for the matter took effect under section 81A.

26 Amendment of s 83 (Disposal of land in State development area)

- (1) Section 83, before subsection (1)—

insert—

- (1A) This section applies in relation to land in a State development area held by the Coordinator-General if the land was taken or acquired under section 82.

- (2) Section 83(1)(b), ‘(2)’—

omit, insert—

(3)

- (3) Section 83(2), from ‘; and’—

omit, insert—

; or

- (b) for another purpose approved by the Governor in Council.

- (4) Section 83(3)—

omit, insert—

- (3) Also, the Coordinator-General may lease land in a State development area, held by the Coordinator-General, for a term of 4 years or less for any purpose.

- (5) Section 83(4), ‘(3)’—

omit, insert—

(4)

- (6) Section 83(1A) to (6)—

renumber as section 83(1) to (7).

27 Amendment of s 84 (Development under approved development scheme)

- (1) Section 84, heading—

omit, insert—

84 Regulated development not regulated by other laws

(1A) Section 84(1), from ‘identifies’—

omit, insert—

, or a declaration under section 85D, identifies regulated development for the area.

(2) Section 84—

insert—

(3) Subsection (2) is subject to section 85A.

(4) In this section—

regulated development, for a State development area, means development—

(a) that—

(i) is in the area; or

(ii) is SDA-related development for the area; and

(b) identified in the approved development scheme for the area, or a declaration under section 85D, as SDA assessable development or SDA self-assessable development.

28 Amendment of s 84A (Carrying out SDA assessable development without SDA approval)

(1) Section 84A, ‘in a State development area’—

omit.

(2) Section 84A, after penalty—

insert—

Note—

See part 7A, division 1 in relation to enforcement notices for contraventions of this section.

29 Amendment of s 84B (SDA self-assessable development must comply with approved development scheme)

- (1) Section 84B, from ‘in a State’ to ‘development.’—

omit, insert—

, the person must comply with the requirements about carrying out the development—

- (a) under the relevant approved development scheme; or
- (b) if the development is SDA-related development declared under section 85D(1)—decided by the Coordinator-General under section 85D(4)(b).

- (2) Section 84B, after penalty—

insert—

Note—

See part 7A, division 1 in relation to enforcement notices for contraventions of a requirement mentioned in this section.

30 Amendment of s 84D (How to make SDA application)

- (1) Section 84D(1)(c), after ‘regulation’—

insert—

, less any amount waived by the Coordinator-General under subsection (2)

- (2) Section 84D—

insert—

- (1A) The Coordinator-General may, but need not, waive all or part of the application fee mentioned in subsection (1)(c) by written notice given to the applicant.

- (3) Section 84D(2)—

insert—

Note—

The approved development scheme for a State development area may prescribe the circumstances in which the Coordinator-General may accept an application under this section relating to the area—see section 79A(3)(d).

(4) Section 84D(1A) and (2)—

renumber as section 84D(2) and (3).

31 Amendment of s 84E (Deciding SDA application)

(1) Section 84E—

insert—

(1A) In deciding an SDA application, the Coordinator-General must consider—

- (a) the approved development scheme for the State development area to which the application relates; and
- (b) if the application relates to SDA-related development for the State development area declared under section 85D(1)—the matters about how the scheme mentioned in paragraph (a) applies to the development decided by the Coordinator-General under section 85D(4)(aa).

(1B) Also, in deciding an application for SDA-related development for a State development area, the Coordinator-General may give the weight the Coordinator-General considers appropriate to any instruments that would, under another Act or law, have regulated, or applied to the regulation of, the development if it were not SDA-related development.

Examples of instruments—

- a planning instrument

- an instrument mentioned in the Planning Act, section 43(1)(c)
- a master plan or port overlay under the *Sustainable Ports Development Act 2015*
- a port authority's land use plan under the *Transport Infrastructure Act 1994*, section 285

(2) Section 84E(1A) to (3)—
renumber as section 84E(2) to (5).

32 Insertion of new ss 84EA and 84EB

After section 84E—

insert—

84EA Condition about infrastructure charges

- (1) A condition imposed under section 84E(1)(a)(i) on an SDA approval for development in a State development area may require the payment of charges to contribute to the costs of infrastructure for the area (*infrastructure charges*).
- (2) The condition—
 - (a) may apply in relation to infrastructure whether or not the Coordinator-General is responsible for constructing, operating or maintaining the infrastructure; and
 - (b) may require the infrastructure charges to be paid to an entity, other than the Coordinator-General, who is responsible for constructing, operating or maintaining the infrastructure.
- (3) If a condition for the payment of infrastructure charges for infrastructure is imposed on an SDA approval for development in a State development area, no charges for contributing to the costs of the infrastructure may be imposed under the Planning Act in relation to—

- (a) the development the subject of the SDA approval; or
- (b) development that—
 - (i) is the natural and ordinary consequence of the development the subject of the SDA approval; or
 - (ii) is otherwise associated with the development the subject of the SDA approval.
- (4) Subsection (3) applies despite any other law but is subject to section 85ZF(2).

84EB Condition about environmental offsets

- (1) A condition imposed under section 84E(1)(a)(i) on an SDA approval may require or otherwise relate to an environmental offset.
- (2) In this section—
environmental offset see the *Environmental Offsets Act 2014*, schedule 2.

33 Amendment of s 84F (Application to change SDA approval)

Section 84F(2), ‘and 84E’—

omit, insert—

to 84EB

34 Amendment of s 84H (When SDA approval lapses)

- (1) Section 84H(1), before paragraph (a)—

insert—

- (aa) for development that is a material change of use of premises—the first change of use happens before the currency period ends; or

- (2) Section 84H(1)(aa) to (b)—
renumber as section 84H(1)(a) to (c).
- (3) Section 84H(2)(a)—
omit, insert—
 - (a) if paragraphs (b) and (c) do not apply—
 - (i) for development that is a material change of use of premises—6 years after the day the approval has effect under section 84G; or
 - (ii) for all other development—4 years after the day the approval has effect under section 84G; or
- (4) Section 84H(2)(c)—
omit, insert—
 - (c) if, within the period mentioned in paragraph (a) or (b), the applicant for the SDA approval requests the Coordinator-General state a later currency period under the approved development scheme—the period mentioned in subsection (3).
- (5) Section 84H—
insert—
 - (2A) For subsection (2)(c)—
 - (a) the period is—
 - (i) if the Coordinator-General gives the applicant written notice stating a later currency period—the later currency period stated in the notice; or
 - (ii) otherwise—the period ending when the later of the following happens—
 - (A) the period mentioned in subsection (2)(a) or (b) ends;

(B) the Coordinator-General gives the applicant written notice stating that the request has been refused; and

(b) the SDA approval continues in effect until the Coordinator-General decides the request, even if the period mentioned in subsection (2)(a) or (b) ends while the Coordinator-General is considering the request.

(6) Section 84H(2A) and (3)—

renumber as section 84H(3) and (4).

35 Amendment of s 85 (Carrying out particular development, use or works not an offence)

Section 85(3)(b)—

omit, insert—

(b) the owner of the land makes a prior affected development request to the Coordinator-General to approve the development of the land for the prior affected development—

(i) within 2 years after the approved development scheme started to apply to the land; and

(ii) in accordance with the approved development scheme; and

36 Insertion of new s 85A and new pt 6, divs 1A and 1B

After section 85—

insert—

85A Application of relevant law to particular development, use or works

- (1) This section applies in relation to the following (the *relevant development, use or works*)—
 - (a) a use or works to which section 85(2) applies;
 - (b) development to which section 85(4) applies.
- (2) The relevant law continues to apply in relation to—
 - (a) carrying out the relevant development, use or works; and
 - (b) any approval that is in effect under the relevant law in relation to the relevant development, use or works.
- (3) However, an application providing for either of the following can not be made under the relevant law—
 - (a) a change that will result in a new or substantially different development, use or works being lawfully carried out under the relevant law or an approval under the relevant law;
 - (b) an extension of the period for which the relevant development, use or works may be lawfully carried out under the relevant law or an approval under the relevant law.
- (4) To remove any doubt, it is declared that subsection (2) applies to—
 - (a) provisions of the relevant law the contravention of which constitute an offence; and
 - (b) provisions of the relevant law relating to the enforcement of the provisions mentioned in paragraph (a).

(5) In this section—

approval means an approval, licence, permit or other authority under an Act or law, including, for example, a development approval.

relevant law, for relevant development, use or works, means the Act or law under which the relevant development, use or works is being, or may be, lawfully carried out, whether or not under an approval.

Division 1A SDA-related development

85B Application of division

This division applies to development—

- (a) to be carried out other than entirely within a State development area; and
- (b) that is not identified as SDA-related development in the approved development scheme for the State development area.

Note—

An approved development scheme may identify and regulate development as SDA-related development—see section 79A(3)(e).

85C Consultation required before declaring SDA-related development

Before making a declaration under section 85D(1), the Coordinator-General must—

- (a) consult, in the way the Coordinator-General considers appropriate, with—
 - (i) each local government in whose local government area the development is proposed to be located; and

- (ii) each port authority in whose strategic port land area the development is proposed to be located; and
- (b) make reasonable endeavours to consult, in the way the Coordinator-General considers appropriate, with any government entity, GOC or other entity the Coordinator-General considers is likely to be affected by the declaration.

85D Declaration of SDA-related development

- (1) The Coordinator-General may, by gazette notice (a ***declaration***), declare development to which this division applies (the ***proposed development***) to be SDA-related development for a State development area.
- (2) A declaration may be made only if the Coordinator-General is satisfied—
 - (a) another Act or law that regulates the development may have an adverse effect on the delivery of the proposed development if the declaration were not made; and
 - (b) 1 of the following applies—
 - (i) the proposed development provides infrastructure for the State development area to address the impacts of any development within the area, whether or not the infrastructure also has another function or purpose;
 - (ii) the proposed development—
 - (A) is necessary or desirable to give effect to the purpose of, or objectives for, the State development area stated in the

approved development scheme for the area; and

(B) can not reasonably be located or accommodated entirely within the State development area.

- (3) A declaration must not compromise the implementation of the approved development scheme for the State development area.
- (4) In making a declaration, the Coordinator-General must decide—
 - (a) whether the SDA-related development is—
 - (i) SDA assessable development; or
 - (ii) SDA self-assessable development; and
 - (aa) if the development is SDA assessable development—matters about how the approved development scheme for the State development area applies to the development, including, for example, any modifications of the scheme that are necessary to apply the scheme to the development; and
 - (b) if the development is SDA self-assessable development—the requirements for carrying out the development.

85E Content of declaration

A declaration under section 85D(1) must include the following information—

- (a) the State development area the development is for;
- (b) a description of the land on which the development is proposed to be located;
- (c) a description of the development;

- (d) the matters forming the basis of the Coordinator-General's satisfaction under section 85D(2);
- (e) whether the development is SDA assessable development or SDA self-assessable development;
- (ea) if the development is SDA assessable development—the matters about how the approved development scheme for the State development area applies to the development decided under section 85D(4)(aa);
- (f) if the development is SDA self-assessable development—the requirements for carrying out the development decided under section 85D(4)(b).

85F Notice of declaration

As soon as practicable after making a declaration under section 85D(1), the Coordinator-General must—

- (a) publish the declaration on the department's website; and
- (b) give a copy of the declaration to—
 - (i) each local government in whose local government area the development is to be located; and
 - (ii) each port authority in whose strategic port land area the development is to be located; and
 - (iii) the owner of the land on which the development is proposed to be located; and

- (iv) each government entity, GOC or other entity consulted under section 85C before the making of the declaration.

Division 1B Ceasing regulation under approved development scheme

Subdivision 1 Planning instrument to regulate development

85G Definitions for subdivision

In this subdivision—

excluded development see section 85H(1).

interim planning instrument, for an SDA change, see section 85I(1).

relevant local government, for a State development area, means each local government whose local government area includes all or part of land in the State development area.

SDA change see section 85H(1).

85H Ceasing regulation under approved development scheme

- (1) This section applies in relation to the following (each an *SDA change*) if the effect of the SDA change is that development (the *excluded development*) will no longer be regulated under the approved development scheme for a State development area—
 - (a) a variation of the approved development scheme under section 80;

- (b) the abrogation of the approved development scheme under section 81;
 - (c) an amendment or revocation of a declaration under section 85D.
- (2) The SDA change may be made only if the Coordinator-General considers the excluded development is appropriately dealt with—
 - (a) in the relevant local government’s planning instrument; or
 - (b) by a proposed amendment of the relevant local government’s planning instrument, or a new planning instrument of the relevant local government, that will take effect at the same time as the SDA change; or
 - (c) in an interim planning instrument that, under section 85K, will take effect as a temporary local planning instrument of the relevant local government at the same time as the SDA change.
- (3) However, subsection (2) does not apply if the excluded development is carried out, or to be carried out, on strategic port land.

85I Coordinator-General may prepare instrument for excluded development

- (1) The Coordinator-General may prepare an instrument for an SDA change that deals with the excluded development (an *interim planning instrument*).
- (2) In preparing the interim planning instrument, the Coordinator-General must consult—
 - (a) the relevant local government; and
 - (b) any other government entity or GOC who the Coordinator-General considers is likely

to be affected by the interim planning instrument.

