



Economic Development Act 2012

Current as at [Not applicable]

Indicative reprint note

This is an *unofficial* version of a reprint of this Act that incorporates all proposed amendments to the Act included in the Economic Development and Other Legislation Amendment Bill 2018. This indicative reprint has been prepared for information only—*it is not an authorised reprint of the Act*.

Amendments to this Act are also included in the Plumbing and Drainage Bill 2018. These proposed amendments are not included in this indicative reprint.

The point-in-time date for this indicative reprint is the introduction date for the Economic Development and Other Legislation Amendment Bill 2018—19 September 2018.

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Queensland

Economic Development Act 2012

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Economic Development Act 2012

An Act about economic development and development for community purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Economic Development Act 2012*.

2 Commencement

This Act, other than the following provisions, commences on a day to be fixed by proclamation—

- (a) chapter 8, parts 1 to 4;
- (b) the following provisions of chapter 8, part 6—
 - (i) sections 284, 285, 293, 295 to 299, 302, 306, 307, 311, 315, 316 and 318;
 - (ii) section 319, to the extent it inserts section 192;
- (c) chapter 8, parts 7 and 8;
- (d) the following provisions of schedule 2—
 - (i) amendment of the *Disaster Management Act 2003*;

[s 3]

- (ii) amendment of the *Environmental Protection Act 1994*;
- (iii) amendment of the *State Development and Public Works Organisation Act 1971*, amendments 1 to 8, 14 to 18 and 24 to 30.

3 Main purpose of Act

The main purpose of this Act is to facilitate economic development, and development for community purposes, in the State.

4 How main purpose is primarily achieved

The main purpose of this Act is achieved primarily by—

- (a) establishing MEDQ to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in the State; and
- (b) providing for a streamlined planning and development framework for particular parts of the State (declared as priority development areas under this Act) to facilitate economic development, and development for community purposes, in or for the parts.

5 Act binds all persons

- (1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

Part 2 Interpretation

6 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

7 Application of provisions

- (1) This section applies if a provision of this Act applies to any of the following (the *applied law*) for a purpose—
 - (a) another provision of this Act;
 - (b) another law;
 - (c) a provision of another law.
- (2) The applied law and any definition relevant to it apply with necessary changes.
- (3) Subsection (2) is not limited merely because a provision states how the applied law is to apply.

Chapter 2 Minister for Economic Development Queensland

Part 1 Establishment

8 Establishment of Minister for Economic Development Queensland

- (1) A corporation sole constituted by the Minister is established under the name Minister for Economic Development Queensland (*MEDQ*).
- (2) The corporation as established under that name—

[s 9]

- (a) has perpetual succession and a seal; and
- (b) may sue and be sued in its corporate name.

9 MEDQ represents the State

- (1) MEDQ represents the State.
- (2) Without limiting subsection (1), MEDQ has all the State's privileges and powers.

10 Legal capacity

- (1) MEDQ has all the powers of an individual and may, for example—
 - (a) enter into contracts, infrastructure agreements and other agreements; and
 - (b) deal in land or other property; and
 - (c) appoint agents and attorneys; and
 - (d) engage consultants; and
 - (e) establish funds and accounts with any financial institution in Australia; and
 - (f) fix charges, and other terms, for the performance of a function, or exercise of a power, under this Act; and
 - (g) do anything necessary or convenient to be done in the performance of its functions, or exercise of its powers, under this or another Act.
- (2) MEDQ also has the powers conferred on it by this or another Act.
- (3) In performing its functions, MEDQ may act alone or in conjunction with public sector units, local governments, agencies or instrumentalities of the Commonwealth and other persons.

11 Application of other Acts

- (1) MEDQ is a part of the department for the purposes of the *Financial Accountability Act 2009*.
- (2) MEDQ is—
 - (a) a unit of public administration; and
 - (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (3) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which MEDQ's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

12 MEDQ declared to be excluded matter

MEDQ is declared to be an excluded matter for the Corporations Act, section 5F, in relation to all of the Corporations legislation.

Part 2 Functions

13 MEDQ's functions

- (1) MEDQ's main function is to give effect to the main purpose of this Act.
- (2) MEDQ's other functions, for facilitating economic development and development for community purposes, include—
 - (a) dealing in land or other property; and
 - (b) coordinating the provision of, or providing, infrastructure and other services; and
 - (c) planning for, and developing and managing land in or for, priority development areas; and
 - (d) deciding PDA development applications under this Act.

[s 14]

- (3) In planning for, or developing land in, priority development areas, MEDQ must consult with each relevant local government.

Note—

See also section 58 in relation to MEDQ consulting with relevant local governments when preparing a development scheme for a priority development area.

Part 3 **Matters about dealing in land or other property, or the provision of infrastructure**

Division 1 **General**

14 **Purpose of pt 3**

- (1) This part provides for particular powers and other matters for achieving MEDQ's functions mentioned in section 13(2)(a) and (b).
- (2) This part does not limit MEDQ's powers under this or another Act.

15 **MEDQ to act commercially**

MEDQ must, to the extent practicable, carry out its functions mentioned in section 13(2)(a) and (b) on a commercial basis.

Division 2 **Dealing in land or other property**

16 **What power to deal in land or other property includes**

- (1) For this Act, MEDQ's power to deal in land or other property includes a power to deal in—
- (a) land or other property; or

- (b) an interest in land or other property.
- (2) Also, for this Act, MEDQ's power to deal in land includes a power to deal in land and improvements on land.

17 Dealing in land or other property generally

Without limiting section 13(2)(a), MEDQ may—

- (a) acquire land or other property for proposed development; or
- (b) develop land, including by providing or contributing to the provision of infrastructure on the land, to facilitate the use of the land for economic development or development for community purposes; or
- (c) dispose of, lease, license the use or occupation of, or sublease land or other property held by MEDQ to another entity for development by the entity.

18 Selling surplus property

- (1) This section applies if MEDQ holds land or other property (*surplus property*) that it does not require, or no longer requires, for carrying out its functions under this Act.
- (2) MEDQ may sell the surplus property at its market value—
 - (a) by public tender or auction; or
 - (b) by private treaty; or
 - (c) to a Commonwealth or State entity, or a local government, in priority to all other entities; or
 - (d) in any other way prescribed under a regulation.
- (3) In this section—

Commonwealth or State entity means—

 - (a) a department of the Government of the Commonwealth or the State; or

[s 19]

- (b) a statutory body constituted under an Act of the Commonwealth or the State.

19 Conditional disposal of land or other property

- (1) MEDQ may impose a condition or restriction on the disposal of land or other property to an entity (a *transferee*) by MEDQ.
- (2) Without limiting subsection (1), MEDQ and a transferee may agree that the transferee—
 - (a) must make stated improvements to the land or property; or
 - (b) must undertake a stated activity, within a stated period, in relation to the land or property; or
 - (c) is subject to stated restrictions on the transfer of or dealing with the land or property.
- (3) An agreement under subsection (2) may provide for remedies against, and the power to impose sanctions on, the transferee relating to the agreement.

19A Exemption from particular disclosure requirements under Body Corporate and Community Management Act 1997

- (1) *This section applies if—*
 - (a) *MEDQ enters into a contract (the **initial contract**) with another entity in relation to the development of land owned by MEDQ; and*
 - (b) *under the initial contract—*
 - (i) *the land is proposed to become scheme land under the Body Corporate and Community Management Act 1997 on the establishment of a community titles scheme under that Act (the **proposed scheme**); and*
 - (ii) *the other entity is to carry out development of the land or part of the land; and*

- (c) *the initial contract provides for MEDQ and the other entity to enter into a further contract for the sale by MEDQ to the entity of lots or proposed lots included in the proposed scheme if, by a date provided for under the initial contract, MEDQ has not sold the lots or proposed lots to another entity.*
- (2) *A reference in subsection (1)(c) to a further contract includes a reference to a contract required under a provision of the initial contract granting MEDQ an option to sell the lots or proposed lots to the other entity.*
- (3) *The Body Corporate and Community Management Act 1997, sections 212B and 213 do not apply in relation to the initial contract.*
- (4) *In this section—*
development see section 33(2).
lot see the *Body Corporate and Community Management Act 1997, schedule 6.*
proposed lot see the *Body Corporate and Community Management Act 1997, section 211A.*

Division 3 Provision of infrastructure

20 Construction of roads

- (1) MEDQ may construct a road for achieving its functions mentioned in section 13(2)(a) and (b).
- (2) The Governor in Council may, by gazette notice, fix a day (the **fixed day**) on and after which the *Local Government Act 2009* or the *City of Brisbane Act 2010* (the **relevant Act**) applies to the road.
- (3) Until the fixed day—
- (a) the relevant Act does not apply to the road; and
 - (b) MEDQ incurs a duty, obligation, liability or responsibility in relation to an act done or omission

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made in relation to the road if, and to the extent, a local government would incur the duty, obligation, liability or responsibility if the act had been done or omission had been made by the local government.

- (4) On and after the fixed day—
 - (a) the relevant Act applies to the road as if the road had been constructed by the local government for the area in which the road is located; and
 - (b) MEDQ does not have any duty, obligation, liability or responsibility in relation to the road.

Division 4 Financial arrangements

21 Entering into financial arrangements

- (1) MEDQ may—
 - (a) lend money, or enter into other financial arrangements, as part of a dealing in land or other property, including, for example, by providing finance to a purchaser; and
 - (b) enter into instalment contracts or other deferred payment arrangements as a creditor.

Example—

MEDQ might construct a research facility for an entity and recover the costs of its construction by a lease of the facility to the entity.

- (2) MEDQ may exercise a power under subsection (1) only if MEDQ has considered a matter prescribed under a regulation about the exercise of the power.
- (3) MEDQ may take any form of security or charge over land or other property if MEDQ considers it appropriate for doing a thing under subsection (1).

22 Holding land or other property obtained as security

- (1) This section applies if MEDQ acquires or otherwise becomes entitled to land or other property as security for, or in satisfaction, liquidation or discharge of, a debt owing to MEDQ.
- (2) MEDQ may hold the land or property until it can be advantageously disposed of.

Division 5 Other functions and powers

23 Arrangements for facilitating economic development or development for community purposes

- (1) To help a person establish and carry on, or expand, an economic or community undertaking, MEDQ may enter into arrangements to facilitate the grant of an appropriate lease under the *Land Act 1994* to the person for the undertaking.
- (2) In this section—

economic or community undertaking means an undertaking that facilitates or supports economic development or development for community purposes.

24 Research

MEDQ may contribute to, or undertake, research about land or other property or infrastructure to give effect to the main purpose of this Act, including, for example, research directed at identifying—

- (a) recent market trends that may affect economic development, or development for community purposes, in the State; or
- (b) opportunities for economic development, or development for community purposes, in the State; or
- (c) community needs and expectations.

Part 4 Economic Development Fund

25 Economic Development Fund

- (1) The Estates Construction Fund under the repealed ID Act is continued in existence under this Act and renamed as the Economic Development Fund (the *Fund*).
- (2) The Fund does not form part of the consolidated fund.