85J Approval of interim planning instrument

- (1) An interim planning instrument for an SDA change has no effect unless the instrument is approved by the Minister.
- (2) The Minister may approve an interim planning instrument for an SDA change only if the Minister is satisfied—
 - (a) it is in the State's interest that the SDA change be made as soon as possible; and
 - (b) the time needed for making or amending the relevant local government's planning instrument would unduly delay the making of the SDA change; and
 - (c) the instrument is generally consistent with how the excluded development was being dealt with under the approved development scheme.

85K Effect of interim planning instrument

- (1) An interim planning instrument for an SDA change approved by the Minister under section 85J—
 - (a) is taken to be a temporary local planning instrument, made by the relevant local government, under the Planning Act, section 23; and
 - (b) may be amended or repealed under the Planning Act.
- (2) The interim planning instrument may suspend or otherwise affect the operation of the relevant local government's planning instrument, but does not

amend or repeal the instrument.

- (3) However, the interim planning instrument—
 - (a) does not create a superseded planning scheme under the Planning Act; and
 - (b) is not an adverse planning change under that Act.
- (4) The interim planning instrument, with or without an amendment, has effect for 2 years after the day it takes effect under subsection (5), or a shorter period stated in the instrument, unless the instrument is repealed sooner.
- (5) The interim planning instrument takes effect at the same time as the SDA change.
- (6) This section applies despite anything stated in the Planning Act.

85L Notice of interim planning instrument

- (1) As soon as practicable after an interim planning instrument for an SDA change takes effect under section 85K—
 - (a) the Coordinator-General must—
 - (i) publish the instrument on the department's website; and
 - (ii) publish, at least once, a public notice stating the instrument has been made and may be inspected on the department's website; and
 - (b) the relevant local government must publish the instrument on the local government's website.
- (2) In this section—

public notice means a notice published in a way the Coordinator-General considers is likely to

bring the notice to the attention of persons likely interested in or affected by the information stated in the notice.

Examples of ways notice may be published—

- publishing the notice in a hard copy or online newspaper circulating in the area to which the information relates
- publishing the notice on the department's website

Subdivision 2 Existing SDA approvals and applications

85M Application of subdivision

This subdivision applies if the following development (each *former SDA development*) ceases to be regulated under an approved development scheme for a State development area (the *relevant approved development scheme*)—

- (a) development in all or part of the State development area;
- (b) SDA-related development for the State development area.

85N Definitions for subdivision

In this subdivision—

former SDA development see section 85M.

relevant approved development scheme see section 85M.

85O References to cessation

In this subdivision, a reference to cessation in relation to former SDA development is, if the context permits, a reference to the time the

development ceases to be regulated under the relevant approved development scheme.

85P Existing SDA approvals

- (1) This section applies if, immediately before the cessation, an SDA approval was in effect for the former SDA development.
- (2) On the cessation, the SDA approval is taken to be a development approval that took effect at the same time as the SDA approval.

85Q Existing SDA applications

- (1) This section applies to an SDA application for the former SDA development made, but not decided, before the cessation.
- (2) The SDA application must continue to be decided under this Act as if—
 - (a) the cessation had not happened; and
 - (b) the SDA application were being decided immediately before the cessation.
- (3) If an SDA approval is given for the SDA application, the approval is, immediately after the approval takes effect under this Act, taken to be a development approval that took effect at the same time as the SDA approval.

85R Existing change applications

- (1) This section applies if—
 - (a) before the cessation, a change application has been made, but not decided, for an SDA approval for the former SDA development; and

- (b) on the cessation, the SDA approval is taken, under section 85P(2), to be a development approval.
- (2) The change application must continue to be decided under this Act as if—
 - (a) the cessation had not happened; and
 - (b) the SDA approval were still an SDA approval; and
 - (c) the change application were being decided immediately before the cessation.
- (3) If the outcome of the change application is that the SDA approval is changed, the changed SDA approval is, immediately after the approval takes effect under this Act, taken to be a development approval.

85S Existing request to state later currency period

- (1) This section applies if—
 - (a) before the cessation, a request to state a later currency period for an SDA approval for the former SDA development has been made, but not decided, under the relevant approved development scheme; and
 - (b) on the cessation, the SDA approval is taken, under section 85P(2), to be a development approval.
- (2) The request must continue to be decided under the relevant approved development scheme as if—
 - (a) the cessation had not happened; and
 - (b) the SDA approval were still an SDA approval; and
 - (c) the request were being decided immediately before the cessation.

- (3) If the decision is to state the later currency period, the decision is taken to be a decision under the Planning Act to extend the currency period of the development approval under that Act.
- (4) If the decision is to refuse the request, the development approval lapses on the later of the following days—
 - (a) the day the SDA approval would have lapsed under section 84H if the SDA approval were still an SDA approval;
 - (b) the day the person who made the request is given notice of the decision under the relevant approved development scheme.
- (5) Despite the Planning Act, section 229, a person may not appeal under that Act against the decision on the request.

85T Process for approving plans of subdivision

- (1) This section applies if, before the cessation, the process under the relevant approved development scheme for approving a plan of subdivision for the former SDA development had started but not ended.
- (2) The relevant approved development scheme continues to apply in relation to the plan of subdivision as if—
 - (a) the cessation had not happened; and
 - (b) for a plan of subdivision authorised or required under an SDA approval that, under section 85P(2), becomes a development approval—the SDA approval were still an SDA approval; and
 - (c) for a plan of subdivision for reconfiguring a lot that, before the cessation, was SDA self-assessable development—the

reconfiguration were still SDA self-assessable development.

- (3) For registering the plan of subdivision under the *Land Title Act 1994*, anything done by the Coordinator-General under the relevant approved development scheme in relation to the plan is taken to have been done by the local government for the local government area to which the plan relates.

85U Registering particular plans of subdivision approved before cessation

- (1) This section applies if—
 - (a) before the cessation, the Coordinator-General approved a plan of subdivision for the former SDA development under the relevant approved development scheme; and
 - (b) immediately before the cessation, the plan of subdivision has not been registered under the *Land Title Act 1994*.
- (2) For registering the plan of subdivision under the *Land Title Act 1994*, anything done by the Coordinator-General under the relevant approved development scheme in relation to approving the plan is taken to have been done by the local government for the local government area to which the plan relates.

85V Lawful use of premises

- (1) This section applies if—
 - (a) immediately before the cessation for the former SDA development, a use of premises to which the relevant approved development

scheme applied was a lawful use of the premises under this Act or another Act; and

- (b) on the cessation, the relevant approved development scheme no longer applies to the premises.
- (2) From the cessation, the use is taken to be a lawful use of the premises under the Planning Act.

Subdivision 3 Dealing with converted SDA approvals

85W Application of subdivision

This subdivision applies if an SDA approval becomes, under subdivision 2, a development approval.

85X Conditions and enforcement authorities under Planning Act

- (1) A condition of the SDA approval is taken to be a development condition of the development approval under the Planning Act, even if the condition could not be imposed under that Act.
- (2) The enforcement authority under the Planning Act for the development the subject of the development approval is taken to be the entity that would have been the enforcement authority under that Act if—
 - (a) the development had never been SDA assessable development; and
 - (b) a development application for the development approval had been made under the Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997* as in effect

when the application for the SDA approval was made.

85Y Proceedings about development approvals

- (1) Despite the Planning Act, section 229, a person may not appeal under that Act in relation to—
 - (a) the development approval or its conditions; or
 - (b) a decision made under this Act in relation to the development approval or its conditions.
- (2) To remove any doubt, it is declared that subsection (1) does not limit or otherwise affect a right to bring an appeal under the Planning Act, section 229 against a decision on either of the following applications made under that Act for the development approval—
 - (a) a change application;
 - (b) an extension application.
- (3) Subsection (4) applies to a proceeding under the *Planning and Environment Court Act 2016*, section 11 seeking a declaration in relation to—
 - (a) the development approval or its conditions; or
 - (b) a decision made under this Act in relation to the development approval or its conditions.
- (4) The proceeding may be brought only by the entity that is, under section 85X(2), the enforcement authority under the Planning Act for the development approval.

85Z Lapsing of development approvals

- (1) Section 84H continues to apply in relation to the development approval, instead of the Planning

Act, section 85—

- (a) as if a reference in section 84H to an SDA approval were a reference to the development approval; and
 - (b) subject to—
 - (i) section 85S(4); and
 - (ii) any extension of the currency period of the SDA approval given under this Act; and
 - (iii) any extension of the currency period of the development approval given under the Planning Act; and
 - (c) with any other necessary changes.
- (2) Subsection (3) applies if—
- (a) the development approval is for reconfiguring a lot; and
 - (b) a plan for the reconfiguration was not given to the Coordinator-General under section 84H(1)(b) before the approval became a development approval.
- (3) Section 84H(1)(b) applies in relation to the development approval as if a reference in the section to the Coordinator-General were a reference to the local government for the local government area to which the approval relates.

85ZA Extension applications for development approvals

- (1) For applying the relevant planning provisions to an extension application for the development approval—
 - (a) the approval's currency period is taken to be the currency period applying for the development approval under section 84H, as

applied under section 85Z, including any extension of that period—

- (i) given under this Act for the SDA approval; or
 - (ii) given under the Planning Act; and
- (b) a reference in the relevant planning provisions to the assessment manager includes a reference to the entity that would be the prescribed assessment manager for a development application made under the Planning Act—
- (i) for the development the subject of the development approval; and
 - (ii) at the time the extension application is made; and
- (c) a reference in the relevant planning provisions to a referral agency or concurrence agency includes a reference to—
- (i) an entity that would be a referral agency or concurrence agency for a development application made under the Planning Act—
 - (A) for the development the subject of the development approval; and
 - (B) at the time the extension application is made; and
 - (ii) any other entity prescribed by regulation; and
- (d) a reference in the Planning Act, section 87(7) to section 85 of that Act includes a reference to section 84H, as applied under section 85Z; and

- (e) the relevant planning provisions apply with any other necessary changes.

(2) In this section—

relevant planning provisions means the following provisions—

- (a) the Planning Act, sections 86 and 87;
- (b) the Planning Act, chapter 3, part 6;
- (c) the Planning Act, section 229;
- (d) the Planning Act, schedule 1, section 1, table 1, item 3;
- (e) the development assessment rules under the Planning Act.

85ZB Changes to development approvals that are minor changes for Planning Act

- (1) This section applies if a change application is made under the Planning Act for a change to the development approval.
- (2) Despite the Planning Act, schedule 2, definition *minor change*, the change to the development approval is a minor change for that Act unless—
 - (a) the change results in substantially different development; or
 - (b) the development the subject of the development approval, including the change, is prohibited development under the Planning Act; or
 - (c) both of the following apply—
 - (i) a development application for the development the subject of the development approval, made under the Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed

Integrated Planning Act 1997 when the application for the SDA approval was made, would not have required public notification under the Act under which the application was made;

- (ii) a development application for the development the subject of the development approval, including the change, made under the Planning Act when the change application was made, would require public notification under section 53 of that Act.

85ZC Responsible entities for change applications for development approvals

Despite the Planning Act, section 78A(1), the responsible entity for a change application made under that Act to change the development approval is—

- (a) if the change is to a condition of the development approval that was a condition of the SDA approval—the entity prescribed by regulation; or
- (b) otherwise—the entity that would be the prescribed assessment manager for a development application made under the Planning Act—
 - (i) for the development the subject of the development approval, including the change; and
 - (ii) at the time the change application is made.

85ZD Change applications for development approvals

- (1) For applying the relevant planning provisions to a change application made under the Planning Act to change the development approval—
 - (a) a reference in the Planning Act, section 78A(2), (3) or (4) to section 78A(1) of that Act includes a reference to section 85ZC; and
 - (b) a reference in the relevant planning provisions to the assessment manager includes a reference to the entity mentioned in section 85ZC(b); and
 - (c) if the change is a minor change for the Planning Act under section 85ZB—a reference in the relevant planning provisions to a referral agency includes a reference to—
 - (i) an entity that would be a referral agency under the Planning Act for a development application made under the Planning Act—
 - (A) for the development the subject of the development approval, including the change; and
 - (B) at the time the change application is made; and
 - (ii) any other entity prescribed by regulation; and
 - (d) the relevant planning provisions apply with any other necessary changes.
- (2) For applying the Planning Act, section 82 to the change application, a reference in section 82(2)(a)(ii) of that Act to the original development application includes a reference to

the application for the SDA approval.

- (3) If the responsible entity for the change application under the Planning Act must, in assessing the application, consider a matter mentioned in section 81(2)(d), (e) or (f) of that Act—

(a) section 81(4) and (5)(c) of that Act applies for the assessment as if a reference in that section to when the development application for the development approval was properly made were a reference to when the change application was made; and

(b) section 81(5)(a) of that Act does not apply for the assessment.

- (4) In this section—

relevant planning provisions means the following provisions—

(a) the Planning Act, chapter 3, part 5, division 2, subdivision 2 other than section 78A(1) or 82;

(b) the Planning Act, chapter 3, part 5, division 2, subdivision 3;

(c) the Planning Act, chapter 3, part 6 or 6A;

(d) the Planning Act, section 229;

(e) the Planning Act, schedule 1, section 1, table 1, item 2;

(f) the development assessment rules under the Planning Act.

85ZE Cancellation applications for development approvals

- (1) For applying the relevant planning provisions to a cancellation application under the Planning Act for the development approval—

- (a) a reference in the relevant planning provisions to the assessment manager includes a reference to the entity that would be the prescribed assessment manager for a development application made under the Planning Act—
 - (i) for the development the subject of the development approval; and
 - (ii) at the time the cancellation application is made; and
 - (b) a reference in the relevant planning provisions to a referral agency includes a reference to—
 - (i) an entity that would be a referral agency for a development application made under the Planning Act—
 - (A) for the development the subject of the development approval; and
 - (B) at the time the cancellation application is made; and
 - (ii) any other entity prescribed by regulation; and
 - (c) the relevant planning provisions apply with any other necessary changes.
- (2) In this section—
- relevant planning provisions*** means the following provisions—
- (a) the Planning Act, section 84;
 - (b) the Planning Act, chapter 3, part 6;
 - (c) the development assessment rules under the Planning Act.

85ZF Other matters about development approvals

- (1) Despite the Planning Act, section 119(2), the local government for the local government area to which the development approval relates must not give an infrastructure charges notice under that Act for the approval.
- (2) However, if a change application or extension application is approved under the Planning Act for the development approval, the local government may give an infrastructure charges notice under that Act for the development approval if the notice relates to the change to, or extension of, the development approval.
- (3) Subsection (2) applies despite section 84EA(3).
- (4) Despite the Planning Act, section 139(1), a person can not make a conversion application under the Planning Act in relation to a condition of the development approval that was a condition of the SDA approval.
- (5) A regulation may—
 - (a) if a condition of the development approval requires a document or thing to be given to, or approved by, the Coordinator-General—state the entity the document or thing must be given to, or approved by, in place of the Coordinator-General; or
 - (b) make provision about another matter necessary or convenient to give effect to the transition from the SDA approval to the development approval for which this Act does not make provision or sufficient provision.

37 Amendment of s 125 (Power of Coordinator-General to take land)

(1) Section 125(1)(f)—

omit, insert—

(f) a State strategic project declared by regulation under section 143 as a purpose for which land may be taken under this section.

(2) Section 125(2)—

omit, insert—

(2) However, the Coordinator-General may take land for a purpose mentioned in subsection (1)(f) only in compliance with section 142.

38 Amendment of s 125A (Power of Coordinator-General to take public utility easement)

Section 125A(3)(a), ‘section 153AH(1)’—

omit, insert—

section 142

39 Replacement of pt 6, div 7 (Infrastructure facilities)

Part 6, division 7—

omit, insert—

**Division 7 Provisions about taking
land for State strategic
projects**

Subdivision 1 General matters

141 Purpose of division

The purpose of this division is to provide for matters about the Coordinator-General's power to take land for a State strategic project under section 125(1)(f).

142 Requirements for Coordinator-General's power to take land for project

The Coordinator-General may take land for a State strategic project under section 125(1)(f) only if—

- (a) the land is identified in a declaration made under section 143 for the project; and
- (b) the Coordinator-General is satisfied—
 - (i) the proponent of the project has the financial and technical capability to undertake the project in a timely way; and
 - (ii) it is in the interests of the State that the land be taken to facilitate the delivery of the project.

143 Regulation may declare project as purpose for taking land

- (1) A regulation may declare a State strategic project as a purpose for which land may be taken under section 125.
- (2) The Minister may recommend to the Governor in Council the making of a declaration under subsection (1) for a State strategic project only if—
 - (a) the Coordinator-General has endorsed the project under section 146; and

- (b) the proponent of the project has complied with subdivision 4; and
- (c) the Minister is satisfied—
 - (i) the proponent of the project has the financial and technical capability to undertake the project in a timely way; and
 - (ii) it is in the interests of the State that the land be taken to facilitate the delivery of the project.
- (3) A declaration under this section for a State strategic project must identify the land the subject of the declaration.
- (4) The making of a declaration under this section for a State strategic project does not require the Coordinator-General to take the land, identified in the declaration, under section 125.

Subdivision 2 Coordinator-General's endorsement

144 Application for endorsement

- (1) The proponent of a State strategic project may apply to the Coordinator-General for endorsement of the project as a purpose for which land may be taken under section 125.
- (2) The application must—
 - (a) be written; and
 - (b) address the matters mentioned in section 146(3); and
 - (c) include enough information about the State strategic project, and the use of the land for the project, to allow the

Coordinator-General to assess the matters mentioned in section 146(3); and

- (d) include evidence that the proponent has given written notice of the application to the registered owner of the land; and
 - (e) be accompanied by the fee prescribed by regulation, less any amount waived by the Coordinator-General under subsection (3).
- (3) The Coordinator-General may, but need not, waive all or part of the fee mentioned in subsection (2)(e) by written notice given to the proponent.

145 Additional information and consultation about application for endorsement

- (1) This section applies if the proponent of a State strategic project makes an application under section 144.
- (2) The Coordinator-General may require the proponent to give the Coordinator-General additional information relevant to the application within a reasonable period of at least 28 days.
- (3) If the proponent fails to comply with a requirement under subsection (2) without a reasonable excuse, the Coordinator-General may decide the application without the information.
- (4) Before deciding the application, the Coordinator-General—
 - (a) must, in the way the Coordinator-General considers appropriate, consult with the registered owner of the land for which the declaration is sought about the negotiations to acquire the land by agreement undertaken by the proponent with the registered owner; and

- (b) may, in the way the Coordinator-General considers appropriate, consult with any other person the Coordinator-General considers may be affected by the Coordinator-General's decision on the application.

146 Deciding application for endorsement

- (1) This section applies if the proponent of a State strategic project makes an application under section 144.
- (2) The Coordinator-General must—
 - (a) decide whether to give the endorsement or refuse the application; and
 - (b) give the proponent a written notice stating the decision and, if the decision is to refuse the application, the reasons for the refusal.
- (3) The Coordinator-General may give the endorsement only if the Coordinator-General is satisfied of each of the following—
 - (a) the proponent has the financial and technical capability to undertake the project in a timely way;
 - (b) the land for which the declaration is sought has been sufficiently identified;
 - (c) for the land mentioned in paragraph (b)—
 - (i) the proponent has negotiated for at least 6 months with each registered owner of the land and has taken reasonable steps to purchase the land by agreement; and
 - (ii) if native title exists in relation to the land, the proponent has taken reasonable steps to enter into an

indigenous land use agreement for the land;

- (d) it is in the interests of the State that the land mentioned in paragraph (b) be taken to facilitate the delivery of the project.

Subdivision 3 Amendment or repeal of declaration

147 Amendment of declaration

- (1) The Minister may recommend to the Governor in Council that a declaration under section 143 for a State strategic project be amended—
 - (a) on the Minister's own initiative; or
 - (b) on request by the Coordinator-General.
- (2) The Coordinator-General may ask the Minister to recommend to the Governor in Council that a declaration under section 143 for a State strategic project be amended—
 - (a) on the Coordinator-General's own initiative; or
 - (b) on written application by the proponent of the project under section 148.
- (3) A recommendation under subsection (1), or a request under subsection (2), may be made for a State strategic project only if—
 - (a) the amendment—
 - (i) is a minor amendment; or
 - (ii) has been requested, or agreed to, by the proponent of the project; and
 - (b) the entity making the recommendation or request is satisfied—

- (i) of the matters mentioned in section 146(3) in relation to the project and the land to be identified in the declaration as amended; and
- (ii) the proponent of the project has complied with subdivision 4 for any new land to be identified in the declaration.

Note—

See also section 151 in relation to consultation required before a recommendation or request under this section may be made.

- (4) In this section—

minor amendment means an amendment that corrects an error or makes another change that is not a change of substance.

Examples of minor amendments—

- a change to the name of a State strategic project
- a change to the description of the land identified in the declaration that does not change the land the subject of the declaration

148 Application by proponent for amendment of declaration

- (1) The proponent of a State strategic project may apply to the Coordinator-General for an amendment of a declaration under section 143 for the project.
- (2) The application must—
 - (a) be written; and
 - (b) include enough information about the amendment to allow the Coordinator-General to assess the matters mentioned in section 147(3)(b)(i); and

- (c) include evidence that the proponent has given written notice of the application to—
 - (i) the registered owner of land identified in the declaration; and
 - (ii) the registered owner of any new land to be identified in the declaration as amended; and
 - (d) be accompanied by the fee prescribed by regulation, less any amount waived by the Coordinator-General under subsection (3).
- (3) The Coordinator-General may, but need not, waive all or part of the fee mentioned in subsection (2)(d) by written notice given to the proponent.
 - (4) In deciding whether to waive all or part of the fee mentioned in subsection (2)(d), the Coordinator-General must have regard to the nature of the amendment being sought.
 - (5) The Coordinator-General may require the proponent to give the Coordinator-General additional information relevant to the application within a reasonable period of at least 28 days.
 - (6) If the proponent fails to comply with a requirement under subsection (5) without a reasonable excuse, the Coordinator-General may decide the application without the information.
 - (7) The Coordinator-General must—
 - (a) decide whether to make a request under section 147(2) for the amendment requested by the applicant, or refuse the application; and
 - (b) give the proponent a written notice stating the decision and, if the decision is to refuse the application, the reasons for the refusal.

Note—

See also section 151 in relation to consultation required before a request under section 147 may be made.

149 Notice of proposed amendment to identify new land in declaration

- (1) This section applies if the Minister proposes to make a recommendation, or the Coordinator-General proposes to make a request, under section 147 for the amendment of a declaration under section 143, for a State strategic project, to identify new land in the declaration.
- (2) The Minister or Coordinator-General must give the proponent of the State strategic project a written notice stating—
 - (a) the proposed recommendation or request; and
 - (b) that, under section 147, the recommendation or request may be made only if the proponent complies with subdivision 4 in relation to the land.

150 Repeal of declaration

- (1) The Minister may recommend to the Governor in Council that a declaration under section 143 for a State strategic project be repealed—
 - (a) on the Minister's own initiative; or
 - (b) on request by the Coordinator-General.
- (2) A recommendation under subsection (1), or a request under subsection (1)(b), may be made for a State strategic project only if—
 - (a) the entity making the recommendation or request is not satisfied, or is no longer

satisfied, of 1 or more matters mentioned in section 146(3) in relation to the project; or

- (b) the declaration is being replaced by another declaration for the project; or
- (c) the project is no longer a State strategic project.

Note—

See also section 151 in relation to consultation required before a recommendation or request under this section may be made.

151 Consultation requirement for amendment or repeal of declaration

- (1) This section applies in relation to each of the following relating to a declaration under section 143 for a State strategic project—
 - (a) a recommendation by the Minister under section 147(1)(a) or 150(1)(a);
 - (b) a request by the Coordinator-General under section 147(2) or 150(1)(b).
- (2) Before making the recommendation or request, the entity making the recommendation or request must consult, in the way the entity considers appropriate, with—
 - (a) the proponent of the State strategic project; and
 - (b) the registered owner of—
 - (i) land identified in the declaration; and
 - (ii) for a recommendation or request about an amendment of the declaration—the registered owner of any new land to be identified in the declaration as amended; and

- (c) any other person the entity considers may be affected by the recommendation or request.

Subdivision 4 Final negotiations with owner of land

152 Requirement for final negotiation with owner of land

- (1) This section applies if—
 - (a) under section 146, the Coordinator-General endorses a State strategic project as a purpose for taking land under section 125; or
 - (b) the Minister or Coordinator-General gives the proponent of a State strategic project a written notice under section 149 about a proposed amendment of a declaration under section 143 for the project to identify new land in the declaration.
- (2) The proponent of the State strategic project must—
 - (a) negotiate 1 final time with the registered owner of the land and make the registered owner a final unconditional offer, complying with section 153, to purchase the land; and
 - (b) at the start of the negotiations, give the registered owner of the land the required information; and
 - (c) give the Coordinator-General evidence of compliance with paragraphs (a) and (b).
- (3) Subsection (4) applies if the land identified in a declaration under section 143 for a State strategic project has not been taken under section 125 when

the proponent of the project is given written notice as mentioned in subsection (1)(b) for new land owned by the same registered owner.

- (4) The proponent may comply with subsection (2) by making a final unconditional offer, complying with section 153—
 - (a) for only the new land; or
 - (b) for the new land together with the land the subject of the declaration.
- (5) In this section—

required information means—

- (a) information updating information about the State strategic project, or the use of the land for the project, previously given to the registered owner by the proponent; and
- (b) information outlining any change, or proposed change, to the State strategic project, or the use of the land for the project, of which the registered owner has not previously been advised by the proponent.

153 Final unconditional offer

- (1) The final unconditional offer for the purchase of land by the proponent of a State strategic project under section 152(2)(a) must—
 - (a) be written; and
 - (b) offer to purchase the land subject only to any statutory requirements that apply to the purchase of the land; and
 - (c) state the amount the proponent is offering to pay for the land; and
 - (d) for an offer relating to an easement for the land—include the terms of the easement; and

- (e) include an offer to pay any reasonable costs incurred by the registered owner of the land in seeking a land valuation or legal advice about the offer; and
 - (f) state the period (the *offer period*) for which the offer has effect.
- (2) The offer period must be at least 10 business days after the day the final unconditional offer is given to the registered owner of the land.

Subdivision 5 Miscellaneous

153AA Recovering cost of advice or services

- (1) This section applies if the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to decide an application under section 146 or 148 about a State strategic project.

Examples of advice or services for subsection (1)—

- 1 legal advice about native title or the application of other laws on the delivery of the State strategic project
 - 2 expert advice about a matter mentioned in section 146(3)
- (2) The Coordinator-General may recover from the proponent of the State strategic project as a debt the reasonable cost of obtaining the advice or services.

40 Amendment of s 153A (Definitions for div 8)

- (1) Section 153A, heading, ‘div 8’—

omit, insert—

division

(2) Section 153A, definition *critical infrastructure easement*—
omit.