26 Payments of amounts into the Fund

- (1) The following amounts are payable into the Fund—
 - (a) amounts received by MEDQ for a dealing in land or other property under this Act;
 - (b) amounts received by MEDQ for a borrowing under the *Statutory Bodies Financial Arrangements Act 1982*, part 5;
 - (c) amounts received by MEDQ for an investment under the *Statutory Bodies Financial Arrangements Act 1982*, part 6;
 - (d) fees received by MEDQ for applications under chapter 3;
 - (e) special rates and charges received by MEDQ;
 - (f) infrastructure expenses recoupment charges received by MEDQ;
 - (g) any other amounts received by MEDQ in carrying out its functions or exercising its powers under this Act, including, for example, interest received in relation to—
 - (i) a fund or bank account kept under this Act; or
 - (ii) a financial arrangement under section 21;
 - (h) any amount appropriated by Parliament for the purposes of the Fund;

- (i) any amount paid into the Fund at the direction of or with the approval of the Minister and the Treasurer.
- (2) Subsection (3) applies if—
 - (a) MEDQ delegates a function or power under section 169; and
 - (b) for performing the function or exercising the power, the delegate receives an amount that, other than for subsection (3), would be payable into the Fund under subsection (1)(d), (e), (f) or (g); and
 - (c) the delegation provides that the delegate may retain all or part of the received amount.
- (3) Despite subsection (1), the amount that, under the delegation, may be retained is not payable into the Fund.

27 Payment of amounts from the Fund

A payment of an amount from the Fund may be made for any of the following purposes—

- (a) paying expenses incurred by MEDQ for—
 - (i) a dealing in land or other property under this Act; or
 - (ii) the provision of infrastructure or other services under this Act; or
 - (iii) the administration or enforcement of this Act; or
 - (iv) performing another function, or exercising another power, under this Act;
- (b) paying fees or expenses related to administering the Fund or a fund or bank account kept under this Act;
- (c) transferring an amount to a local government under section 127(1)(b);
- (d) paying an amount the Minister and the Treasurer direct MEDQ, in writing, to pay into the consolidated fund.

28 Administration of the Fund

- (1) The Fund is to be administered by MEDQ.
- (2) Accounts for the Fund must be kept as part of the departmental accounts of the department.
- (3) However, amounts received for the Fund must be deposited in a departmental financial institution account of the department used only for amounts received for the Fund.
- (4) In this section—

departmental accounts, of a department, means the accounts of the department kept under the *Financial Accountability Act 2009*, section 69.

departmental financial institution account, of a department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

Part 5 Staffing arrangements and identity cards

29 Staffing arrangements

- (1) MEDQ may arrange with the chief executive for the services of officers or employees of the department to be made available to MEDQ.
- (2) An officer or employee whose services are made available under subsection (1)—
 - (a) continues to be an officer or employee of the department; and
 - (b) continues to be employed or otherwise engaged by the department on the same terms and conditions applying to the officer or employee before his or her services were made available; and
 - (c) is, for the period the services are made available and for the carrying out of MEDQ's functions, taken to be a member of the staff of MEDQ.

30 Issue of identity card for particular employees and agents

- (1) MEDQ must issue an identity card to each individual whom MEDQ authorises to enter premises under section 123.

Note—

Section 123 provides for the application of local government entry powers for MEDQ's functions and powers.

- (2) The identity card must—
- (a) contain a recent photo of the individual; and
 - (b) contain a copy of the individual's signature; and
 - (c) identify the individual as an individual who is authorised by MEDQ; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

Note—

See also section 122B in relation to the issuing, production and return of identity cards under the Planning Act, chapter 5, part 6 as applied under that section.

31 Production or display of identity card

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

32 ***Return of identity card***

If an individual ceases to be authorised as mentioned in section 30, the individual must return the individual's identity card to MEDQ within 21 days after ceasing to be so authorised unless the individual has a reasonable excuse.

Maximum penalty—20 penalty units.

Chapter 3 Planning and development

Part 1 Preliminary

33 ***Development and categories of development***

- (1) This section defines particular terms for this chapter.
- (2) ***Development*** is any of the following—
 - (a) carrying out building work;
 - (b) carrying out plumbing work or drainage work;
 - (c) carrying out operational work;
 - (d) reconfiguring a lot;
 - (e) making a material change of use of premises.
- (3) ***PDA assessable development*** is—
 - (a) *development that a regulation provides is PDA assessable development; or*
 - (b) development that a relevant development instrument for a priority development area provides is PDA assessable development, including PDA-associated development identified in the instrument; or
 - (c) PDA-associated development declared for a priority development area under section 40C(1) and identified

by MEDQ under that section to be PDA assessable development.

- (4) ***PDA accepted development*** is—
- (a) *development that a regulation provides is PDA accepted development; or*
 - (b) *development that a relevant development instrument for a priority development area provides is PDA accepted development, including PDA-associated development identified in the instrument; or*
 - (c) *PDA-associated development declared for a priority development area by MEDQ under section 40C(1) and identified by MEDQ under that section to be PDA accepted development; or*
 - (d) *development in a priority development area, or PDA-associated development for a priority development area, other than—*
 - (i) *development or PDA-associated development mentioned in paragraph (a), (b) or (c); or*
 - (ii) *PDA assessable development.*
- (5) *If there is an inconsistency between the categorisation of development under a regulation and a relevant development instrument for a priority development area, the regulation prevails to the extent of the inconsistency.*

Part 2 **Priority development areas**

Division 1 ***Declaration of provisional priority development areas, draft provisional land use plans and provisional land use plans***

Subdivision 1 ***Making of declaration regulations, draft provisional land use plans and provisional land use plans***

34 **Declaration**

- (1) A regulation (a ***declaration regulation***) may declare a part of the State to be a provisional priority development area.
- (2) In making a declaration under subsection (1), regard must be had to—
 - (a) the main purpose of this Act; and
 - (b) without limiting paragraph (a)—
 - (i) any proposed development for land in the area; and
 - (ii) the economic and community benefit to the State that may be gained by the proposed development; and
 - (iii) *the impact the Planning Act may have on the delivery of the proposed development if the declaration regulation were not made.*

35 ***Draft provisional land use plan required***

- (1) *This section applies if the Minister proposes to recommend to the Governor in Council the making of a declaration regulation.*

- (2) *MEDQ must make a draft provisional land use plan regulating development in the area proposed to be declared as a provisional priority development area (the **proposed area**).*
- (3) *The draft provisional land use plan may provide for any matter mentioned in section 57(2), (3) or (5).*
- (4) *The recommendation for the declaration regulation may be made only if MEDQ has made a draft provisional land use plan under subsection (2) for the proposed area.*

36 When draft provisional land use plan has effect

The draft provisional land use plan—

- (a) *takes effect on the commencement of the declaration regulation; and*
- (b) *has effect until a provisional land use plan takes effect under section 36F for the provisional priority development area.*

36A Notice of draft provisional land use plan

As soon as practicable after the draft provisional land use plan takes effect, MEDQ must—

- (a) *publish the draft provisional land use plan on the department's website; and*
- (b) *publish a gazette notice stating that the draft provisional land use plan has taken effect and is published on the department's website; and*
- (c) *publish, at least once in a newspaper circulating in the area of the relevant local government, a notice—*
 - (i) *stating that the draft provisional land use plan has taken effect and is published on the department's website; and*
 - (ii) *inviting persons to make submissions, within a stated period of at least 15 business days (the*

submission period), about the draft provisional land use plan.

36B Submissions on draft provisional land use plan

Any person may, within the submission period, make a submission about the draft provisional land use plan.

36C Consideration of submissions and consultation

- (1) *MEDQ must consider any submissions about the draft provisional land use plan received within the submission period.*
- (2) *Subsection (1) does not prevent MEDQ considering a submission made to it after the submission period has ended.*
- (3) *Also, MEDQ must—*
 - (a) *consult on the draft provisional land use plan, in the way it considers appropriate, with the relevant local government; and*
 - (b) *make reasonable endeavours to consult on the draft provisional land use plan, in the way it considers appropriate, with any government entity, GOC or other entity MEDQ considers will be likely to be affected by the draft provisional land use plan.*

36D Amendment of draft provisional land use plan

After complying with section 36C, MEDQ may amend the draft provisional land use plan in any way it considers appropriate.

36E Making of provisional land use plan

- (1) *After complying with section 36C, but not later than 60 business days after the draft provisional land use plan takes effect, MEDQ must make a provisional land use plan*

regulating development in the provisional priority development area.

- (2) *The provisional land use plan may provide for any matter mentioned in section 57(2), (3) or (5).*
- (3) *Also, within the period mentioned in subsection (1), MEDQ must—*
 - (a) *prepare a report that—*
 - (i) *summarises the submissions considered by MEDQ; and*
 - (ii) *contains information about the merits of the submissions and the extent to which the draft provisional land use plan was amended to reflect the submissions; and*
 - (iii) *contains details about any other changes made to the draft provisional land use plan; and*
 - (b) *publish on the department’s website—*
 - (i) *the provisional land use plan; and*
 - (ii) *the report prepared under paragraph (a); and*
 - (c) *publish a gazette notice stating that the provisional land use plan is published on the department’s website.*

36F When provisional land use plan takes effect

The provisional land use plan takes effect at the beginning of the day the gazette notice under section 36E(3)(c) is published.

36G MEDQ must give notice of provisional land use plan

As soon as practicable after the provisional land use plan takes effect, MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that the provisional land use plan—

- (a) *has taken effect; and*
- (b) *is published on the department's website.*

Subdivision 2 Amending provisional land use plans

36H Minor administrative amendments

- (1) *MEDQ may make a minor administrative amendment of a provisional land use plan.*
- (2) *If MEDQ makes a minor administrative amendment of a provisional land use plan, MEDQ must—*
 - (a) *publish on the department's website—*
 - (i) *the minor administrative amendment; and*
 - (ii) *the provisional land use plan as amended by the minor administrative amendment (the **amended provisional land use plan**); and*
 - (b) *publish a gazette notice stating that the minor administrative amendment and the amended provisional land use plan are published on the department's website.*
- (3) *The minor administrative amendment takes effect at the beginning of the day the gazette notice under subsection (2)(b) is published.*
- (4) *As soon as practicable after the minor administrative amendment takes effect, MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that—*
 - (a) *the minor administrative amendment has taken effect; and*
 - (b) *the minor administrative amendment and the amended provisional land use plan are published on the department's website.*

36I Other amendments

- (1) *This section applies if MEDQ proposes to make an amendment, other than a minor administrative amendment, of a provisional land use plan.*
- (2) *MEDQ must—*
 - (a) *publish the proposed amendment on the department’s website; and*
 - (b) *publish, at least once in a newspaper circulating in the area of the relevant local government, a notice—*
 - (i) *stating that the proposed amendment is published on the department’s website; and*
 - (ii) *inviting persons to make submissions, within a stated period of at least 15 business days (the **submission period**), about the proposed amendment.*
- (3) *Sections 36B to 36F apply in relation to the proposed amendment of the provisional land use plan as if—*
 - (a) *a reference in the sections to the draft provisional land use plan were a reference to the proposed amendment of the provisional land use plan; and*
 - (b) *a reference in the sections to the submission period were a reference to the submission period under subsection (2)(b)(ii); and*
 - (c) *the reference in section 36E(1) to the draft provisional land use plan taking effect were a reference to the notice under subsection (2)(b) being published; and*
 - (d) *a reference in section 36E(1) or (2) or 36F to the provisional land use plan were a reference to the amendment of the provisional land use plan; and*
 - (e) *a reference in section 36E(3)(b)(i) or (c) to the provisional land use plan were a reference to the amendment of the provisional land use plan and the provisional land use plan as amended by the amendment (the **amended provisional land use plan**).*