(3) Section 153A, definition *easement holder*, ‘critical’—
omit, insert—

strategic

(4) Section 153A—
insert—

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

41 Amendment of s 153B (Registration of critical infrastructure easement)

(1) Section 153B, heading, ‘critical’—
omit, insert—

strategic

(2) Section 153B(1)(a), ‘critical infrastructure project’—
omit, insert—

State strategic project

(3) Section 153B—
insert—

(1A) However, this section applies to land used or to be
used for a purpose other than to provide a public
utility service only if the Governor in Council has
approved an instrument of easement for the land
to be registered under this section.

(4) Section 153B(4)—
insert—

Note—

See section 153EA(2) for the application of this
subsection in relation to a strategic infrastructure

easement, for land mentioned in subsection (2), that is transferred to another person under section 153E(1)(b).

- (5) Section 153B(1A) to (4)—

renumber as section 153B(2) to (5).

42 Amendment of s 153D (Effect of registration of easement)

- (1) Section 153D(1) and (2), ‘critical’—

omit, insert—

strategic

- (2) Section 153D—

insert—

Note—

See section 153EA(3) for the application of this section in relation to a strategic infrastructure easement, for land mentioned in section 153B(2), that is transferred to another person under section 153E(1)(b).

43 Amendment of s 153E (Transfer of easement)

- (1) Section 153E(1)—

omit, insert—

- (1) With the Minister’s approval, a strategic infrastructure easement may be transferred to—

- (a) for a strategic infrastructure easement for land other than land mentioned in section 153B(2)—

(i) another public utility provider; or

(ii) a person approved by the Minister as suitable to provide a public utility service in relation to the strategic infrastructure easement; or

- (b) for a strategic infrastructure easement for land mentioned in section 153B(2)—a

person, other than a public utility provider, approved by the Governor in Council as suitable to provide infrastructure in relation to the strategic infrastructure easement.

(2) Section 153E(4)—

omit, insert—

- (4) A person approved by the Minister under subsection (1)(a)(ii) is taken to be a public utility provider for the purposes of the strategic infrastructure easement.

44 Insertion of new s 153EA

After section 153E—

insert—

153EA Effect of transfer of particular easements

- (1) This section applies if a strategic infrastructure easement for land mentioned in section 153B(2) is transferred to another person under section 153E(1)(b).
- (2) Despite section 153B(5)—
- (a) the strategic infrastructure easement is taken to be a public utility easement only for the following provisions—
- (i) for land to which the *Land Act 1994* applies—sections 362(3), 366(2), 369(1) and 372 of that Act;
- (ii) for land to which the *Land Title Act 1994* applies—sections 85(3), 85B(2) and 89(1) of that Act; and
- (b) the easement holder is taken to be a public utility provider only for applying the provisions mentioned in paragraph (a) to the strategic infrastructure easement.

(3) Also—

- (a) section 153D(2) does not apply, or stops applying, in relation to the strategic infrastructure easement; and
- (b) the easement holder of the strategic infrastructure easement can not, without the consent of the grantee of the relevant public utility easement, exercise any rights in relation to the strategic infrastructure easement to the extent the exercise of the rights would interfere with the exercise of rights under the relevant public utility easement.

45 Insertion of new s 153IA

After section 153I—

insert—

153IA Surrender of particular easements

- (1) This section applies in relation to a strategic infrastructure easement for land mentioned in section 153B(2) in favour of a person other than the Coordinator-General.
- (2) The strategic infrastructure easement may be surrendered (wholly or partly) under the *Land Act 1994*, section 371 or the *Land Title Act 1994*, section 90 only with the Coordinator-General's consent.
- (3) For applying the *Land Act 1994*, section 371 or the *Land Title Act 1994*, section 90 to the strategic infrastructure easement, the easement holder is taken to be a public utility provider in whose favour the easement is registered.

46 Insertion of new pt 6A

After part 6—

insert—

Part 6A Access authorities

Division 1 Preliminary

153K Purpose of part

The purpose of this part is—

- (a) to allow—
 - (i) the proponent of a prescribed project to enter land to investigate the land's suitability for, or potential impact on, the development of the project; or
 - (ii) the proponent of a State strategic project to enter land to carry out enabling works on the land; and
- (b) to safeguard the interests of the owner of the land.

153L Definitions for part

In this part—

associated person, of the holder of an access authority, means a person who is—

- (a) if the holder is a corporation—the chief executive, secretary or a director of the corporation; or
- (b) an employee of the holder; or
- (c) a partner of the holder who is an individual; or

- (d) an agent of, or contractor for, the holder who is engaged in writing for the access authority; or
- (e) if a person mentioned in paragraph (d) is a corporation—the chief executive, secretary or a director of the corporation; or
- (f) an employee of a person mentioned in paragraph (d);
- (g) a partner of a person mentioned in paragraph (d) who is an individual.

holder, of an access authority, means the proponent of a project to whom the authority is granted.

owner, of land, includes—

- (a) an occupier of the land; and
- (b) a person who reasonably appears to be an occupier of, or in charge of, the land.

Division 2 Grant of access authority

153M Application for authority

- (1) This section states requirements for an application for an access authority under section 76HA or 76HB.

Note—

See also section 153ZB in relation to costs that may be recovered from the proponent of a project in relation to the application.

- (2) The application must—
 - (a) be written; and
 - (b) state the following information—

- (i) the project for which the access authority is sought;
 - (ii) the land for which the access authority is sought;
 - (iii) whether the access authority is sought—
 - (A) under section 76HA for the purpose of investigating the land's suitability for, or potential impact on, the development of the project; or
 - (B) under section 76HB for the purpose of carrying out enabling works for the project on the land;
 - (iv) details of the activities proposed to be carried out on the land under the access authority;
 - (v) the period for which the access authority is sought; and
 - (c) be accompanied by the fee prescribed by regulation, less any amount waived by the Coordinator-General under subsection (4).
- (3) The applicant must give the Coordinator-General the following in support of the application—
- (a) details of the project;
 - (b) details of the applicant's financial and technical capability to undertake the project;
 - (c) details of the steps the applicant has taken, or tried to take, to negotiate carrying out activities on the land with the owner of the land;
 - (d) details of why, in the applicant's opinion, the access authority should be granted;

- (e) any other information that may be necessary to decide the application.
- (4) The Coordinator-General may, but need not, waive all or part of the fee mentioned in subsection (2)(c) by written notice given to the applicant.

153N Additional information about application for authority

- (1) If an application for an access authority for land is made under section 153M, the Coordinator-General must—
 - (a) advise the owner of the land—
 - (i) that an application for an access authority has been made for the land; and
 - (ii) whether the access authority is sought—
 - (A) under section 76HA for the purpose of investigating the land's suitability for, or potential impact on, the development of the project; or
 - (B) under section 76HB for the purpose of carrying out enabling works for the project on the land; and
 - (iii) the activities that may be carried out on the land under the access authority if the authority is granted; and
 - (b) invite the owner of the land to make submissions about the activities proposed to be carried out on the land under the authority; and

- (c) make reasonable efforts to consult the owner about the activities proposed to be carried out on the land under the authority.
- (2) Before deciding the application, the Coordinator-General may require the applicant to give the Coordinator-General additional information relevant to the application within a reasonable period of at least 28 days.
- (3) If the applicant fails to comply with a requirement under subsection (2) without a reasonable excuse, the Coordinator-General may refuse the application.

153O Deciding application for authority

- (1) The Coordinator-General may—
 - (a) grant the applicant an access authority, with or without conditions; or
 - (b) refuse the application.
- (2) If the Coordinator-General refuses the application, the Coordinator-General must give the applicant written reasons for the refusal.
- (3) Without limiting subsection (1)(a), a condition imposed on an access authority may require the holder of the authority to lodge a bond or security deposit with the Coordinator-General.

153P Activities that may be authorised and land to which authority may apply

- (1) The Coordinator-General may grant an access authority that authorises the holder of the authority, or an associated person of the holder, to the extent reasonably necessary for the purpose for which the authority is granted, to—

- (a) do a stated thing on land entered under the authority; or
 - (b) bring a stated thing onto land entered under the authority; or
 - (c) temporarily leave machinery, equipment or another item on land entered under the authority.
- (2) For subsection (1)—
 - (a) the activities that may be authorised for an access authority granted on an application under section 76HA include, for example—
 - (i) conducting surveys, investigating land or taking samples from land; and
 - (ii) clearing vegetation or otherwise disturbing land; and
 - (iii) constructing temporary access tracks using land or materials brought onto land; and
 - (b) the activities that may be authorised for an access authority granted on an application under section 76HB include, for example—
 - (i) constructing or placing plant, machinery, equipment or goods; and
 - (ii) erecting workshops, sheds or other buildings, including buildings for providing housing and other amenities for employees and their dependants; and
 - (iii) making roads, cuttings or excavations; and
 - (iv) manufacturing or working materials of any kind; and

- (v) depositing clay, earth, gravel, sand, stone, timber, wood or other material; and
 - (vi) taking clay, earth, gravel, sand, stone, timber, wood or other material; and
 - (vii) demolishing, destroying or removing plant, machinery, equipment, goods, workshops, sheds, buildings or roads.
- (3) However, an access authority granted on an application made under section 76HB may authorise activities only if the activities are, or are a part of, enabling works approved by the Governor in Council under section 153Q.
- (4) Also, the Coordinator-General may grant an access authority for only the part of land the Coordinator-General considers is reasonably necessary to carry out the activities authorised under the authority.

153Q Governor in Council approval of enabling works for State strategic projects

The Governor in Council may approve the carrying out of enabling works for a State strategic project on land if the Governor in Council is satisfied—

- (a) it is necessary to carry out the works on the land to enable the project to be undertaken; and
- (b) having regard to the minor and temporary nature of the works, it would be appropriate for the works to be carried out under an access authority; and
- (c) despite making reasonable efforts, the proponent of the project has not been able to

negotiate the carrying out of the works with the owner of the land; and

- (d) the works will not interfere with the owner's use of the land to an unreasonable extent.

153R Form of authority

An access authority granted under this division must be written and state the following—

- (a) the project for which the authority is granted;
- (b) the land to which the authority applies;
- (c) the purpose for which the authority is granted;
- (d) the activities that are authorised to be carried out on the land to which the authority applies;
- (e) the period for which the authority applies;
- (f) any conditions imposed on the authority.

Division 3 Exercise of powers under access authority

153S Entry to land and other activities authorised under authority

- (1) The holder of an access authority, or an associated person of the holder, may—
 - (a) enter and re-enter the land to which the authority applies for the purpose for which the authority is granted; and
 - (b) carry out an activity authorised under the authority to the extent reasonably necessary

for the purpose for which the authority is granted.

- (2) However, the holder or associated person is authorised to enter land or carry out an activity mentioned in subsection (1)(b) under the authority only if section 153T has been complied with.
- (3) Also, if an activity mentioned in subsection (1)(b) is an activity for which an approval is required under an Act, the holder or associated person is authorised to carry out the activity under the authority only if the holder or associated person—
 - (a) is authorised to carry out the activity under a relevant approval under that Act; and
 - (b) carries out the activity in accordance with the relevant approval and any other requirements under that Act.
- (4) In this section—

approval means an approval, licence, permit or other authority, including, for example, a development approval.

153T Procedure for entering land under authority

- (1) Before land is entered for the first time under an access authority, the holder of the authority must give the owner of the land—
 - (a) a written notice complying with subsection (2); and
 - (b) a copy of the authority.
- (2) The notice must state the following—
 - (a) the holder has been granted the access authority;

- (b) the activities the holder, or an associated person of the holder, is authorised to carry out on the land under the access authority;
 - (c) a general outline of the activities intended to be carried out on the land under the access authority;
 - (d) the approximate period for which the holder, or an associated person of the holder, will be carrying out activities on the land under the access authority;
 - (e) the rights of the owner under section 153X or 153Y for the rectification of, or compensation for, any damage or loss caused by activities carried out, or purportedly carried out, under the access authority.
- (3) The holder, or an associated person of the holder, may enter land under the access authority only if—
- (a) the owner of the land gives written consent to the entry; or
 - (b) at least 7 days have passed since the holder complied with subsection (1).

153U Compliance with conditions of authority

A person acting under an access authority must comply with each condition of the authority, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

153V Identification for associated person

- (1) Before the holder of an access authority allows an associated person of the holder to act under the authority, the holder must issue the associated

person written identification complying with subsection (2).

Maximum penalty—10 penalty units.

- (2) The identification must—
- (a) state the names of the holder and the associated person; and
 - (b) state the capacity in which the associated person is an associated person of the holder; and
 - (c) be signed by the holder and the associated person; and
 - (d) state the date the identification expires.
- (3) Subsection (4) applies if—
- (a) a person who is an associated person of the holder of an access authority is issued identification under subsection (1); and
 - (b) the person stops being an associated person of the holder.
- (4) The person must return the person's identification to the holder as soon as practicable, but within 21 days, after the person stops being an associated person of the holder, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—10 penalty units.

153W Production of authority or identification

- (1) This section applies if—
- (a) the holder of an access authority, or an associated person of the holder, has entered, is entering, or is about to enter, land under the authority; and

- (b) a person who claims to be, or appears to be, the owner of the land (a *relevant person*) asks the holder or associated person—
 - (i) for identification; or
 - (ii) about the holder's or associated person's authority to enter the land.
 - (2) The holder or associated person must immediately—
 - (a) state the holder's or associated person's name; and
 - (b) show the relevant person the relevant document.
- Maximum penalty—10 penalty units.
- (3) In this section—

relevant document means—

 - (a) for the holder of an access authority—a copy of the authority; or
 - (b) for an associated person of the holder an access authority—a copy of the identification issued to the associated person under section 153V.