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- (4) *As soon as practicable after the amendment of the provisional land use plan takes effect, MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that—*
- (a) *the amendment has taken effect; and*
 - (b) *the amendment and the amended provisional land use plan are published on the department's website.*

Division 2 Declaration of other priority development areas and interim land use plans

37 Declaration

- (1) A regulation (a ***declaration regulation***) may declare a part of the State to be a priority development area.
- (2) *In making a declaration regulation under subsection (1), regard must be had to—*
- (a) the main purpose of this Act; and
 - (b) without limiting paragraph (a)—
 - (i) any proposed development for land in the area; and
 - (ii) the economic and community benefit to the State that may be gained by the proposed development; and
 - (iii) *the impact the Planning Act may have on the delivery of the proposed development if the declaration regulation were not made.*
- (3) *The declaration regulation may state an expiry date, recommended by MEDQ, for—*
- (a) *the interim land use plan made under section 38(2) for the priority development area; or*

- (b) *if more than 1 interim land use plan has been made under section 38(3) for the priority development area—
1 or more of the plans.*
 - (4) *The expiry date must be a date that is more than 12 months, but not more than 24 months, after the declaration regulation commences.*
 - (5) *However, MEDQ may recommend an expiry date for subsection (3) only if it considers the expiry date appropriate for the proper and orderly planning, development and management of the priority development area.*
- Note—*
- See generally section 40AB in relation to the expiry of an interim land use plan.*
- (6) *To remove any doubt, it is declared that the declaration regulation may state different expiry dates for the interim land use plans mentioned in subsection (3)(b).*

38 Interim land use plan required

- (1) *This section applies if the Minister proposes to recommend to the Governor in Council the making of a declaration regulation.*
- (2) *MEDQ must make an interim land use plan regulating development in the entire area proposed to be declared under the declaration regulation as a priority development area (the **proposed area**).*
- (3) *However, MEDQ may make more than 1 interim land use plan regulating development in the proposed area if—*
 - (a) *each plan regulates development in a separate part of the proposed area, but the plans together regulate development in the entire proposed area; and*
 - (b) *MEDQ considers the plans will, in an integrated way, promote the proper and orderly planning, development and management of the proposed area.*

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- (4) *An interim land use plan made under subsection (2) or (3) may provide for any matter mentioned in section 57(2), (3) or (5).*
- (5) *The recommendation for the declaration regulation may be made only if MEDQ has made 1 or more interim land use plans under subsection (2) or (3) regulating development in the entire proposed area.*

39 When interim land use plan takes effect

An interim land use plan made under section 38(2) or (3) takes effect on the commencement of the declaration regulation.

40 Notice of interim land use plan

As soon as practicable after an interim land use plan takes effect, MEDQ must—

- (a) *publish the plan on the department's website; and*
- (b) *publish a gazette notice stating that the plan has taken effect and is published on the department's website; and*
- (c) *publish, at least once in a newspaper circulating in the area of the relevant local government, a notice to the same effect as the gazette notice.*

40AA Period for which interim land use plan has effect

An interim land use plan for a priority development area has effect until the earliest of the following—

- (a) *if the plan regulates development in the entire priority development area—*
 - (i) *a development scheme takes effect under section 64 for the entire area; or*
 - (ii) *a new interim land use plan is made under section 40AC for the entire area;*

-
- (b) *if the plan regulates development in part of the priority development area—*
 - (i) *a development scheme takes effect under section 64 for that part of the area, whether or not the scheme also takes effect for any other parts of the area; or*
 - (ii) *a new interim land use plan is made under section 40AC for that part of the area;*
 - (c) *the plan expires under section 40AB.*

40AB Expiry of interim land use plan

- (1) *An interim land use plan for a priority development area expires 12 months after the plan takes effect.*
- (2) *However, if the declaration regulation for the priority development area stated an expiry date for the interim land use plan under section 37(3), the plan expires on the stated expiry date.*
- (3) *Also, if a caretaker period begins at any time before an interim land use plan would otherwise expire under subsection (1) or (2), the period before the plan expires is extended by a further period equal to the length of the caretaker period plus 20 business days.*
- (4) *For working out the length of a caretaker period for subsection (3), the day the caretaker period ends is taken to be a whole day.*

40AC Making new interim land use plan

- (1) *MEDQ may, before an interim land use plan for a priority development area (the **current plan**) expires, make a new interim land use plan for the priority development area (the **new plan**).*
- (2) *The new plan—*
 - (a) *may provide for any matter mentioned in section 57(2), (3) or (5); and*

- (b) *must regulate development in—*

 - (i) *if the current plan regulates development in the entire priority development area—the entire priority development area; or*
 - (ii) *otherwise—the part of the priority development area in which development is regulated by the current plan.*
- (3) *If the new plan is to take effect before the current plan expires, MEDQ must—*

 - (a) *publish the new plan on the department’s website; and*
 - (b) *publish a gazette notice stating that the new plan is published on the department’s website.*
- (4) *The new plan mentioned in the gazette notice published under subsection (3)(b) takes effect at the beginning of the day the gazette notice is published.*
- (5) *If the new plan is to take effect on the expiry of the current plan, MEDQ must—*

 - (a) *before the current plan expires, publish a gazette notice stating that a new plan has been made and will take effect on the expiry of the current plan; and*
 - (b) *as soon as practicable after the current plan expires, publish the new plan on the department’s website.*
- (6) *The new plan mentioned in the gazette notice published under subsection (5)(a) takes effect on the day after the day the current plan expires.*
- (7) *As soon as practicable after a new plan takes effect under subsection (4) or (6), MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that the new plan—*

 - (a) *has taken effect; and*
 - (b) *is published on the department’s website.*
- (8) *Sections 40AA and 40AB(1), (3) and (4) apply to the new plan.*

Division 2A **Declaration of PDA-associated
development by MEDQ**

40A **Application of division**

This division applies to development—

- (a) to be carried out other than entirely within a priority development area; and

Example of development for paragraph (a)—

A bridge is proposed to be constructed, extending from a landing point within the priority development area to a landing point outside the area. This division applies to development to be carried out for the part of the bridge that extends from the boundary of the priority development area to the landing point outside the area.

- (b) that is not identified as PDA-associated development in the relevant development instrument for the area.

Note—

A relevant development instrument may identify and regulate development as PDA-associated development—see, for example, section 57(3) and (5).

40B **Consultation required before declaring PDA-associated
development**

Before making a declaration under section 40C(1), MEDQ must—

- (a) consult, in the way it considers appropriate, with each local government in whose area the development is proposed to be located; and
- (b) make reasonable endeavours to consult, in the way MEDQ considers appropriate, with any government entity, GOC or other entity it considers will be likely to be affected by the declaration.

40C Declaration of PDA-associated development

- (1) MEDQ may, by instrument (a *declaration*), declare development to which this division applies (the *proposed development*) to be PDA-associated development for a priority development area.
- (2) A declaration may be made only if MEDQ is satisfied—
 - (a) *the Planning Act 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 development infrastructure for the priority development area to address the impacts of any development within the area, whether or not the development infrastructure also has another function or purpose;
 - (ii) the proposed development—
 - (A) promotes the proper and orderly planning, development and management of the priority development area in accordance with the relevant development instrument for the area; and
 - (B) has an economic or community benefit for the State or region in which the priority development area is located; and
 - (C) cannot reasonably be located or accommodated entirely within the priority development area;
 - (iii) the proposed development satisfies another requirement prescribed by regulation.
- (3) A declaration must not compromise the implementation of the relevant development instrument for the priority development area.
- (4) *In making a declaration, MEDQ must decide whether the PDA-associated development is—*

- (a) *PDA assessable development; or*
- (b) *PDA accepted development.*

Note—

If the PDA-associated development is PDA assessable development, see section 84 for the requirements about public notification of a PDA development application.

- (5) In this section—
development infrastructure see the Planning Act, schedule 2.

40D Content of declaration

A declaration under section 40C(1) must include the following information—

- (a) the priority 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, including plans and supporting documentation;
- (d) any other information prescribed by regulation.

40E Notice of declaration

As soon as practicable after declaring development to be PDA-associated development under section 40C(1), MEDQ 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 area the development is to be located; and
 - (ii) the owner of the land on which the development is proposed to be located; and
 - (iii) each government entity or GOC consulted under section 40B before the making of the declaration.

Division 2B **Minor boundary changes of priority development areas**

40F **Regulation may make particular boundary changes**

(1) A regulation (a **boundary change regulation**) may amend a declaration regulation made under section 34 or 37 to make either of the following changes (each a **minor boundary change**) to the priority development area declared under the declaration regulation—

- (a) to include additional land in the priority development area;
- (b) to include additional land in the priority development area and exclude other land from the priority development area.

Note—

See chapter 3, part 2, division 3, subdivision 2 in relation to other changes to priority development areas.

(2) A boundary change regulation may be made only if—

- (a) the minor boundary change is to correct an error in the boundary of the priority development area; or

Example—

including land so the boundary of the priority development area aligns with the intended cadastral boundary of the area

- (b) MEDQ is satisfied the minor boundary change promotes the proper and orderly planning, development and management of the additional land to be included in, or the land to be excluded from, the priority development area.