Division 4 Other provisions

153X Rectification of damage by holder of authority

- (1) The owner of land may, by written notice given to the holder of an access authority, require the holder to rectify damage or loss caused by activities carried out, or purportedly carried out, under the authority.
- (2) A notice under subsection (1) must be given—

- (a) before, or within 3 months after, the access authority expires; or
- (b) at a later time allowed by the Land Court.

153Y Compensation payable by holder of authority

- (1) The holder of an access authority must compensate the owner of the land entered under the authority for damage or loss that—
 - (a) was caused by activities carried out, or purportedly carried out, under the authority; and
 - (b) has not been rectified under section 153X or otherwise.
- (2) The amount of compensation payable under subsection (1) is—
 - (a) the amount agreed between the owner of the land and the holder of the access authority; or
 - (b) if the owner of the land and the holder of the access authority can not agree on the amount within a reasonable time—the amount decided by the Land Court.
- (3) The owner of the land may, by written notice given to the holder of the access authority, claim compensation for the damage or loss—
 - (a) before, or within 1 year after, the access authority expires; or
 - (b) at a later time allowed by the Land Court.
- (4) The claim for compensation may be made—
 - (a) whether or not the activity giving rise to the claim was authorised under the access authority; and

- (b) whether or not the holder of the authority took steps to prevent or minimise the damage or loss; and
- (c) even if the damage or loss was caused, or contributed to, by an associated person of the holder of the access authority.

153Z Release of bond or security deposit

- (1) This section applies if, under a condition of an access authority, the holder of the authority lodges a bond or security deposit with the Coordinator-General.
- (2) Unless subsection (3) applies, the Coordinator-General may keep the bond or security deposit until 1 year after the access authority expires.
- (3) If, before or within 1 year after the access authority expires, the owner of the land entered under the authority gives a notice of damage to, or makes a compensation claim against, the holder of the authority—
 - (a) the Coordinator-General may keep the bond or security deposit until the damage or loss is rectified or compensation for the damage or loss is paid to the owner; or
 - (b) if after a reasonable time has passed the Coordinator-General is satisfied the damage or loss has not been rectified and compensation for the damage or loss has not been paid to the owner, the Coordinator-General—
 - (i) may use the bond or security deposit to rectify the damage or loss or pay compensation to the owner; and

(ii) must pay the balance, if any, to the holder of the access authority.

(4) For subsection (3)—

- (a) damage or loss is rectified only if the damage or loss is completely rectified; and
- (b) compensation for damage or loss is paid to the owner only if the total amount of the compensation is paid to the owner.

(5) In this section—

compensation claim means a claim for compensation under section 153Y.

notice of damage means a notice under section 153X.

153ZA Pretending to be holder of authority or associated person

A person must not pretend to be—

- (a) the holder of an access authority; or
- (b) an associated person of the holder of an access authority.

Maximum penalty—80 penalty units.

153ZB Recovering cost of advice or services

(1) This section applies if the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary—

- (a) to decide an application for an access authority made by a proponent of a project; or

Examples of advice or services for paragraph (a)—

- legal advice about native title or the application of other laws to things that may be done under the access authority

[s 47]

- expert advice about a matter mentioned in section 153M(3)(b) or (c)

(b) to decide a matter under section 153Z in relation to an access authority.

Example of advice or services for paragraph (b)—

- legal advice about whether compensation is or may be payable in relation to activities carried out under the access authority
- an assessment of damage or loss caused by activities carried out under the access authority

(2) The Coordinator-General may recover from the proponent of the project as a debt the reasonable cost of obtaining the advice or services.

47 Insertion of new pt 7A, divs 1AA–1AE

Part 7A, before division 1—

insert—

Division 1AA Preliminary

157AA Other definitions for part

In this part—

authorised officer means a person who holds office under division 1AB as an authorised officer.

decision notice, about a decision, means a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision.

examine includes analyse, test, account for, measure, weigh, grade, gauge and identify.

identification documents, for an authorised

officer, means both of the following documents—

- (a) the person's identity card;
- (b) the person's instrument of appointment as an authorised officer.

identity card, of an authorised officer, see section 157AD(1).

occupier, of a place, includes the following—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) a person at the place who is apparently acting with the authority of a person who apparently occupies the place;
- (c) if no-one apparently occupies the place—an owner of the place.

of, a place, includes at or on the place.

owner, of a thing that has been seized under division 1AD, includes a person who would be entitled to possession of the thing had it not been seized.

person in control, of a thing, includes any person who reasonably appears to be, claims to be, or acts as if the person is, the person in possession or control of the thing.

place includes the following—

- (a) premises;
- (b) vacant land;
- (c) a place in Queensland waters;
- (d) a place held under more than 1 title or by more than 1 owner.

public place means a place or part of a place—

- (a) that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or

Examples of a place that may be a public place under paragraph (a)—

a beach, a park, a road

- (b) the occupier of which allows, whether or not on payment of money, members of the public to enter.

Examples of a place that may be a public place under paragraph (b)—

a saleyard, a showground

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

Division 1AB Authorised officers

157AB Appointment

- (1) The Coordinator-General may, by instrument in writing, appoint an employee or officer of a public sector entity who is appropriately qualified as an authorised officer.
- (2) An authorised officer holds office on any conditions, and subject to any limit on the officer's powers, stated in—
- (a) the officer's instrument of appointment; or
 - (b) a notice signed by the Coordinator-General and given to the officer; or
 - (c) a regulation.

157AC When appointment ends

- (1) The appointment of a person as an authorised officer ends if—
 - (a) the term of office stated in a condition of office ends; or
 - (b) under another condition of office, the office ends; or
 - (c) the person resigns, by a written notice signed by the person and given to the Coordinator-General.
- (2) However, this section does not limit the ways the appointment of a person as an authorised officer ends.
- (3) In this section—

condition of office means a condition under which the authorised officer holds office.

157AD Identity card

- (1) The Coordinator-General must ensure each person appointed as an authorised officer has a card (an *identity card*) that—
 - (a) states the person's name and no other personal information about the person; and
 - (b) contains a recent photo of the person; and
 - (c) contains a copy of the person's signature; and
 - (d) states an expiry date for the card.
- (2) The identity card may be the card issued to the person for the person's employment or appointment with a public sector entity.
- (3) Subsection (4) applies if the Coordinator-General issues a person an identity card for the purposes of subsection (1) and the person's office as an

authorised officer ends.

- (4) The person must return the identity card to the Coordinator-General within 21 days after the office ends, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

- (5) In this section—

personal information see the *Information Privacy Act 2009*, section 12.

157AE Production of identification documents

- (1) In exercising a power in relation to another person in the other person's presence, an authorised officer must—
 - (a) produce the officer's identification documents for the other person's inspection before exercising the power; or
 - (b) have the officer's identity card displayed so it is clearly visible to the other person when exercising the power, and produce the officer's instrument of appointment if requested by the other person.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identification documents for the other person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised officer does not exercise a power in relation to another person only because the officer has entered a place as mentioned in section 157AF(1)(b) or (d).

Division 1AC Entry of places by authorised officers

Subdivision 1 Preliminary

157AF General power to enter

- (1) An authorised officer may enter a place if—
 - (a) an occupier at the place consents under subdivision 2 to the entry and section 157AG has been complied with for the occupier; or
 - (b) the place is a public place and the entry is made when the place is open to the public; or
 - (c) the entry is authorised under a warrant and, if there is an occupier of the place, section 157AN has been complied with for the occupier; or
 - (d) the place is a place of business and is—
 - (i) open for carrying on the business; or
 - (ii) otherwise open for entry; or
 - (e) the place is required to be open for inspection under an approval or other authority under this Act.
- (2) Subsection (1)(d) and (e) do not apply to any part of a place where a person resides.
- (3) If the power to enter arises only because an occupier of the place consents to the entry, the power is subject to any conditions of the consent and stops if the consent is withdrawn.
- (4) The consent may provide consent for re-entry and is subject to the conditions of consent.
- (5) If the power to enter is under a warrant, the power is subject to the terms of the warrant.
- (6) If the power to re-enter is under a warrant, the re-entry is subject to the terms of the warrant.

Subdivision 2 Entry with consent

157AG Procedure for obtaining consent

- (1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer entering the place under section 157AF(1)(a).
- (2) For the purpose of asking the occupier for the consent, the authorised officer may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter a part of the place that the officer considers the public may enter if wanting to speak to the occupier.
- (3) Before asking for the consent, the authorised officer must—
 - (a) explain to the occupier the purpose of the entry, including the powers intended to be exercised; and
 - (b) tell the occupier that—
 - (i) the occupier is not required to consent; and
 - (ii) the consent may be given subject to conditions and may be withdrawn at any time.

157AH Consent acknowledgement

- (1) If the occupier of a place gives an authorised officer consent to the entry of the place, the officer may ask the occupier to sign an acknowledgement of the consent.

- (2) The acknowledgement must state—
- (a) the purpose of the entry, including the powers intended to be exercised; and
 - (b) that the occupier has been given an explanation about the purpose of the entry, including the powers intended to be exercised; and
 - (c) that the occupier has been told—
 - (i) that the occupier is not required to consent; and
 - (ii) that the consent may be given subject to conditions and may be withdrawn at any time; and
 - (d) that the occupier gives the authorised officer consent to enter the place and exercise the powers; and
 - (e) any conditions of the consent; and
 - (f) the time and day the consent was given.
- (3) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy of the acknowledgement to the occupier.
- (4) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) a signed acknowledgement complying with subsection (2) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

Subdivision 3 Entry under warrant

157AI Application for warrant

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the written application to be given by statutory declaration.

157AJ Issue of warrant

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting that a particular thing or activity that may provide evidence of an offence against this Act is, or will be, at the place within the next 7 days.
- (2) The warrant must state—
 - (a) the place to which the warrant applies; and
 - (b) that a stated authorised officer may with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry to the place; and
 - (ii) exercise the officer's powers under this part; and
 - (c) particulars of the offence that the magistrate considers appropriate; and

- (d) the name of the person suspected of having committed the offence unless the name is unknown or the magistrate considers it inappropriate to state the name; and
- (e) the evidence that may be seized under the warrant; and
- (f) the hours of the day or night when the place may be entered; and
- (g) the magistrate's name; and
- (h) the day and time of the warrant's issue; and
- (i) the day, within 14 days after the warrant's issue, the warrant ends.

157AK Electronic application

- (1) An application for a warrant under section 157AJ may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the officer's remote location.
- (2) The application—
 - (a) may not be made before the authorised officer prepares the written application under section 157AI(2); but
 - (b) may be made before the written application is sworn.

157AL Additional procedure if electronic application

- (1) If the magistrate receives an application for a warrant under section 157AK, the magistrate may

issue the warrant (the *original warrant*) only if satisfied—

- (a) it was necessary in the circumstances for the application to be made under section 157AK; and
 - (b) the application was made as required under section 157AK.
- (2) After the magistrate issues the original warrant—
- (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised officer, including, for example, by emailing or faxing the copy, the magistrate must immediately give a copy of the warrant to the officer; or
 - (b) otherwise—
 - (i) the magistrate must tell the authorised officer the information required to be stated in the warrant under section 157AJ(2); and
 - (ii) the authorised officer must complete a form of warrant, including by writing on the form the information mentioned in subparagraph (i).
- (3) The copy of the warrant mentioned in subsection (2)(a), or the form of warrant completed under subsection (2)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effective as, the original warrant.
- (4) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
- (a) the written application complying with section 157AI(2) and (3); and
 - (b) if the officer completed a form of warrant under subsection (2)(b), the completed form of warrant.

-
- (5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—
- (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (6) Despite subsection (3), if—
- (a) an issue arises in a proceeding about whether a warrant issued under this section authorised an exercise of a power; and
 - (b) the original warrant is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (7) This section does not limit section 157AI.
- (8) In this section—
- relevant magistrates court*, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

157AM Defect in relation to a warrant

- (1) A warrant is not invalidated by a defect in the warrant or compliance with this subdivision, unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—

warrant includes a duplicate warrant under section 157AL(3).

157AN Procedure for entry under warrant

- (1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this subdivision.
- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
 - (a) identify themselves to a person who is an occupier of the place and is present by producing the officer's identification documents;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the officer is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the officer reasonably believes that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.
- (4) In this section—
warrant includes a duplicate warrant under section 157AL(3).

Division 1AD Powers after entering place

Subdivision 1 General powers for places entered with consent or under a warrant

157AO Application of subdivision

- (1) This subdivision applies if an authorised officer enters a place under section 157AF(1)(a) or (c).
- (2) However, the powers in this subdivision are subject to any conditions of the consent, or the terms of the warrant, that allowed the entry.