Examples—

- *including additional land in a priority development area so part of the boundary of the area aligns with a road constructed after the area was declared*
- *including additional land in a priority development area so part of the boundary of the area aligns with the boundary of land that was reclaimed after the area was declared*

40G Recommendation for boundary change regulation

- (1) *This section applies if the Minister proposes to recommend to the Governor in Council the making of a boundary change regulation in relation to a priority development area.*
- (2) *The recommendation for the making of the boundary change regulation may be made only if—*
 - (a) *for the additional land proposed to be included in the priority development area (the **additional land**), MEDQ has—*
 - (i) *proposed an instrument amending the relevant development instrument for the priority development area to apply the relevant development instrument to the additional land (the **PDA instrument change**); and*
 - (ii) *consulted on the proposed instrument under section 40H(1); and*
 - (iii) *made the instrument under section 40H(2); and*
 - (b) *for any land proposed to be excluded from the priority development area (the **excluded land**), an instrument amending the relevant local government's planning instruments to provide for the excluded land (the **planning instrument change**) has been—*
 - (i) *prepared under section 40I; and*
 - (ii) *consulted on under section 40J; and*
 - (iii) *made or approved under section 40K.*
- (3) *However, subsection (2)(b) does not apply if MEDQ decides a planning instrument change is not required to provide for the excluded land.*
- (4) *MEDQ may make a decision under subsection (3) only if it is satisfied that, without amendment, the relevant local government's planning instruments adequately provide for the excluded land.*

40H Consultation about proposed PDA instrument change and making of PDA instrument change

- (1) *Before preparing the proposed instrument for the PDA instrument change, MEDQ must—*
 - (a) *consult, in the way it considers appropriate, with the relevant local government; and*
 - (b) *make reasonable endeavours to consult, in the way it considers appropriate, with any government entity, GOC or other entity MEDQ considers will be likely to be affected by the proposed PDA instrument change.*
- (2) *After complying with subsection (1), MEDQ must decide—*
 - (a) *to make the instrument for the PDA instrument change; or*
 - (b) *not to make the instrument for the PDA instrument change.*
- (3) *In making the decision under subsection (2), MEDQ must consider the main purpose of this Act.*

40I Preparation of proposed instrument for planning instrument change

- (1) *If section 40G(2)(b) applies for any excluded land, MEDQ may—*
 - (a) *prepare the proposed instrument for the planning instrument change; or*
 - (b) *ask the relevant local government to prepare the proposed instrument for the planning instrument change.*
- (2) *The entity that prepares the proposed instrument for the planning instrument change is the **proposer** of the planning instrument change.*

40J Consultation about proposed instrument for planning instrument change

Before preparing the proposed instrument for the planning instrument change, the proposer must—

- (a) *either—*
 - (i) *if MEDQ is the proposer—consult, in the way it considers appropriate, with the relevant local government; or*
 - (ii) *if the relevant local government is the proposer—consult with MEDQ; and*
- (b) *make reasonable endeavours to consult, in the way the proposer considers appropriate, with any government entity, GOC or other entity the proposer considers will be likely to be affected by the proposed planning instrument change.*

40K Making or approving planning instrument change

- (1) *This section applies if—*
 - (a) *section 40G(2)(b) applies for any excluded land; and*
 - (b) *the proposed instrument for the planning instrument change has been prepared under section 40I and consulted on under section 40J.*
- (2) *If the relevant local government is the proposer of the planning instrument change, it must give MEDQ the proposed instrument for its approval.*
- (3) *MEDQ must decide to—*
 - (a) *approve the proposed instrument for the planning instrument change; or*
 - (b) *approve the proposed instrument subject to conditions decided by MEDQ; or*
 - (c) *refuse to approve the proposed instrument.*
- (4) *In making the decision under subsection (3), MEDQ must consider the main purpose of this Act.*

[s 40L]

- (5) *If MEDQ decides to approve the proposed instrument for the planning instrument change, it must, by notice given to the relevant local government—*
 - (a) *for a proposed instrument prepared by MEDQ—make the instrument for the planning instrument change in compliance with any conditions decided under subsection (3)(b); or*
 - (b) *for a proposed instrument prepared by the relevant local government—approve the instrument for the planning instrument change subject to any conditions decided under subsection (3)(b).*
- (6) *If MEDQ, under subsection (3)(b), approves a proposed instrument for a planning instrument change prepared by the relevant local government, the local government must amend the instrument to comply with the conditions.*

40L When instruments take effect

- (1) *A PDA instrument change made under section 40H(2) and a planning instrument change made or approved under section 40K take effect on the commencement of the boundary change regulation making the minor boundary changes for which the instruments provide.*
- (2) *On giving a notice under section 40K(5), the planning instrument change is, for the Planning Act, taken to have been made by the relevant local government.*
- (3) *However—*
 - (a) *the planning instrument change—*
 - (i) *does not create a superseded planning scheme under the Planning Act; and*
 - (ii) *is not an adverse planning change under that Act; and*
 - (b) *the Planning Act, section 16(2) and (3) does not apply in relation to the planning instrument change.*

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- (4) *The Planning Act, sections 18, 20, 22 and 23 do not apply for making the planning instrument change.*

40M Notice of instruments for minor boundary change

- (1) *As soon as practicable after the boundary change regulation commences, MEDQ must—*
- (a) *publish on the department’s website—*
 - (i) *the PDA instrument change made under section 40H(2); and*
 - (ii) *if section 40G(2)(b) applied for any excluded land—the planning instrument change made or approved under section 40K; and*
 - (b) *publish a gazette notice stating that the instruments mentioned in paragraph (a)(i) and (ii) have taken effect and are published on the department’s website; and*
 - (c) *publish, at least once in a newspaper circulating in the area of the relevant local government, a notice to the same effect as the gazette notice.*
- (2) *Also, if section 40G(2)(b) applied for any excluded land, the relevant local government must publish on its website the planning instrument change made or approved under section 40K.*

Division 3 Cessation of priority development areas

Subdivision 1 Provisional priority development areas

41 Cessation of provisional priority development area

- (1) A provisional priority development area ceases to be a provisional priority development area 3 years after its declaration.
- (2) *Before a provisional priority development area ceases under subsection (1), MEDQ may, by notice to the relevant local government—*
 - (a) approve an amendment of the local government's planning instruments prepared by the local government to provide for land in the provisional priority development area or any PDA-associated land for the provisional priority development area (the ***planning instrument change***); or
 - (b) make an amendment of the local government's planning instruments to provide for land in the provisional priority development area or any PDA-associated land for the provisional priority development area (also the ***planning instrument change***).
- (3) On the giving of a notice under subsection (2), the planning instrument change is, for the Planning Act, taken to have been made by the local government.
- (4) *However—*
 - (a) *the planning instrument change—*
 - (i) *does not create a superseded planning scheme under the Planning Act; and*
 - (ii) *is not an adverse planning change under that Act; and*

-
- (b) *the Planning Act, section 16(2) and (3) does not apply in relation to the planning instrument change.*
 - (5) The Planning Act, sections 18, 20, 22 and 23 do not apply for the making of the planning instrument change.
 - (6) Before making a planning instrument change under subsection (2)(b), MEDQ must—
 - (a) give the relevant local government the proposed planning instrument change; and
 - (b) invite it to, within 40 business days after it is given the proposed amendment, make submissions to MEDQ about the proposed planning instrument change; and
 - (c) consider any submissions made under paragraph (b).
 - (7) The planning instrument change takes effect at the same time as the provisional priority development area ceases under subsection (1).

Subdivision 2 Priority development areas

42 Revocation or reduction of priority development area

- (1) *Subsections (2) and (3) apply if the Minister proposes to recommend to the Governor in Council the making of a regulation to amend or repeal a provision of a declaration regulation made under section 34 or 37 (the **PDA change**) so land in a priority development area (the **excluded land**) will no longer be in the priority development area.*
- (2) *The recommendation for the PDA change may be made only if an instrument amending the relevant local government's planning instruments to provide for the excluded land (the **planning instrument change**) is—*
 - (a) proposed and dealt with under sections 42A to 42I, as applicable; and
 - (b) approved under section 42J(2).

- (3) Also, if there is PDA-associated development for the priority development area, the recommendation for the PDA change may be made only if—
- (a) the Minister has considered how the development should be dealt with; and
 - (b) to the extent the Minister considers it appropriate, the development is provided for in the planning instrument change.
- (4) *However, subsection (2) does not apply if—*
- (a) *under the regulation the subject of the Minister’s proposed recommendation—*
 - (i) *a part of the State comprising or including the excluded land is to be declared to be a priority development area under section 34 or 37; and*
 - (ii) *the declaration is to commence at the same time as the PDA change; or*
 - (b) *the excluded land—*
 - (i) *is within the master planned area for a priority port and a port overlay has effect for the master planned area; or*
 - (ii) *is strategic port land under the Transport Infrastructure Act 1994, section 286; or*
 - (c) *MEDQ is satisfied that—*
 - (i) *without amendment, the relevant local government’s planning instruments adequately provide for the excluded land; or*
 - (ii) *any amendments required to be made to the relevant local government’s planning instruments to provide for the excluded land are minor, have been the subject of adequate consultation and have been made.*
- (5) *Also, subsections (2) and (3) do not apply only because the Minister proposes to make a boundary change regulation to*

make a minor boundary change mentioned in section 40F(1)(b).

(6) *In this section—*

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

port overlay see the Sustainable Ports Development Act 2015, section 19(1).

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

42A Preparation of proposed planning instrument change

- (1) MEDQ may decide to prepare the proposed instrument for the planning instrument change or ask the relevant local government to prepare it.
- (2) The entity that prepares the proposed instrument for the planning instrument change is the **proposer** of the planning instrument change.

42B Consultation about proposed planning instrument change

Before preparing the proposed instrument for the planning instrument change, the proposer must—

- (a) for a proposed instrument prepared by MEDQ—consult, in the way it considers appropriate, with the relevant local government; and
- (b) for a proposed instrument prepared by the relevant local government—consult with MEDQ; and
- (c) make reasonable endeavours to consult, in the way the proposer considers appropriate, with any of the following it considers will be likely to be affected by the proposed planning instrument change—
 - (i) a government entity or GOC;
 - (ii) another person or entity.

42C Approval of proposed planning instrument change by MEDQ

- (1) This section applies if the proposed instrument for a planning instrument change is prepared by the relevant local government.
- (2) The local government must give the proposed instrument to MEDQ for approval.
- (3) MEDQ must decide to—
 - (a) approve the proposed instrument for the planning instrument change; or
 - (b) approve the instrument change subject to conditions decided by MEDQ; or
 - (c) refuse to approve the instrument.
- (4) *If MEDQ approves the proposed instrument for the planning instrument change under subsection (3)(b), the relevant local government must amend the instrument to comply with the conditions.*

42D When notification requirements do not apply

The notification requirements do not apply to the proposed instrument for the planning instrument change if MEDQ is satisfied—

- (a) the consultation about the instrument under section 42B has been adequate; and
- (b) the public interest would not be served by further consultation about the instrument.

42E Public notification

- (1) This section applies if—
 - (a) the proposed instrument for the planning instrument change is prepared; and

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- (b) for a proposed instrument prepared by the relevant local government—MEDQ has approved the instrument under section 42C(3).
- (2) The proposer must—
- (a) publish the proposed instrument for the planning instrument change on the proposer’s website; and
 - (b) *publish, at least once in a newspaper circulating in the area of the relevant local government, a notice—*
 - (i) *stating that the proposed instrument for the planning instrument change is published on the proposer’s website; and*
 - (ii) *inviting persons to make submissions, within a stated period of at least 30 business days (the **submission period**), about the proposed instrument.*

42F Submissions on proposed planning instrument change

Anyone may make submissions to the proposer about the proposed instrument for the planning instrument change within the submission period.

42G Consideration of submissions

- (1) The proposer must consider the submissions received within the submission period.
- (2) Subsection (1) does not prevent the proposer from considering a submission made to it after the submission period ends.

42H Amendment of proposed planning instrument change

- (1) After complying with section 42G, the proposer may amend the proposed instrument for the planning instrument change in a way it considers appropriate.
- (2) *If the proposer considers the amendment significantly changes the proposed planning instrument change, it must re-comply*

with sections 42E(2) and 42G for the amended proposed instrument for the planning instrument change.

42I Public response report

- (1) This section applies if the proposer has complied with section 42G and, if relevant, section 42H.
- (2) The proposer must—
 - (a) prepare a report (the *public response report*) that—
 - (i) summarises the submissions considered by proposer; and
 - (ii) contains information about the merits of the submissions and the extent to which the proposed instrument for the planning instrument change was amended to reflect the submissions; and
 - (iii) contains details about any changes to the proposed instrument published under section 42E(2); and
 - (b) publish the report on the proposer's website.

42J Approval of planning instrument change

- (1) This section applies if, for a proposed instrument for a planning instrument change, the notification requirements—
 - (a) have been complied with; or
 - (b) do not apply under section 42D.
- (2) MEDQ must decide to—
 - (a) approve the proposed instrument for the planning instrument change; or
 - (b) approve the proposed instrument subject to conditions decided by MEDQ; or
 - (c) refuse to approve the proposed instrument.
- (3) In making the decision under subsection (2), MEDQ must consider—

- (a) the main purpose of this Act; and
 - (b) for a proposed instrument for a planning instrument change prepared by the relevant local government to which the notification requirements apply—the public response report.
- (4) If MEDQ decides to approve the proposed instrument for the planning instrument change under subsection (2), it must, by notice to the relevant local government—
- (a) *for a proposed instrument prepared by MEDQ—make the instrument for the planning instrument change, in compliance with any conditions decided under subsection (2)(b); or*
 - (b) *for a proposed instrument prepared by the relevant local government—approve the instrument for the planning instrument change subject to any conditions decided under subsection (2)(b).*
- (5) *If MEDQ approves an instrument for a planning instrument change prepared by the relevant local government subject to any conditions decided under subsection (2)(b), the local government must amend the instrument to comply with the conditions.*

42K Effect of planning instrument change

- (1) On giving a notice under section 42J(4), the planning instrument change is, for the Planning Act, taken to have been made by the relevant local government.
- (2) *However—*
- (a) *the planning instrument change—*
 - (i) *does not create a superseded planning scheme under the Planning Act; and*
 - (ii) *is not an adverse planning change under that Act; and*
 - (b) *the Planning Act, section 16(2) and (3) does not apply in relation to the planning instrument change.*

[s 42L]

- (3) The Planning Act, sections 18, 20, 22 and 23 do not apply for making the planning instrument change.
- (4) The planning instrument change takes effect at the same time as the PDA change.

42L Notice of planning instrument change

As soon as practicable after the planning instrument change takes effect—

- (a) MEDQ must publish the instrument for the planning instrument change on the department's website; and
- (b) the relevant local government must publish the instrument on its website; and
- (c) *the proposer must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating the instrument—*
 - (i) has been approved; and
 - (ii) may be inspected on the proposer's website; and
- (d) the proposer must give each person who made a submission about the proposed instrument for the planning instrument change, received within the submission period, a notice stating that—
 - (i) the instrument has been approved; and
 - (ii) the public response report about the proposed instrument may be inspected on the proposer's website.

Subdivision 3 Other matters

42M Implied and uncommenced rights to use premises protected

- (1) This section applies if—
 - (a) a PDA development approval comes into effect; and

-
- (b) *immediately before the approval comes into effect, a material change of use, for a use implied by the approval, was PDA accepted development; and*
 - (c) a planning instrument change is made before the use starts.
- (2) The use is taken to be a lawful use in existence immediately before the planning instrument change is made or taken to have been made.

43 Interim local laws

- (1) This section applies if land ceases to be in a priority development area and, immediately before the cessation, by-laws applied to the area.
- (2) A regulation may make a local law (the *interim local law*) for the land, about any matter provided for under the by-laws.
- (3) However, the regulation may be made only if the relevant local government has agreed to the making of the regulation.
- (4) For the *Local Government Act 2009* or the *City of Brisbane Act 2010*, the interim local law is taken to have been made under that Act by the relevant local government.
- (5) The interim local law expires 12 months after it commences.

Division 4 Relationship with Planning Act

Subdivision 1 Effect of declaration of priority development areas

43A References to declaration of area as priority development area

A reference in this subdivision to the declaration of an area as a priority development area includes a reference to the

inclusion, under a boundary change regulation, of an additional area in a priority development area.

44 Existing development applications and change applications under Planning Act

- (1) This section applies if, immediately before the declaration of an area as a priority development area—
 - (a) a development application under the Planning Act had been made for land in the area; and
 - (b) the application was a properly made application and had not lapsed under that Act; and
 - (c) the application had not been decided.
- (2) This section also applies if, immediately before the declaration of an area as a priority development area—
 - (a) a change application had been made under the Planning Act to change a development approval under that Act—
 - (i) that already approves development in the priority development area; or
 - (ii) to approve development in the priority development area, if the approval does not already approve development in the priority development area; and
 - (b) the application had not lapsed under that Act; and
 - (c) the application had not been decided.
- (3) Despite the declaration, the application must be decided under the Planning Act, and that Act continues to apply, as if the land were not land in a priority development area.

45 Existing development approvals under Planning Act

If, immediately before the declaration of an area as a priority development area, a development approval under the Planning Act is in effect for land in the area, the approval continues in effect as a development approval under the Planning Act.

46 Special provision for Northshore Hamilton urban development area

- (1) This section applies in relation to balance port land that is in the Northshore Hamilton urban development area.
- (2) A person may apply to MEDQ to restart a use of premises on the land if—
 - (a) the use—
 - (i) is authorised under a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect; or
 - (ii) was a lawful use of premises immediately before the taking of effect of the first interim land use plan; or
 - (iii) is generally consistent with a use mentioned in subparagraph (i) or (ii); and
 - (b) the application is made within 6 months after the use stopped.
- (3) For making, dealing with and deciding the application, part 4, division 3 applies, with any necessary changes, as if it were a PDA development application.
- (4) A person may, under section 99, apply to MEDQ to change a development approval for a use mentioned in subsection (2)(a)(i) or (ii) to an extent that—
 - (a) only changes the configuration or layout of buildings, other structures or plant; and
 - (b) does not involve an extension of the area of any buildings, other structures or plant.
- (5) A person may apply to MEDQ to change a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect, as if the approval were a PDA development approval.
- (6) An application under subsection (4) or (5) may be made under section 99 as if it were an amendment application under that section.

Note—

Under section 99(2), an amendment application may be made only if MEDQ is satisfied the change would not result in the relevant development being substantially different.

- (7) An application mentioned in this section may be made to MEDQ, and approved by MEDQ, despite any provision of the Northshore Hamilton UDA Development Scheme 2009 that prohibits the development.
- (8) An application mentioned in this section may be made in relation to premises at any time until the day the term of the current lease for the premises ends.
- (9) In this section—

balance port land see the *Transport Infrastructure Act 1994*, section 283I.

current lease, for premises, means a lease that was in existence for the premises immediately before the commencement of the repealed ULDA Act, section 14A.

Note—

The repealed ULDA Act, section 14A commenced on 23 May 2010.

first interim land use plan means the first interim land use plan for the Northshore Hamilton urban development area under the repealed ULDA Act.

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

47 Designation of premises for development of infrastructure under Planning Act

To remove any doubt, it is declared that—

- (a) *the Planning Act, chapter 2, part 5 applies in relation to premises in, or partly in, a priority development area; and*
- (b) a designation of premises under the Planning Act that is in force immediately before all or part of the premises

are in a priority development area, continues in force despite the priority development area taking effect.

Subdivision 2 *Effect of cessation of priority development areas and PDA-associated development*

48 *Application of subdivision*

This subdivision applies if—

- (a) *land (the former PDA land) ceases to be in a priority development area; or*
- (b) *PDA-associated development (the former PDA-associated development) for a priority development area ceases to be PDA-associated development for the area.*

49 *References to cessation*

In this subdivision—

- (a) *a reference to cessation in relation to the former PDA land is, if the context permits, a reference to the time the land ceases to be in the priority development area; and*
- (b) *a reference to cessation in relation to the former PDA-associated development is, if the context permits, a reference to the time the development ceases to be PDA-associated development for the priority development area.*

50 *Existing PDA development approvals*

- (1) *This section applies if, immediately before the cessation, a PDA development approval was in effect for the former PDA land or former PDA-associated development.*

- (2) *On the cessation, the PDA development approval is taken to be a development approval under the Planning Act that took effect at the same time as the PDA development approval.*
- (3) *However, subsection (2) does not apply to the extent the PDA development approval involves a water connection aspect.*

Note—

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a PDA development approval in effect immediately before the cessation, see division 4A.

50A Existing PDA exemption certificates

- (1) *This section applies if, immediately before the cessation, a PDA exemption certificate is in effect for the former PDA land or former PDA-associated development.*
- (2) *On the cessation, the PDA exemption certificate is taken to be an exemption certificate under the Planning Act for—*
 - (a) *if the PDA exemption certificate is for carrying out development on former PDA land—carrying out the development on the land; or*
 - (b) *if the PDA exemption certificate is for carrying out former PDA-associated development on land—carrying out the development on the land.*
- (3) *The exemption certificate under the Planning Act takes effect at the same time as the PDA exemption certificate.*
- (4) *A condition of the PDA exemption certificate is taken to be a condition of the exemption certificate under the Planning Act, even if the condition could not be imposed under that Act.*
- (5) *Subsections (6) and (7) apply if the PDA exemption certificate states, under section 71A(5)(c), a period within which a plan mentioned in the section must be given to MEDQ.*
- (6) *If the plan has been given to MEDQ within the period and before the cessation, the development is taken, for the Planning Act, section 46(10), to comply with a requirement stated under section 46(9)(c) of that Act.*

- (7) *If the plan has not been given to MEDQ before the cessation, the statement mentioned in subsection (5) is taken to be a statement under the Planning Act, section 46(9)(c) of the period within which a plan mentioned in that section must be given to the local government for the local government area to which the exemption certificate relates.*
- (8) *The chief executive of the department responsible for administering the Planning Act must publish on that department's website a copy of MEDQ's notice about the PDA exemption certificate published under section 71B(3).*

51 Existing PDA development applications

- (1) *This section applies to a PDA development application made, but not decided, before the cessation for the former PDA land or former PDA-associated development.*
- (2) *The PDA development application must continue to be decided under this Act as if—*
 - (a) *the cessation had not happened; and*
 - (b) *the PDA development application were being decided immediately before the cessation.*
- (3) *If a PDA development approval is given for the PDA development application, the approval is, immediately after it takes effect under this Act, taken to be a development approval under the Planning Act that took effect at the same time as the PDA development approval.*
- (4) *However, subsection (3) does not apply to the extent the PDA development approval involves a water connection aspect.*

Note—

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a PDA development approval given under this section, see division 4A.

51AA Existing amendment applications

- (1) *This section applies if—*

- (a) *before the cessation, an amendment application has been made, but not decided, for a PDA development approval for the former PDA land or former PDA-associated development; and*
- (b) *on the cessation, all or part of the PDA development approval is taken, under section 50(2), to be a development approval under the Planning Act.*
- (2) *The amendment application must continue to be decided under this Act as if—*
 - (a) *the cessation had not happened; and*
 - (b) *the PDA development approval were still a PDA development approval; and*
 - (c) *the amendment application were being decided immediately before the cessation.*
- (3) *If a changed PDA development approval is given for the amendment application, the changed PDA development approval is, immediately after it takes effect under this Act, taken to be a development approval under the Planning Act.*
- (4) *However, subsection (3) does not apply to the extent the changed PDA development approval involves a water connection aspect.*

Note—

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a changed PDA development approval given under this section, see division 4A.