157AP General powers

- (1) The authorised officer may do any of the following—
 - (a) search any part of the place;
 - (b) inspect, examine or film any part of the place or anything at the place;
 - (c) take for examination a thing, or a sample of or from a thing, at the place;
 - (d) place an identifying mark in or on anything at the place;
 - (e) take an extract from, or copy, a document at the place, or take the document to another place to copy;
 - (f) reproduce sounds, images or writing from an electronic document at the place or, to the extent that is not practicable, take either or both of the following to another place to reproduce sounds, images or writing from an electronic document—
 - (i) a thing that is or contains an electronic document;
 - (ii) a thing that can be used to reproduce sounds, images or writing from an electronic document;
 - (g) take to, into or onto the place and use any person, equipment and materials the officer

requires for exercising the officer's powers under this part;

- (h) remain at the place for the time necessary to achieve the purpose of the entry.
- (2) The authorised officer may do anything necessary to exercise a power under subsection (1).
- (3) If the authorised officer takes a document from the place to copy it, the officer must copy the document and return it to the place as soon as practicable.
- (4) If the authorised officer takes a thing from the place to reproduce sounds, images or writing from an electronic document, the officer must reproduce the sounds, images or writing from the document and return the thing to the place as soon as practicable.
- (5) In this section—

film includes photograph, videotape and record an image in another way.

inspect, a thing, includes open the thing and examine its contents.

157AQ Requiring reasonable help

- (1) The authorised officer may require an occupier of the place or a person at the place to give the officer reasonable help to exercise a power under section 157AP(1), including, for example, to produce a document or to give information.
- (2) When making a requirement under subsection (1), the authorised officer must give the person a warning that, without a reasonable excuse, it is an offence for the person not to comply with the requirement.
- (3) A person of whom a requirement is made under

subsection (1) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (4) It is a reasonable excuse for an individual not to comply with the requirement if complying might tend to incriminate the individual or expose the individual to a penalty.

Subdivision 2 Power to seize

157AR Seizing evidence at a place that may be entered without consent or warrant

- (1) This section applies if an authorised officer enters a place the officer may enter under this part without the consent of an occupier of the place and without a warrant.
- (2) The authorised officer may seize a thing at the place if the officer reasonably believes the thing is evidence of an offence against this Act.

157AS Seizing evidence at a place that may be entered only with consent or warrant

- (1) This section applies if—
- (a) an authorised officer is authorised to enter a place only with the consent of an occupier of the place or a warrant; and
 - (b) the authorised officer enters the place after obtaining the consent or under a warrant.
- (2) If the authorised officer enters the place with the occupier's consent, the officer may seize a thing at the place only if—
- (a) the officer reasonably believes the thing is evidence of an offence against this Act; and

- (b) seizure of the thing is consistent with the purpose of entry as explained to the occupier when asking for the occupier's consent.
- (3) If the authorised officer enters the place under a warrant, the officer may seize the evidence for which the warrant was issued.
- (4) The authorised officer may also seize anything else at the place if the officer reasonably believes—
 - (a) the thing is evidence of an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.
- (5) The authorised officer may also seize a thing at the place if the officer reasonably believes the thing has immediately been used in committing an offence against this Act.

157AT Seizure of property subject to security

- (1) An authorised officer may seize a thing, and exercise powers relating to the thing, despite a lien or other security over the thing claimed by another person.
- (2) However, the seizure does not affect the other person's claim to the lien or other security against a person, other than the authorised officer or a person acting under the direction or authority of the officer.

157AU Securing seized thing

- (1) After seizing a thing under this subdivision, an authorised officer may—

- (a) move the thing from the place (the *place of seizure*) where the thing was seized; or
 - (b) leave the thing at the place of seizure and take reasonable action to restrict access to the thing.
- (2) For subsection (1)(b), the authorised officer may, for example—
 - (a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or
 - (b) for equipment—make the thing inoperable; or

Examples of making equipment inoperable—

 - dismantling the equipment or removing a component without which the equipment can not be used
 - (c) require a person who the officer reasonably believes is in control of the place or thing to do—
 - (i) an act stated in paragraph (a) or (b); or
 - (ii) anything else an authorised officer could do under subsection (1)(b).
- (3) The person must comply with a requirement made of the person under subsection (2)(c), unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (4) If an authorised officer restricts access to a seized thing, a person must not tamper with the thing, or with anything used to restrict access to the thing, without—
 - (a) an authorised officer's approval; or
 - (b) a reasonable excuse.

Maximum penalty—100 penalty units.

- (5) If an authorised officer restricts access to a place, a person must not enter the place in contravention of the restriction, or tamper with anything used to restrict access to the place, without—
 - (a) an authorised officer's approval; or
 - (b) a reasonable excuse.

Maximum penalty—100 penalty units.

Subdivision 3 Safeguards for seized things

157AV Receipt and decision notice for seized thing

- (1) This section applies if an authorised officer seizes anything under this division unless—
 - (a) the officer reasonably believes there is no-one apparently in possession of the thing or it has been abandoned; or
 - (b) because of the condition, nature and value of the thing it would be unreasonable to require the officer to comply with this section.
- (2) The authorised officer must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—
 - (a) a receipt for the thing that generally describes the thing and its condition; and
 - (b) a decision notice about the decision to seize the thing.
- (3) However, if an owner or person from whom the thing is seized is not present when the thing is seized, the receipt and decision notice may be given by leaving them in a conspicuous position,

and in a reasonably secure way, at the place at which the thing is seized.

- (4) The receipt and decision notice may—
 - (a) be given in the same document; and
 - (b) relate to more than 1 seized thing.
- (5) The authorised officer may delay giving the receipt and decision notice if the officer reasonably suspects giving them may frustrate or otherwise hinder an investigation by the officer under this Act.
- (6) However, the delay may be only for as long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place at which the thing was seized to keep the thing under observation.

157AW Access to seized thing

- (1) Until a seized thing is forfeited or returned under this part, the authorised officer who seized the thing must allow an owner of the thing, free of charge—
 - (a) to inspect the thing at any reasonable time, and from time to time; and
 - (b) if the thing is a document—to copy the document.
- (2) However, subsection (1) does not apply if it is impracticable or would be unreasonable to allow the owner to inspect or copy the thing.

157AX Returning seized thing

- (1) This section applies if a seized thing is not—
 - (a) forfeited or transferred under division 1AE;or

- (b) subject to a disposal order under division 1AE.
- (2) As soon as the Coordinator-General stops being satisfied there are reasonable grounds for keeping the thing, the Coordinator-General must return the thing to its owner.
- (3) If the thing is not returned to its owner within 3 months after the thing was seized, the owner may apply to the Coordinator-General for its return.
- (4) Within 30 days after receiving the application, the Coordinator-General must—
 - (a) if the Coordinator-General is satisfied there are reasonable grounds for keeping the thing and decides to keep the thing—give the owner a decision notice about the decision to keep the thing; or
 - (b) otherwise—return the thing to the owner.
- (5) For this section, there are reasonable grounds for keeping a seized thing if—
 - (a) the thing is being, or is likely to be, examined; or
 - (b) the thing is needed, or may be needed, for—
 - (i) a proceeding for an offence against this Act that is likely to be started or that has been started but not completed; or
 - (ii) an appeal from a decision in a proceeding for an offence against this Act; or
 - (c) it is not lawful for the owner to possess the thing.
- (6) Subsection (5) does not limit the grounds that may be reasonable grounds for keeping the thing.
- (7) Nothing in this section affects a lien or other security over the seized thing.

Division 1AE Forfeiture and disposal

157AY Forfeiture of seized thing by Coordinator-General decision

- (1) The Coordinator-General may decide a seized thing is forfeited to the State if an authorised officer—
 - (a) after making reasonable inquiries, can not find an owner; or
 - (b) after making reasonable efforts, can not return the thing to an owner; or
 - (c) reasonably believes it is necessary to keep the thing to prevent the thing being used to commit the offence for which the thing was seized.
- (2) However, the authorised officer is not required to—
 - (a) make inquiries if it would be unreasonable to make inquiries to find an owner; or
 - (b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.

Example for paragraph (b)—

the owner of the thing has migrated to another country
- (3) Regard must be had to the thing's condition, nature and value in deciding—
 - (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.
- (4) If the Coordinator-General decides under subsection (1) that a thing is forfeited, the

Coordinator-General must as soon as practicable give the person who owned the thing immediately before the forfeiture (the *former owner*) a decision notice about the decision.

- (5) If the decision was made under subsection (1)(a) or (b), the decision notice may be given by leaving the notice at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.
- (6) However, subsections (4) and (5) do not apply if—
 - (a) the decision was made under subsection (1)(a) or (b); and
 - (b) the place where the thing was seized is—
 - (i) a public place; or
 - (ii) a place where the notice is unlikely to be read by the former owner.

157AZ Dealing with things forfeited or transferred to State

- (1) A thing becomes the property of the State if—
 - (a) the thing is forfeited to the State under section 157AY(1); or
 - (b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.
- (2) The Coordinator-General may deal with the thing as the Coordinator-General considers appropriate, including, for example, by destroying the thing or giving it away.
- (3) If the Coordinator-General sells the thing, the Coordinator-General must, after deducting the costs of the sale, make reasonable efforts to return the proceeds of the sale to the person who owned

the thing immediately before it became the property of the State.

- (4) This section is subject to a disposal order made for the thing under section 157AZA.

157AZA Disposal order

- (1) This section applies if a person is convicted of an offence against this Act by a court.
- (2) The court may make an order (a *disposal order*), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—
- (a) anything that was the subject of, or used to commit, the offence;
 - (b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.
- (3) The court may make a disposal order for a thing—
- (a) whether or not the thing has been seized under division 1AD; and
 - (b) if the thing has been seized—whether or not the thing has been returned to the person who owned the thing immediately before the seizure.
- (4) In deciding whether to make a disposal order for a thing, the court—
- (a) may require written notice to be given to any person the court considers appropriate, including, for example, a person who may have any property in the thing; and
 - (b) must hear any submissions that a person claiming to have any property in the thing may wish to make.

- (5) The court may make any order it considers appropriate to enforce the disposal order.
- (6) This section does not limit the court's powers under another law.

48 Amendment and relocation of s 157A (What is an enforceable condition)

- (1) Section 157A(1)(a), ‘, 35I(2), 62 or 71’—
omit, insert—
or 35I(2)
- (2) Section 157A(1)—
insert—
(ea) a condition stated in a modification order;
- (3) Section 157A(1)(g)—
omit, insert—
 - (g) a requirement for carrying out SDA self-assessable development—
 - (i) stated in an approved development scheme; or
 - (ii) if the development is SDA-related development declared under section 85D(1)—decided by the Coordinator-General under section 85D(4).
- (4) Section 157A(1)(ea) to (g)—
renumber as section 157A(1)(f) to (h).
- (5) Section 157A—
relocate to part 7A, division 1AA, before section 157AA, as inserted by this Act.

49 Amendment of s 157B (Power to give enforcement notice)

- (1) Section 157B(1), from ‘contravening’—

omit, insert—

contravening—

(a) section 84A; or

(b) an enforceable condition.

- (2) Section 157B(2), after ‘with’—

insert—

the section or

50 Amendment of s 157C (Requirements for enforcement notice)

- (1) Section 157C(1)(a)—

omit, insert—

(a) identify—

(i) whether the notice is given in relation to a contravention of section 84A or an enforceable condition; and

(ii) if the notice is given in relation to a contravention of an enforceable condition—the enforceable condition; and

- (2) Section 157C(1)(b)(iii), ‘the condition’—

omit, insert—

the section or condition mentioned in paragraph
(a)

51 Insertion of new s 157HA

After section 157H—

insert—

**157HA Powers to remedy contravention of
enforcement notice**

- (1) This section applies if a person fails to comply with an enforcement notice given to the person by the Coordinator-General requiring the person to take particular action.
- (2) An authorised officer may—
 - (a) enter the relevant place without the permission of the occupier; and
 - (b) take the action required under the enforcement notice.
- (3) At least 7 days before entering the relevant place, the authorised officer (or another employee or officer of the Coordinator-General) must give any occupier of the place a written notice stating—
 - (a) that an authorised officer proposes to enter the place; and
 - (b) the reason for the proposed entry; and
 - (c) the day and time of the proposed entry.
- (4) If the occupier of the relevant place is present, the authorised officer must do, or make a reasonable attempt to do, the following things before entering the place—
 - (a) identify themselves to the occupier by producing the officer's identification documents;
 - (b) tell the occupier the purpose of the entry;
 - (c) seek the consent of the occupier to the entry;
 - (d) tell the occupier that the officer is permitted under this Act to enter the place without the occupier's consent and take the action required under the enforcement notice.

- (5) The Coordinator-General may recover the amount that the Coordinator-General properly and reasonably incurs in relation to the taking of action, under this section, as a debt payable by the person who failed to take the action.
- (6) In this section—
- relevant place*, in relation to an enforcement notice—
- (a) means the place where the action required under the enforcement notice is required to be taken; but
- (b) does not include premises, or a part of premises, where a person resides.

52 Amendment of s 157I (Starting proceeding for enforcement order)

- (1) Section 157I(1)(a), after ‘contravention of’—
- insert—*
- section 84A or
- (2) Section 157I(2), ‘of the enforceable condition’—
- omit.*

53 Amendment of s 157K (Making enforcement order)

- Section 157K(1), after ‘contravention of’—
- insert—*
- section 84A or

54 Amendment of s 157L (Effect of enforcement order)

- (1) Section 157L(1)(a) to (d), after ‘contravention of’—
- insert—*
- section 84A or

(2) Section 157L(1)(e) and (4), after ‘with’—

insert—

section 84A or

55 Insertion of new pt 7A, div 2A

Part 7A—

insert—

Division 2A Miscellaneous provisions relating to authorised officers

157NA Duty to avoid inconvenience and minimise damage

In exercising a power under this part, an authorised officer must take all reasonable steps to cause as little inconvenience, and do as little damage, as possible.