51AB Existing applications to extend currency period

- (1) *This section applies if—*
 - (a) *before the cessation, an application has been made under section 101, but not decided, to extend the currency period of a PDA development approval for—*
 - (i) *the former PDA land; or*
 - (ii) *the former PDA-associated development; and*

-
- (b) *on the cessation, all or part of the PDA development approval is taken, under section 50(2), to be a development approval under the Planning Act.*
 - (2) *The application must continue to be decided under this Act as if—*
 - (a) *the cessation had not happened; and*
 - (b) *the PDA development approval were still a PDA development approval; and*
 - (c) *the application were being decided immediately before the cessation.*
 - (3) *If the decision is to grant the extension, the decision is taken to be a decision under the Planning Act, section 87 to extend the currency period of the development approval under that Act.*
 - (4) *If the decision is to refuse the extension, the development approval under the Planning Act lapses on the later of the following to happen—*
 - (a) *the currency period of the PDA development approval under this Act, including any extension of that period under section 102, ends;*
 - (b) *the person who made the application is given notice of the decision under section 102(4).*
 - (5) *Despite the Planning Act, section 229, a person may not appeal under that Act against the decision on the application.*

51AC Existing appeals to Planning and Environment Court

- (1) *This section applies if—*
 - (a) *before the cessation, a person has appealed under section 90 against MEDQ's decision to impose a condition on a PDA development approval for—*
 - (i) *the former PDA land; or*
 - (ii) *the former PDA-associated development; and*

[s 51AD]

- (b) *on the cessation, all or part of the PDA development approval is taken, under section 50(2), to be a development approval under the Planning Act; and*
 - (c) *immediately before the cessation, the appeal has not been decided.*
 - (2) *The Planning and Environment Court must hear, or continue to hear, and decide the appeal under section 90 as if—*
 - (a) *the cessation had not happened; and*
 - (b) *the PDA development approval were still a PDA development approval.*
 - (3) *If the decision on the appeal is to give a changed or replacement PDA development approval, the changed or replacement PDA development approval is taken to be a development approval under the Planning Act.*
 - (4) *However, subsection (3) does not apply to the extent the changed or replacement PDA development approval involves a water connection aspect.*

Note—

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a changed or replacement PDA development approval given under this section, see division 4A.

51AD Appeals to Planning and Environment Court after cessation

- (1) *This section applies if—*
 - (a) *immediately before the cessation, a person could have appealed under section 90 against MEDQ's decision to impose a condition on a PDA development approval for—*
 - (i) *the former PDA land; or*
 - (ii) *the former PDA-associated development; and*

- (b) *on the cessation, all or part of the PDA development approval is taken, under section 50(2), to be a development approval under the Planning Act; and*
 - (c) *immediately before the cessation, the person has not appealed.*
- (2) *This section also applies if a person could have appealed under section 90 against MEDQ's decision to impose a condition on a PDA development approval given under section 51 or 51AA if the cessation had not happened.*
- (3) *The person may appeal, and the Planning and Environment Court must hear and decide the appeal, under section 90 as if—*
- (a) *the cessation had not happened; and*
 - (b) *the PDA development approval were still a PDA development approval.*
- (4) *The appeal must be started within the period mentioned in section 90(3).*
- (5) *If the decision on the appeal is to give a changed or replacement PDA development approval, that approval is taken to be a development approval under the Planning Act.*
- (6) *However, subsection (5) does not apply to the extent the changed or replacement PDA development approval involves a water connection aspect.*

Note—

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a changed or replacement PDA development approval given under this section, see division 4A.

51AE Process for approving plans of subdivision

- (1) *This section applies if the process under section 104(2) for approving a plan of subdivision for the former PDA land had started, but not ended, before the cessation.*

- (2) *Section 104 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 the part of a PDA development permit that, under section 50(2), becomes a development approval under the Planning Act—the PDA development permit were still a PDA development permit; and*
 - (c) *for a plan of subdivision for reconfiguring a lot that, before the cessation, was PDA accepted development—the reconfiguration were still PDA accepted development.*
- (3) *For registering the plan of subdivision under the Land Title Act 1994, anything done by MEDQ under section 104 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.*
- (4) *In this section—*
plan of subdivision see section 104(3).

51AF Registering particular plans of subdivision approved before cessation

- (1) *This section applies if—*
 - (a) *before the cessation, MEDQ approved a plan of subdivision for the former PDA land under section 104; 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 MEDQ under section 104 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.*
- (3) *In this section—*

plan of subdivision see section 104(3).

51AG Lawful uses of premises

- (1) *This section applies if, immediately before the cessation—*
 - (a) *a use of premises that are, or are on, former PDA land is a lawful use of the premises under this or another Act;*
or
 - (b) *a use of premises as a consequence of the carrying out of former PDA-associated development is a lawful use of the premises under this or another Act.*
- (2) *On and from the cessation, the use is taken to be a lawful use of the premises under the Planning Act.*

Subdivision 3 Dealing with converted PDA development approvals

51AH Application of subdivision

*This subdivision applies if all or part of a PDA development approval becomes, under subdivision 2, a development approval under the Planning Act (a **Planning Act approval**).*

51AI Conditions and enforcement authorities under Planning Act

- (1) *A PDA development condition of the PDA development approval or part is taken to be a development condition of the Planning Act 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 Planning Act approval is taken to be the entity that would have been the enforcement authority under that Act if—*
 - (a) *for a Planning Act approval for former PDA land—the land had never been in a priority development area; and*

- (b) *for a Planning Act approval for former PDA-associated development—the development had never been PDA-associated development; and*
- (c) *a development application for the Planning Act approval had been made under that Act, the repealed Sustainable Planning Act 2009 or the repealed Integrated Planning Act 1997 as in effect when the application for the PDA development approval was made.*

51AJ Proceedings about Planning Act approvals

- (1) *Despite the Planning Act, section 229, a person may not appeal under that Act in relation to—*
 - (a) *the Planning Act approval or its conditions; or*
 - (b) *a decision made under this Act in relation to the Planning Act approval or its conditions.*
- (2) *To remove any doubt, it is declared that subsection (1) does not limit or otherwise affect—*
 - (a) *an appeal mentioned in section 51AC(1)(a) or brought under section 51AD; or*
 - (b) *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 Planning Act approval—*
 - (i) *a change application;*
 - (ii) *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 Planning Act approval or its conditions; or*
 - (b) *a decision made under this Act in relation to the Planning Act approval or its conditions.*

- (4) *The proceeding may be brought only by the entity that is, under section 51AI(2), the enforcement authority under the Planning Act for the Planning Act approval.*

51AK Lapsing of Planning Act approvals

- (1) *Section 100(2) to (5) continues to apply in relation to the Planning Act approval, instead of the Planning Act, section 85—*
- (a) *as if a reference in section 100 to a PDA development approval were a reference to the Planning Act approval; and*
- (b) *subject to—*
- (i) *section 51AB(4); and*
- (ii) *any extension of the currency period of the PDA development approval given under this Act; and*
- (iii) *any extension of the currency period of the Planning Act approval given under the Planning Act; and*
- (c) *with any other necessary changes.*
- (2) *Subsection (3) applies if—*
- (a) *the Planning Act approval is for reconfiguring a lot; and*
- (b) *a plan for the reconfiguration was not given to MEDQ under section 100(2)(b) before the approval became a Planning Act approval.*
- (3) *Section 100(2)(b) applies in relation to the Planning Act approval as if a reference in the section to MEDQ were a reference to the local government for the local government area to which the approval relates.*

51AL Extension applications under Planning Act for Planning Act approvals

- (1) *For applying the relevant planning provisions to an extension application under the Planning Act for the Planning Act approval—*
- (a) *the approval's currency period is taken to be the currency period applying for the Planning Act approval under section 100, as applied under section 51AK, including any extension of that period—*
 - (i) *given under this Act for the PDA development 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 Planning Act 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 was, under section 88(a), a nominated assessing authority for a PDA development condition of the PDA development approval, if the condition is a condition of the Planning Act approval; and*
 - (ii) *another 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 100(2); 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.*

51AM Changes to Planning Act approvals that are minor changes for Planning Act

- (1) *This section applies if a change application is made under the Planning Act for the Planning Act approval.*
- (2) *Despite the Planning Act, schedule 2, definition minor change, the change to the Planning Act 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 Planning Act 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 Planning Act approval, made under the Planning Act, the repealed Sustainable Planning Act 2009 or the repealed Integrated Planning Act 1997 when the application for the PDA development approval was made, would not have required public notification under the Act under which it was made;*
 - (ii) *a development application for the development the subject of the Planning Act 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.

51AN Responsible entities for change applications under Planning Act for Planning Act approvals

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

- (a) if the change is, under section 51AM, a minor change to a condition of the Planning Act approval for which there was, under section 88(a), a nominated assessing authority—the nominated assessing authority; or*
- (b) if the change is to another condition of the Planning Act approval that was a PDA development condition of the PDA development approval—the entity prescribed by regulation; or*
- (c) if paragraphs (a) and (b) do not apply—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 Planning Act approval, including the change; and*
 - (ii) at the time the change application is made.**

51AO Change applications under Planning Act for Planning Act approvals

- (1) For applying the relevant planning provisions to a change application made under the Planning Act to change the Planning Act approval—
 - (a) a reference in the Planning Act, section 78A(2) or (3) to section 78A(1) of that Act includes a reference to section 51AN; and**

- (b) *a reference in the relevant planning provisions to the assessment manager includes a reference to the entity mentioned in section 51AN(c); and*
 - (c) *if the change is a minor change for the Planning Act under section 51AM—a reference in the relevant planning provisions to a referral agency includes a reference to—*
 - (i) *an entity that was, under section 88(a), a nominated assessing authority for a PDA development condition of the PDA development approval, if the condition is a condition of the Planning Act approval; and*
 - (ii) *another 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 PDA development 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) or (da) 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;*
- (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.*

51AP Cancellation applications under Planning Act for Planning Act approvals

- (1) *For applying the relevant planning provisions to a cancellation application under the Planning Act for the Planning Act 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 Planning Act 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 was, under section 88(a), a nominated assessing authority for a PDA development condition of the PDA development approval, if the condition is a condition of the Planning Act approval; and*
 - (ii) *another 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.*

51AQ Other matters about Planning Act approvals

- (1) *Despite the Planning Act, section 119(2), the local government for the local government area to which the Planning Act approval relates must not give an infrastructure charges notice under that Act for the approval.*
- (2) *However, if a change application or extension application made under the Planning Act is approved for the Planning Act approval, the local government may give an infrastructure charges notice under that Act for the Planning Act approval if the notice relates to the change to, or extension of, the Planning Act approval.*
- (3) *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 Planning Act approval that was a PDA development condition of the PDA development approval.*
- (4) *A regulation may—*
 - (a) *for the Planning Act, provide that development on former PDA land, or that is former PDA-associated development, is accepted development under that Act if—*
 - (i) *the Planning Act approval implies the development is to be carried out; and*
 - (ii) *immediately before the land ceased to be in a priority development area, or the development ceased to be PDA-associated development, the development was PDA accepted development; and*

[s 51AR]

- (iii) *the development complies with any requirements for the development stated in the regulation; or*
- (b) *if a condition of the Planning Act approval requires a document or thing to be given to, or approved by, MEDQ—state the entity the document or thing must be given to, or approved by, in place of MEDQ; or*
- (c) *make provision about another matter necessary or convenient to give effect to the transition from the PDA development approval to the Planning Act approval for which this Act does not make provision or sufficient provision.*

Division 4A **Relationship with South-East Queensland Water (Distribution and Retail Restructuring) Act 2009**

51AR Application of division

This division applies if—

- (a) *either—*
 - (i) *land (the former PDA land) ceases to be in a priority development area; or*
 - (ii) *PDA-associated development (the former PDA-associated development) for a priority development area ceases to be PDA-associated development for the area; and*
- (b) *a PDA development approval—*
 - (i) *was, immediately before the cessation, in effect for the former PDA land or former PDA-associated development; or*
 - (ii) *is given under division 4, subdivision 2 for the former PDA land or former PDA-associated development; and*

- (c) *the PDA development approval involves an aspect (a **water connection aspect**) that—*
- (i) *is in relation to a connection under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 for which a water approval is required under that Act; and*
 - (ii) *for a PDA development approval that is prescribed by regulation and was in effect immediately before the cessation—is prescribed by a regulation that commences on or before the cessation.*

51AS References to cessation

In this division—

- (a) *a reference to cessation in relation to the former PDA land is, if the context permits, a reference to the time the land ceases to be in the priority development area; and*
- (b) *a reference to cessation in relation to the former PDA-associated development is, if the context permits, a reference to the time the development ceases to be PDA-associated development for the priority development area.*

51AT Conversion of water connection aspects of PDA development approvals

- (1) *Subsection (2) applies if a water approval is in effect for the land to which the PDA development approval relates—*
- (a) *for a PDA development approval that was in effect for the former PDA land or former PDA-associated development immediately before the cessation—immediately before the cessation; or*
 - (b) *otherwise—immediately before the PDA development approval is given.*
- (2) *The water connection aspect of the PDA development approval is taken to be part of the water approval.*

- (3) *If subsection (2) does not apply, the water connection aspect of the PDA development approval continues in effect as a PDA development approval—*
 - (a) *as if the cessation had not happened; and*
 - (b) *until the part of the PDA development approval that becomes, under division 4, subdivision 2, a Planning Act approval stops having effect.*
- (4) *However, if a water approval is given for the land to which the PDA development approval relates while the water connection aspect is in effect as a PDA development approval under subsection (3), the water connection aspect is taken to be part of the water approval.*
- (5) *To remove any doubt, it is declared that this section does not limit or otherwise affect a requirement under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 for a water approval to be obtained for the making of a connection under that Act.*

51AU Provisions about water connection aspects that are taken to be part of water approvals

- (1) *This section applies if the water connection aspect of the PDA development approval is taken to be part of a water approval under section 51AT(2) or (4).*
- (2) *A PDA development condition of the water connection aspect is taken to be a water approval condition of the water approval under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, even if the condition could not be imposed under that Act.*
- (3) *Despite the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, chapter 4C, part 4, there is no review or appeal right under that Act in relation to—*
 - (a) *the part of the water approval that was the water connection aspect; or*

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- (b) *a decision made under this Act in relation to the part of the water approval that was the water connection aspect.*
- (4) *To remove any doubt, it is declared that subsection (3) does not limit or otherwise affect—*
- (a) *an appeal mentioned in section 51AC(1)(a) or brought under section 51AD; or*
- (b) *a review or appeal right under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, chapter 4C, part 4, in relation to a decision under section 99BRAK of that Act about a request to amend a water approval condition of the water approval.*
- (5) *Despite the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, section 99BRCI(2), a distributor-retailer must not give an infrastructure charges notice under that Act for the part of the water approval that was the water connection aspect.*
- (6) *However, if the part of the water approval that was the water connection aspect is amended under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, section 99BRAK, an infrastructure charges notice may be given under that Act in relation to the amendment.*
- (7) *Despite the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, section 99BRDE(1), a person can not make a conversion application under that Act in relation to a condition of the water approval that was a PDA development condition.*
- (8) *A regulation may—*
- (a) *if the water connection aspect requires a document or thing to be given to, or approved by, MEDQ—state the entity the document or thing must be given to, or approved by, in place of MEDQ; or*
- (b) *make provision about another matter necessary or convenient to give effect to the transition from the water connection aspect of the PDA development approval to*

the water approval for which this Act does not make provision or sufficient provision.

Division 4B Public thoroughfare easements

51AV Registration of public thoroughfare easement under Land Title Act 1994

- (1) *This section applies in relation to an instrument of easement—*
 - (a) *over freehold land that is in a priority development area or is PDA-associated land for a priority development area; and*
 - (b) *for a right of way for the public; and*
 - (c) *in favour of a local government.*
- (2) *The Land Title Act 1994, section 89(6) does not apply in relation to the registration under that Act of the instrument of easement.*
- (3) *If the instrument of easement may, but for subsection (2), be refused registration under the Land Title Act 1994, section 89(6)—*
 - (a) *the easement created on registration of the instrument is taken to be a public thoroughfare easement under that Act; and*
 - (b) *section 89(4) of that Act does not apply to the easement.*

51AW Non-application of particular provisions to land subject to particular public thoroughfare easements

The provisions of the City of Brisbane Act 2010, or the Local Government Act 2009, about land subject to a public thoroughfare easement do not apply in relation to freehold land that—

- (a) *is in a priority development area or is PDA-associated land for a priority development area; and*

- (b) *is subject to a public thoroughfare easement registered under the Land Title Act 1994, section 89, including because of the operation of section 51AV of this Act, in favour of a local government.*

Division 5 Miscellaneous provisions

51A Lawful uses relating to PDA-associated development

- (1) This section applies if—
- (a) a material change of use of premises is PDA-associated development for a priority development area; and
 - (b) the use of the premises as a consequence of the material change of use is a lawful use.
- (2) The use is taken to also be a lawful use of the premises under the Planning Act.

52 Exchange of documents and information with other entities with planning or registration functions

- (1) Subsection (2) applies on the declaration of a priority development area if a government entity, GOC or local government has planning or registration functions for land or development in the area.
- (2) MEDQ may ask the government entity, GOC or local government to give MEDQ the documents or information the government entity, GOC or local government has that MEDQ reasonably needs to perform its functions.
- (3) The entity must comply with the request within a reasonable period.
- (4) If land ceases to be in a priority development area, MEDQ must give each entity performing functions mentioned in subsection (1) the documents or information MEDQ has that the entity needs to perform its functions.

- (5) Documents or information required to be given under this section must be given free of charge.

53 Relationship with the City of Brisbane Act 2010 or the Local Government Act 2009

- (1) The declaration of an area as a priority development area does not affect—
 - (a) the operation of the *City of Brisbane Act 2010* or the *Local Government Act 2009* in relation to the area; or
 - (b) the area of the relevant local government; or
 - (c) the jurisdiction, under the Acts, of the relevant local government.
- (2) However, the performance of the relevant local government's functions or the exercise of its powers under the Acts is subject to MEDQ's functions or powers under this Act.
- (3) *A reference in subsection (1) to the declaration of an area as a priority development area includes a reference to the inclusion, under a boundary change regulation, of an additional area in a priority development area.*
- (4) *Subsection (1) is subject to sections 51AW and 54.*

54 By-laws

- (1) MEDQ may make by-laws under this Act for priority development areas about any matter for which a local law may be made, including the creation of offences.
- (2) However, a by-law can not fix a penalty of more than—
 - (a) if the by-law replaces a local law—the maximum penalty units applying to a contravention of the local law it replaces; or
 - (b) otherwise—20 penalty units for an offence against the by-law.
- (3) A by-law *replaces* a local law if—

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- (a) the local law no longer applies to a matter within a priority development area because a by-law provides that the local law does not apply, or applies with stated changes, within the priority development area; and
 - (b) the by-law applies to the matter within the priority development area.
- (4) A by-law may provide that all or part of a stated local law does not apply, or applies with stated changes, within a priority development area.
 - (5) If a by-law provides that a stated local law does not apply, or applies with stated changes, within a priority development area, the local law does not apply, or applies with the stated changes, within the area.
 - (6) A by-law must be approved by the Governor in Council.

Note—

The effect of subsection (6) is that a by-law is subordinate legislation. See the *Statutory Instruments Act 1992*, sections 7, 8(b)(i) and 9(1)(a).

- (7) *A by-law prescribed by regulation is taken, for the Environmental Protection Act 1994, schedule 1, section 3(a) and (b), to be a local law.*

Part 3 Development schemes

Division 1 Making development schemes

55 Application of div 1

- (1) This division applies on the declaration of a priority development area.
- (2) However, this division does not apply in relation to a provisional priority development area.

56 Development scheme required

- (1) *As soon as practicable after the priority development area is declared, MEDQ must make a development scheme, under this division, for the entire priority development area.*
- (2) *However, MEDQ may make more than 1 development scheme, under this division, for the priority development area if—*
 - (a) *more than 1 interim land use plan was made under section 38 for the priority development area; and*
 - (b) *each development scheme is made for 1 or more parts of the priority development area in which development is regulated by a single interim land use plan; and*
 - (c) *together, the development schemes provide for the entire priority development area.*
- (3) *A development scheme is a statutory instrument.*
- (4) *To remove any doubt, it is declared that the development schemes mentioned in subsection (2) may be made at different times.*

57 Content of development scheme

- (1) *A development scheme may provide for any matter that MEDQ considers will promote the proper and orderly planning, development and management of the relevant area.*
- (2) *The development scheme must include—*
 - (a) *a land use plan regulating development in the relevant area; and*
 - (b) *a plan for infrastructure in the relevant area; and*
 - (c) *an implementation strategy to achieve the main purpose of this Act for the relevant area, to the extent it is not achieved by the land use plan or the plan for infrastructure.*
- (3) *Without limiting subsection (2)(a), the land use plan may—*
 - (a) *provide for any matter about which a planning instrument may provide for an area; or*

- (b) *identify any PDA assessable development or PDA accepted development in the relevant area; or*
 - (c) *identify development, other than development that is to be carried out entirely within the priority development area, as PDA-associated development for the priority development area; or*
 - (d) *prohibit the carrying out of particular PDA assessable development; or*
 - (e) *state that particular development is consistent or inconsistent with the plan; or*
 - (f) *require public notice of PDA development applications for stated PDA assessable development.*
- (4) *However, the land use plan may, under subsection (3)(c), identify development as PDA-associated development for the priority development area only if MEDQ is satisfied—*
- (a) *the Planning Act may have an adverse effect on the delivery of the development if the development were not identified as PDA-associated development for the area; and*
 - (b) *1 of the following applies—*
 - (i) *the development provides development infrastructure for the priority development area to address the impacts of any development within the area, whether or not the development infrastructure also has another function or purpose;*
 - (ii) *the development—*
 - (A) *promotes the proper and orderly planning, development and management of the priority development area in accordance with the relevant development instrument for the area; and*
 - (B) *has an economic or community benefit for the State or for the region in which the priority development area is located; and*

- (a) must consult, in the way it considers appropriate, with the relevant local government; and
 - (b) *must make reasonable endeavours to consult, in the way it considers appropriate, with any of the following MEDQ considers will be likely to be affected by the proposed development scheme—*
 - (i) a government entity or GOC;
 - (ii) another person or entity.
- (3) *In preparing the proposed development scheme, MEDQ—*
- (a) *must consider any relevant State interests; and*
 - (b) *must consider, but is not bound by, a requirement under any of the following relevant to the area the subject of the proposed development scheme—*
 - (i) *a planning instrument;*
 - (ii) *assessment benchmarks prescribed by regulation under the Planning Act;*
 - (iii) *assessment benchmarks made under another Act for the Planning Act.*

59 Public notification

After preparing the proposed development scheme, MEDQ must—

- (a) publish the proposed scheme on the department's website; and
- (b) *publish, at least once in a newspaper circulating in the area of the relevant local government, a notice—*
 - (i) *stating that the proposed scheme is published on the department's website; and*
 - (ii) *inviting persons to make submissions, within a stated period of at least 30 business days (the **submission period**), about the proposed scheme.*

60 Submissions on proposed scheme

Anyone may make submissions about the proposed development scheme within the submission period.