Note—

See also section 157NC in relation to compensation for the exercise or purported exercise of an authorised officer’s powers.

157NB Notice of damage

(1) This section applies if—

- (a) an authorised officer damages something when exercising, or purporting to exercise, a power under this part; or
- (b) a person (the *assistant*) acting under the direction or authority of an authorised officer damages something.

(2) However, this section does not apply to damage the authorised officer considers is trivial or if the

officer reasonably believes—

- (a) there is no-one apparently in possession of the thing; or
 - (b) the thing has been abandoned.
- (3) The authorised officer must give written notice of the damage to a person who appears to the officer to be an owner, or person in control, of the thing.
- (4) However, if for any reason it is not practicable to comply with subsection (3), the authorised officer must—
- (a) leave the notice at the place where the damage happened; and
 - (b) ensure the notice is left in a conspicuous position and in a reasonably secure way.
- (5) The authorised officer may delay complying with subsection (3) or (4) if the officer reasonably suspects complying with the subsection may frustrate or otherwise hinder an investigation by the officer.
- (6) The delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place.
- (7) If the authorised officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the officer or the assistant, the officer may state the belief in the notice.
- (8) The notice must state—
- (a) particulars of the damage; and
 - (b) that the person who suffered the damage may claim compensation under section 157NC.

157NC Compensation

- (1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised officer including a loss arising from compliance with a requirement made of the person under this part.
- (2) The compensation may be claimed and ordered in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for an alleged offence against this Act the investigation of which gave rise to the claim for compensation.
- (3) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) In considering whether it is just to order compensation, the court must have regard to—
 - (a) any relevant offence committed by the claimant; and
 - (b) whether the loss arose from a lawful seizure or lawful forfeiture.
- (5) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.
- (6) Section 157NA does not provide for a statutory right of compensation other than as provided by this section.
- (7) In this section—

loss includes costs and damage.

157ND False or misleading information

- (1) A person must not, in relation to the administration of this Act, give an authorised officer information the person knows is false or misleading in a material particular.

Maximum penalty—1,665 penalty units.

- (2) Subsection (1) applies to information given in relation to the administration of this Act whether or not the information was given in response to a specific power under this part.
- (3) Subsection (1) does not apply to a person if the person, when giving information in a document—
- (a) tells the authorised officer, to the best of the person's ability, how the document is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

157NE Obstructing authorised officer

- (1) A person must not obstruct an authorised officer exercising a power under this part, or someone helping an authorised officer exercising a power under this part, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (2) If a person has obstructed an authorised officer, or someone helping an authorised officer, and the officer decides to proceed with the exercise of the power, the officer must warn the person that—
- (a) it is an offence to cause an obstruction, unless the person has a reasonable excuse; and

(b) the officer considers the person's conduct an obstruction.

(3) In this section—

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

157NF Impersonating authorised officer

A person must not impersonate an authorised officer.

Maximum penalty—60 penalty units.

56 Amendment of s 158 (Power to contract)

(1) Section 158(1)—

omit, insert—

(1) The Coordinator-General may negotiate and enter into contracts for—

(a) the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers imposed or conferred on the Coordinator-General under any Act; or

(b) the recovery of costs incurred by the Coordinator-General or a cooperating person for the performance of functions or the exercise of powers mentioned in paragraph (a).

(1A) However, a contract for a matter mentioned in subsection (1)(b) (a ***cost recovery contract***) must not permit the recovery of costs that have already been otherwise recovered by the Coordinator-General.

(1B) Also, if a cost recovery contract permits the recovery of costs that may be, but have not yet

been, otherwise recovered by the Coordinator-General, the contract is taken to permit the recovery of the costs only to the extent the costs are not otherwise recovered by the Coordinator-General.

(2) Section 158(1A) to (2)—
renumber as section 158(2) to (4).

(3) Section 158—
insert—

(5) In this section—

cooperating person means a person required under section 13 to cooperate with the Coordinator-General in the performance of the Coordinator-General's functions.

costs, the Coordinator-General may otherwise recover, includes—

- (a) a cost the Coordinator-General may recover as a debt under this Act; and
- (b) a fee paid or payable to the Coordinator-General under this Act.

57 Insertion of new pt 9, div 11

Part 9—

insert—

Division 11

Transitional provisions for State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Act 2026

Subdivision 1 Preliminary

209 Definitions for division

In this division—

amendment Act means the *State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Act 2026*.

former, in relation to a provision of this Act, means the provision as in force from time to time before the commencement.

new, in relation to a provision of this Act, means the provision as in force from the commencement.

relevant declaration means—

- (a) for a prescribed project—the declaration of the project to be a prescribed project under section 76E; or
- (b) for a State strategic project—
 - (i) if section 211(2) applies to the project—the declaration of the project to be a critical infrastructure project under former section 76E(4); or
 - (ii) otherwise—the declaration of the project to be a State strategic project under section 76EB.

Subdivision 2 Provision about coordinated projects

210 Particular existing coordinated projects

- (1) This section applies in relation to a coordinated project if—

- (a) the declaration for the project was made under section 26(1) before the commencement and was in effect immediately before the commencement; and
 - (b) the project involves—
 - (i) the carrying out of an activity requiring a regional interests development approval; or
 - (ii) an approval or decision under the *Transport Infrastructure Act 1994* mentioned in section 49N(b)(i) to (iv).
- (2) Subsection (3) applies if—
- (a) before the commencement, the Coordinator-General had not given the proponent a copy of a report evaluating the EIS or IAR for the coordinated project; or
 - (b) before the commencement—
 - (i) either—
 - (A) the proponent applied to the Coordinator-General to evaluate a proposed change to the coordinated project or a condition of the project; or
 - (B) the Coordinator-General gave the proponent written notice stating that the Coordinator-General proposed to assess a proposed change to the coordinated project; and
 - (ii) the Coordinator-General had not given the proponent a copy of the Coordinator-General's change report.
- (3) This Act, as amended by the amendment Act, applies in relation to the coordinated project or the proposed change.

Subdivision 3 Provisions about prescribed projects

211 State strategic projects

- (1) Subsection (2) applies to a project declared to be a critical infrastructure project under former section 76E(4) if the declaration is in effect immediately before the commencement.
- (2) From the commencement, the project is taken to be a State strategic project declared under new section 76EB.
- (3) New section 76EB applies in relation to a prescribed project whether the relevant declaration was made before or after the commencement.

212 Notice to decide

New section 76J(2) applies to a prescribed decision relating to a prescribed project whether the relevant declaration was made before or after the commencement.

213 Step in notice

- (1) A step in notice given under former section 76L (an *existing step in notice*) that was in effect immediately before the commencement continues in effect as if the amendment Act had not been enacted.
- (2) This Act as in force before the commencement continues to apply in relation to the existing step in notice as if the amendment Act had not been enacted.
- (3) New section 76L applies to a prescribed decision or process relating to a prescribed project whether

the relevant declaration was made before or after the commencement.

214 State significance notice

New part 5A, division 3A applies to a prescribed decision relating to a State strategic project whether the relevant declaration was made before or after the commencement.

215 Modification order

New part 5A, division 3B applies to a State strategic project whether the relevant declaration was made before or after the commencement.

216 Access to land by proponent

New section 76HA and part 6A apply in relation to a proponent of a prescribed project whether the relevant declaration was made before or after the commencement.

217 Enabling works by proponent

New section 76HB and part 6A apply in relation to a proponent of a State strategic project whether the relevant declaration was made before or after the commencement.

Subdivision 4 Provisions about State development areas

218 Waiver of fees for SDA applications

- (1) New section 84D(1)(c) and (2) applies to an SDA application whether made before or after the commencement.

- (2) Subsection (3) applies to an SDA application made and decided before the commencement if the Coordinator-General waived all or part of the application fee mentioned in former section 84D(1)(c).
- (3) The SDA application, and any SDA approval given in relation to the application, is as valid as the application or approval would have been if new section 84D(1)(c) and (2) had been in force when the application was made.

219 Imposing conditions on SDA approvals

A condition mentioned in section 84EA or 84EB may be imposed on—

- (a) an SDA approval given after the commencement, whether the SDA application was made before or after the commencement; or
- (b) an SDA approval given before the commencement if the condition is imposed in relation to a change application, whether the change application was made before or after the commencement.

220 Lapsing of SDA approvals

- (1) New section 84H applies in relation to an SDA approval that was in effect immediately before the commencement subject to subsections (2) and (3).
- (2) If the SDA approval is for development that is a material change of use of premises—
 - (a) new section 84H(1)(a) does not apply to the SDA approval; and
 - (b) the material change of use is taken to be other development for the purposes of new section 84H(1)(c); and

- (c) new section 84H(2)(a)(i) applies to the SDA approval as if the reference to 6 years were a reference to 4 years.
- (3) If the applicant for the SDA approval requested the Coordinator-General state a later currency period under the approved development scheme before the commencement and, immediately before the commencement, the Coordinator-General had not given the applicant written notice about the request—
 - (a) new section 84H(2)(c) and (3) apply in relation to the request; and
 - (b) anything done in relation to the request before the commencement is taken to have been done in relation to new section 84H(2)(c) and (3).

221 Existing prior affected development

- (1) This section applies if—
 - (a) before the commencement, the owner of land made a prior affected development request to the Coordinator-General under an approved development scheme for a State development area; and
 - (b) immediately before the commencement, the Coordinator-General had not decided whether or not to approve the request.
- (2) Former section 85(3)(b) continues to apply in relation to the prior affected development as if the amendment Act had not been enacted.

Subdivision 5 Provisions about infrastructure facilities

222 Existing applications relating to private infrastructure facilities

- (1) This section applies in relation to—
 - (a) an application for an investigator’s authority made but not decided, under former part 6, division 7, subdivision 1, before the commencement; and
 - (b) a private infrastructure facility application made but not decided, under former part 6, division 7, subdivision 2, before the commencement.
- (2) On the commencement, the application is taken to have been withdrawn.
- (3) The Coordinator-General must refund to the applicant any fees paid in relation to the application.

223 Existing investigator’s authorities

- (1) This section applies in relation to an investigator’s authority granted under former part 6, division 7, subdivision 1 that was in effect immediately before the commencement.
- (2) The investigator’s authority ends on the commencement.
- (3) However, former part 6, division 7, subdivision 1 continues to apply in relation to things done under the investigator’s authority before the commencement, as if the amendment Act had not been enacted.

224 Existing approvals of private infrastructure facilities

- (1) This section applies in relation to an approval of a project as a private infrastructure facility granted under former part 6, division 7, subdivision 2 that

was in effect immediately before the commencement.

- (2) The approval ends on the commencement.

225 Rectification of damage or payment of compensation

- (1) This section applies in relation to a person (the *investigator*) who was granted an investigator's authority under former part 6, division 7, subdivision 1 if—
- (a) the authority expired before the commencement; and
 - (b) immediately before the commencement, the owner of the land entered under the authority could have, but had not, given the investigator a notice under former section 151(1) or (2).
- (2) Former sections 151 and 152 continue to apply in relation to the investigator and the investigator's authority as if the amendment Act had not been enacted.

226 Release of bond or security deposit

- (1) This section applies in relation to an investigator's authority granted under former part 6, division 7, subdivision 1 if—
- (a) the authority expired before the commencement; and
 - (b) immediately before the commencement, the Coordinator-General had not paid a bond or security deposit lodged with the Coordinator-General for the authority under former section 153.
- (2) Former section 153 continues to apply in relation

to the investigator and the investigator's authority
as if the amendment Act had not been enacted.

227 Proceedings for particular offences

- (1) This section applies in relation to an offence against former section 146(4), 148(1), (3), (5) or (6) or 149 committed by a person before the commencement.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the amendment Act had not been enacted.
- (3) Subsection (2) applies despite the Criminal Code, section 11.

Subdivision 6 Provisions about enforcement notices and enforcement orders

228 Enforcement notices and enforcement orders

An enforcement notice or enforcement order can relate to a contravention of section 84A only if the act or omission that constitutes the contravention happens after the commencement.

229 Powers to remedy contravention of enforcement notice

New section 157HA applies in relation to a person's failure to comply with an enforcement notice only if the enforcement notice is given to the person after the commencement.

58 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

omit the following definitions—

- *alternative lawful development*
- *application*
- *approved development scheme*
- *approved plan*
- *critical infrastructure easement*
- *critical infrastructure project*
- *decision notice*
- *infrastructure coordination plan*
- *infrastructure facility*
- *prescribed development*
- *private infrastructure facility*
- *private infrastructure facility application*
- *proponent*
- *registered owner*, first occurrence
- *regulated development*
- *SDA assessable development*
- *SDA self-assessable development*
- *subject land*

(2) Schedule 2—

insert—

access authority means an access authority granted under part 6A, division 2.

affected person, in relation to a development investigation, for part 5, see section 55B.

alternative lawful development, for land, means

development of land that could be carried out under the Planning Act without a development approval.

approved development scheme means a development scheme for a State development area approved by the Governor in Council under part 6, division 1.

Note—

See also section 81B in relation to references to the approved development scheme for a State development area that may be taken to include a reference to the SDA rules.

assessment application, for part 4, division 6D, see section 49I.

associated person, of the holder of an access authority, for part 6A, see section 153L.

authorised officer, for part 7A, see section 157AA.

decision notice—

- (a) for an SDA application, see section 84E(1)(b); or
- (b) about a decision, for part 7A, see section 157AA.

development assessment process, for part 5, see section 55B.

development investigation, for part 5, see section 55B.

enabling works, for a State strategic project, means works that are ancillary to the project or a part of the project, but are necessary to enable the project or the part to be undertaken.

examine, for part 7A, see section 157AA.

excluded development, for part 6, division 1B, subdivision 1, see section 85H(1).

extension application see the Planning Act, schedule 2.

former SDA development, for part 6, division 1B, subdivision 2, see section 85M.

government entity see the *Public Sector Act 2022*, section 276.

holder, of an access authority, for part 6A, see section 153L.

identification documents, for an authorised officer, for part 7A, see section 157AA.

identity card, of an authorised officer, for part 7A, see section 157AD(1).

infrastructure coordination plan, for part 5, see section 55B.

interim planning instrument, for an SDA change, for part 6, division 1B, subdivision 1, see section 85I(1).

investigation notice, for a development investigation, for part 5, see section 55B.

minerals or energy resources, of the State, for part 5, see section 55B.

modification order see section 76RH(3).

modified Act, in relation to a modification order, for part 5A, division 3B, see section 76RG.

occupier, of a place, for part 7A, see section 157AA.

of, a place, for part 7A, see section 157AA.

owner—

- (a) of land, for part 5, division 2, subdivision 2—see section 56C; or
- (b) of land, for part 6A—see section 153L; or

(c) of a thing that has been seized under part 7A, division 1AD, for part 7A—see section 157AA.

person in control, of a thing, for part 7A, see section 157AA.

place, for part 7A, see section 157AA.

Planning Act chief executive, for part 5, see section 55B.

planning application, for part 5, see section 55B.

planning instrument see the Planning Act, section 8.

plan of subdivision means a plan of subdivision under the *Land Act 1994* or the *Land Title Act 1994*.

port authority see the *Transport Infrastructure Act 1994*, schedule 6.

pre-plan period, for a development investigation, for part 5, see section 55B.

prescribed assessment manager, for a development application, see the Planning Act, schedule 2.

proponent, of a project, means—

- (a) the person who proposes the project; or
- (b) while the project is being undertaken—the person undertaking the project; or
- (c) from when the project is completed—the person who owns or is otherwise responsible for the project.

public place, for part 7A, see section 157AA.

public sector entity see the *Public Sector Act 2022*, section 8.

reasonably believes, for part 7A, see section

157AA.

reasonably suspects, for part 7A, see section 157AA.

regional interests development approval see the *Regional Planning Interests Act 2014*, section 16.

regional planning chief executive, for part 4, division 6D, see section 49I.

relevant approved development scheme, for part 6, division 1B, subdivision 2, see section 85M.

relevant planning application, for part 5, see section 55C.

Resource Act, for part 5, see section 55B.

resources project, for part 5, see section 55B.

responsible Minister, for an Act, for part 5A, division 3B, see section 76RG.

SDA assessable development means—

- (a) development that an approved development scheme for a State development area provides is SDA assessable development; or
- (b) development declared for a State development area under section 85D(1) and identified by the Coordinator-General under that section to be SDA assessable development.

SDA change, for part 6, division 1B, subdivision 1, see section 85H(1).

SDA-related development, for a State development area, means development that is—

- (a) declared to be SDA-related development for the area under section 85D(1); or
- (b) identified as SDA-related development for the area in the approved development scheme for the area.

SDA rules see section 81A(4).

SDA self-assessable development means—

- (a) development that an approved development scheme for a State development area provides is SDA self-assessable development; or
- (b) development declared for a State development area under section 85D(1) and identified by the Coordinator-General under that section to be SDA self-assessable development.

State significance notice, for part 5A, see section 76RB(1).

State strategic project see section 76D.

strategic infrastructure easement see section 153A.

strategic port land see the *Transport Infrastructure Act 1994*, section 286(5).

strategic port land area, of a port authority, means the area of the port authority's strategic port land.

- (3) Schedule 2, definition *coordinated project* or *project*, 'or *project*'—

omit.

- (4) Schedule 2, definition *decision maker*, after paragraph (a)—
insert—

(aa) for part 5, see section 55B; or

- (5) Schedule 2, definition *decision maker*, paragraphs (aa) and (b)—

renumber as paragraphs (b) and (c).

- (6) Schedule 2, definition *decision-making period*—
insert—

- (c) for a prescribed decision, for part 5A—see section 76D.
- (7) Schedule 2, definition *development*—
insert—
 - 1A For part 5, the term also includes the following—
 - (i) making a material change of use of premises;
 - (ii) carrying out operational work;
 - (iii) reconfiguring a lot.
- (8) Schedule 2, definition *premises*, ‘part 6’—
omit, insert—
 - parts 6 and 7A
- (9) Schedule 2, definition *registered owner*, second occurrence, ‘for part 6, division 7, subdivisions 2 and 3,’—
omit.
- (10) Schedule 2, definition *relevant local government*—
insert—
 - (c) for a State development area, for part 6, division 1B, subdivision 1, see section 85G.

Part 3 Amendment of State Development and Public Works Organisation Regulation 2020

59 Regulation amended

This part amends the *State Development and Public Works Organisation Regulation 2020*.

60 Amendment of s 29 (Fees)

Section 29(5)—

omit, insert—

- (5) The fees payable under part 6A of the Act are stated in schedule 7.

61 Replacement of schs 6 and 7

Schedules 6 and 7—

omit, insert—

Schedule 6 Fees for part 6, division 7 of the Act

section 29(4)

1 Fees payable

(1) This section states—

- (a) the fee payable under section 144(2)(e) of the Act for an application for the Coordinator-General's endorsement of a State strategic project as a purpose for which land may be taken under section 125 of the Act; and
- (b) the fee payable under section 148(2)(d) of the Act for an application for an amendment of a declaration under section 143 of the Act.

Note—

The Coordinator-General must have regard to the nature of the amendment being sought in deciding whether to waive all or part of the fee payable for an application under section 148 of the Act—see section 148(4) of the Act.

- (2) The fee payable for the application is—
- (a) if the fee becomes payable before 2027—\$165,897; or
 - (b) if the fee becomes payable during 2027—the amount mentioned in paragraph (a), CPI indexed for 2027; or
 - (c) if the fee becomes payable during a later year—the amount mentioned in paragraph (a), CPI indexed for 2027 and each later year.
- (3) However, if the amount provided for under subsection (2)(b) or (c) is an amount that is or includes a fraction of a dollar, the amount is taken to be the amount that is the nearest dollar, rounded up.

2 Publication of amounts

- (1) The Coordinator-General must publish on the department's website the amount of the fee for each of the matters as worked out under section 1.
- (2) A failure to comply with subsection (1) does not limit or otherwise affect the operation of section 1.

Schedule 7 Fees for part 6A of the Act

section 29(5)

1 Fees payable

- (1) The fee payable under section 153M(2)(c) of the Act for an application for an access authority is—

[s 62]

- (a) if the fee becomes payable before 2027—\$45,246; or
 - (b) if the fee becomes payable during 2027—the amount mentioned in paragraph (a), CPI indexed for 2027; or
 - (c) if the fee becomes payable during a later year—the amount mentioned in paragraph (a), CPI indexed for 2027 and each later year.
- (2) However, if the amount provided for under subsection (1)(b) or (c) is an amount that is or includes a fraction of a dollar, the amount is taken to be the amount that is the nearest dollar, rounded up.

2 Publication of amounts

- (1) The Coordinator-General must publish on the department's website the amount of the fee for each of the matters as worked out under section 1.
- (2) A failure to comply with subsection (1) does not limit or otherwise affect the operation of section 1.

Part 4 Other amendments

Division 1 Amendment of Environmental Offsets Regulation 2014

62 Regulation amended

This division amends the *Environmental Offsets Regulation 2014*.

63 Amendment of sch 1 (Activities prescribed for section 9(c) of the Act)

Schedule 1—

insert—

- 10 development carried out under an SDA approval under the *State Development and Public Works Organisation Act 1971*

Division 2 Amendment of other legislation

64 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 64

Local Government Electoral Act 2011

**1 Section 113(4), definition *relevant planning application*,
paragraph (d)(i), ‘prescribed development,’—**

omit.

Planning Act 2016

1 Section 16, note—

omit, insert—

Notes—

- 1 For the application of this section to a planning instrument change under the *Economic Development Act 2012*, see also sections 40L(3), 41(4) and 42K(2) of that Act.
- 2 For the application of this section to an interim planning instrument under the State Development Act that is taken to be a TLPI, see also section 85K(6) of that Act.

2 Section 23—

insert—

Note—

See also the State Development Act, section 85K in relation to an interim planning instrument under that Act that is taken to be a TLPI.

3 Section 36(7)(c)—

omit, insert—

- (c) if the premises are in a State development area or on land on which SDA-related development is carried out—any approved development scheme applying to the premises under the State Development Act; and

4 Section 36—

insert—

- (8) In this section—

SDA-related development see the State Development Act.

State development area see the State Development Act.

5 Section 78(1), note—

omit, insert—

Notes—

- 1 For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, sections 51AM, 51AN and 51AO.
- 2 For the making of a change application for a development approval that was an SDA approval, see also the State Development Act, sections 85ZB, 85ZC and 85ZD.

6 Section 78A(1), note—

omit, insert—

Notes—

- 1 For the responsible entity for a change application for a development approval that was a PDA

development approval, see also the *Economic Development Act 2012*, section 51AN.

- 2 For the responsible entity for a change application for a development approval that was an SDA approval, see also the State Development Act, section 85ZC.

7 Section 84(2), note—

omit, insert—

Notes—

- 1 For the making of a cancellation application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, section 51AP.
- 2 For the making of a cancellation application for a development approval that was an SDA approval, see also the State Development Act, section 85ZE.

8 Section 85(1), note—

omit, insert—

Notes—

- 1 For the lapsing of a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, section 51AK.
- 2 For the lapsing of a development approval that was an SDA approval, see also the State Development Act, section 85Z.

9 Section 86(1), notes—

insert—

- 3 For the making of an extension application for a development approval that was an SDA approval, see also the State Development Act, section 85ZA.

10 Section 87(1), note—

omit, insert—

Notes—

- 1 For the assessment and deciding of an extension application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, section 51AL.
- 2 For the assessment and deciding of an extension application for a development approval that was an SDA approval, see also the State Development Act, section 85ZA.

11 Section 119(2), notes—

insert—

- 3 For the giving of an infrastructure charges notice for a development approval that was an SDA approval, see also the State Development Act, see section 85ZF(1) to (3).

12 Section 139, note after subsection (2)—

omit, insert—

Notes—

- 1 For the making of a conversion application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, section 51AQ(3).
- 2 For the making of a conversion application for a development approval that was an SDA approval, see also the State Development Act, section 85ZF(4).

13 Section 160A(1)(a), note—

omit, insert—

Notes—

- 1 For the enforcement authority for development under a development approval that was a PDA development approval, see the *Economic Development Act 2012*, section 51AI.
- 2 For the enforcement authority for development under a development approval that was an SDA

approval, see the State Development Act, section 85X.

14 Schedule 2, definition *minor change*, note—

omit, insert—

Notes—

- 1 For when a change to a development approval that was a PDA development approval is a minor change, see also the *Economic Development Act 2012*, section 51AM.
- 2 For when a change to a development approval that was an SDA approval is a minor change, see also the State Development Act, section 85ZB.

15 Schedule 2—

insert—

SDA approval means an SDA approval under the State Development Act.

Planning and Environment Court Act 2016

1 Section 11, note after subsection (7)—

omit, insert—

Notes—

- 1 For a proceeding under this section in relation to a development approval that was a PDA development approval under the *Economic Development Act 2012*, see also section 51AJ(3) and (4) of that Act.
- 2 For a proceeding under this section in relation to a development approval that was an SDA approval under the *State Development and Public Works Organisation Act 1971*, see also section 85Y(3) and (4) of that Act.

State Development and Public Works Organisation Act 1971

1 Section 35N(5), ‘apply’—

omit, insert—

applies

2 Section 76O(2)(c), ‘section 76N(c)’—

omit, insert—

section 76N(1)(c)

3 Section 80(2)—

insert—

Note—

See section 85H in relation to varying an approved development scheme for a State development area if the effect of the variation is that development will no longer be regulated under the development scheme.

4 Section 81(1)—

insert—

Note—

See section 85H in relation to abrogating an approved development scheme for a State development area if the effect of the abrogation is that development will no longer be regulated under the development scheme.

5 Section 84C, after penalty—

insert—

Note—

See part 7A, division 1 in relation to enforcement notices for contraventions of a condition of an SDA approval.

6 Part 6, division 8, heading, ‘critical infrastructure’—

omit, insert—

State strategic

7 Sections 153C, 153F(1) and 153G(1), ‘critical’—

omit, insert—

strategic

8 Section 153H, from ‘critical infrastructure easement’—

omit, insert—

**strategic infrastructure easement even if the land
the subject of the easement is no longer the
subject of a State strategic project.**

9 Section 153I(1) and (4), ‘critical’—

omit, insert—

strategic

10 Section 157OA(2), ‘suspects on reasonable grounds’—

omit, insert—

reasonably suspects

**11 Schedule 2, definition *local body*, paragraph (f)(i),
‘paragraph (d)’—**

omit, insert—

paragraph (e)

Sustainable Ports Development Act 2015

1 Section 19(4)(b), ‘regulated development’—

omit, insert—

SDA assessable development or SDA
self-assessable development

Transport Infrastructure Act 1994

1 Section 49(1)(b)(i), ‘significant project’—

omit, insert—

coordinated project

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