61 Consideration of submissions

- (1) MEDQ must consider any submissions received within the submission period.
- (2) Subsection (1) does not prevent MEDQ from considering a submission made to it after the submission period has ended.

62 Amendment of proposed scheme

- (1) After complying with section 61, MEDQ may amend the proposed development scheme in any way it considers appropriate.
- (2) If MEDQ considers the amendment significantly changes the proposed scheme, it must re-comply with sections 59 to 61 for the amended scheme.

63 Making of development scheme

- (1) MEDQ must, as soon as practicable after complying with sections 61 and 62—
 - (a) make the development scheme; and
 - (b) prepare a report that—
 - (i) summarises the submissions considered by MEDQ; and
 - (ii) contains information about the merits of the submissions and the extent to which the proposed development scheme was amended to reflect the submissions; and
 - (iii) contains details about any changes to the proposed development scheme published under section 59.

Note—

See also the *Sustainable Ports Development Act 2015*, section 29 for additional requirements for making a development scheme.

- (2) MEDQ must publish the report on the department's website.
- (3) *Also, MEDQ must—*
 - (a) *publish, on the department's website, the development scheme made under subsection (1)(a); and*
 - (b) *publish a gazette notice stating that the development scheme is published on the department's website.*

64 When development scheme takes effect

The development scheme takes effect at the beginning of the day the gazette notice under section 63(3)(b) is published.

65 Notice of development scheme

MEDQ must, as soon as practicable after the development scheme takes effect—

- (a) *publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that—*
 - (i) the scheme has been approved; and
 - (ii) it may be inspected on the department's website; and
- (b) give the relevant local government, and each person who made a submission received within the submission period about the scheme, a notice that—
 - (i) the scheme has been approved; and
 - (ii) MEDQ's report about the scheme can be inspected on the department's website.

Division 2 Amendment of development schemes

66 General power to amend

MEDQ may amend a development scheme if—

- (a) the amendment does not change the land use plan for the relevant priority development area in the scheme; or
- (b) the amendment is a minor administrative amendment.

Note—

See also the *Sustainable Ports Development Act 2015*, section 29 for additional requirements for amending a development scheme.

67 Power to amend to change land use plan

- (1) MEDQ may amend a development scheme to change the land use plan for the relevant priority development area in the scheme only if procedures under division 1 for making development schemes have been followed.
- (2) Division 1 applies to the amendment as if—
 - (a) a reference in the division to making a development scheme were a reference to the making of the amendment; and
 - (b) a reference in the division to a proposed development scheme were a reference to the proposed amendment; and
 - (c) *a reference in section 59(b)(ii) to 30 business days were a reference to 15 business days.*
- (3) To remove any doubt, it is declared that an amendment mentioned in subsection (1) may be made even if it is materially detrimental to someone's interests.
- (4) *In this section—*

change, a land use plan, includes replace the land use plan.

68 **When amendment takes effect**

An amendment of a development scheme takes effect at the beginning of the day the gazette notice under section 63(3)(b), as applied under section 67(2), is published in relation to the amendment.

69 **Notice of amendment**

As soon as practicable after an amendment of a development scheme takes effect, MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that—

- (a) the scheme has been amended; and*
- (b) the amended scheme is published on the department's website.*

Division 3 **Miscellaneous provisions**

71 **Development instruments prevail over particular instruments**

(1) If there is a conflict between a development instrument and any of the following instruments, the development instrument prevails to the extent of the inconsistency—

- (a) a planning instrument;*
- (b) assessment benchmarks prescribed by regulation under the Planning Act;*
- (c) assessment benchmarks made under another Act for the Planning Act.*

(2) In this section—

development instrument means—

- (a) a draft provisional land use plan; or*
- (b) a provisional land use plan; or*

- (c) *an interim land use plan; or*
- (d) *a development scheme.*

Part 4 Development and uses in or for priority development areas

Division 1AA PDA exemption certificates

71A MEDQ may give PDA exemption certificate for particular PDA assessable development

- (1) *MEDQ may give a PDA exemption certificate for the carrying out of stated PDA assessable development if any of the following applies—*
 - (a) *the effects of the development would be minor or inconsequential having regard to the circumstances under which the development was categorised as PDA assessable development;*
 - (b) *the development was categorised as PDA assessable development only because of particular circumstances that no longer apply;*
 - (c) *the development was categorised as PDA assessable development because of an error.*
- (2) *However, subsection (1) does not apply if the development is categorised as PDA assessable development under a regulation.*
- (3) *In deciding whether to give a PDA exemption certificate under subsection (1), MEDQ must consider any relevant State interest.*
- (4) *A PDA exemption certificate may be given subject to stated requirements.*
- (5) *Without limiting subsection (4), a PDA exemption certificate may state a period within which—*

- (a) *the PDA assessable development, or a stated part of it, must be completed; or*
 - (b) *a use that is the natural and ordinary consequence of the PDA assessable development must start; or*
 - (c) *if the PDA assessable development is, or includes, reconfiguring a lot—a plan of subdivision must be given to MEDQ for its approval under section 104.*
- (6) *To the extent the development does not comply with a requirement stated under subsection (4) or (5), the PDA exemption certificate has no effect.*

Note—

A person who carries out PDA assessable development without a PDA development permit for the development does not commit an offence against section 73(1) if the development is carried out under a PDA exemption certificate for the development. See section 73(2).

71B Notice of PDA exemption certificate

- (1) *This section applies if MEDQ gives a PDA exemption certificate for the carrying out of PDA assessable development.*
- (2) *MEDQ must give the owner of the land the subject of the PDA exemption certificate a copy of the certificate.*
- (3) *Also, MEDQ must publish, on the department's website, a notice stating the following—*
 - (a) *that the PDA exemption certificate has been given;*
 - (b) *a description of the land the subject of the certificate;*
 - (c) *a description of the PDA assessable development to which the certificate relates, including any requirements imposed under section 71A(4) or (5);*
 - (d) *the reasons for giving the certificate.*

71C Duration of PDA exemption certificate

- (1) *A PDA exemption certificate has effect for 2 years after the day it is given or any longer period stated in the certificate.*
- (2) *Despite the expiry of a PDA exemption certificate, the following development that was started under the certificate may be completed as if the certificate had not expired—*
 - (a) *development that is reconfiguring a lot, if before the certificate expired a plan of subdivision for the development was given to MEDQ for its approval under section 104;*
 - (b) *development, other than reconfiguring a lot or making a material change of use of premises, if the development was substantially started under the certificate.*
- (3) *Also, a use that is the natural and ordinary consequence of the development to which the PDA exemption certificate relates is taken to be a lawful use.*
- (4) *Subsections (2) and (3) are subject to section 71A(6).*

71D PDA exemption certificate attaches to land

A PDA exemption certificate—

- (a) *attaches to the land the subject of the certificate; and*
- (b) *benefits the owner of the land, the owner's successors in title and any occupier of the land.*

Division 1 PDA development offences

72 Application of div 1

This division applies subject to division 2.

73 Carrying out PDA assessable development without PDA development permit

- (1) A person must not carry out PDA assessable development without a PDA development permit for the development.

Maximum penalty—4,500 penalty units.

Note—

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this subsection committed by the corporation.

- (2) *However, a person does not commit an offence against subsection (1) if the PDA assessable development is carried out under a PDA exemption certificate for the development.*
- (3) Despite subsection (1), the maximum penalty is 17,000 penalty units if the PDA assessable development is—
- (a) the demolition of a building identified in a relevant development instrument as a building of cultural heritage significance; or
 - (b) on a Queensland heritage place under the *Queensland Heritage Act 1992*.

75 Compliance with PDA development approval

A person must not contravene a PDA development approval.

Maximum penalty—4,500 penalty units.

Note—

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation.

76 Offence about use of premises

A person must not use premises in a priority development area, or premises subject to PDA-associated development for a priority development area, unless the use is a lawful use of the premises.

Maximum penalty—4,500 penalty units.

Note—

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation.

Division 2 Protection of particular uses and rights

77 Exemption for particular development approvals and designations under Planning Act

- (1) This section applies to—
 - (a) a development approval under the Planning Act for land in a priority development area—
 - (i) granted under section 44(2); or
 - (ii) continued in force under section 45; and
 - (b) a designation under the Planning Act of premises in, or partly in, a priority development area.
- (2) The carrying out of development or the use of premises under the approval or designation is not a PDA development offence.

78 Lawful uses of premises protected

- (1) This section applies if—
 - (a) a relevant development instrument, or an amendment of a relevant development instrument, takes effect for a priority development area; and
 - (b) immediately before the instrument or amendment took effect, either of the following was a lawful use of premises—
 - (i) a use of premises in the priority development area;

- (ii) a use of premises as a consequence of a material change of use that was PDA-associated development for the priority development area.
- (2) Neither the relevant development instrument nor the amendment can—
 - (a) stop the use from continuing; or
 - (b) further regulate the use; or
 - (c) require the use to be changed.

79 Lawfully constructed buildings and works protected

To the extent a building has been lawfully constructed or works lawfully carried out, neither a relevant development instrument nor an amendment of a relevant development instrument can require the building or works to be altered or removed.

80 Amendment of relevant development instrument does not affect existing development approval under Planning Act or PDA development approval

- (1) This section applies if—
 - (a) a PDA development approval, or a development approval under the Planning Act for premises in a priority development area, is in effect; and
 - (b) after the approval is given, the relevant development instrument for the area is amended.
- (2) To the extent the approval has not lapsed, the amendment does not stop or further regulate the relevant development, or otherwise affect the approval.

81 Development or use carried out in emergency

- (1) A person does not commit a PDA development offence if—
 - (a) the person carries out development or a use of premises because of an emergency endangering—

- (i) the life or health of a person; or
 - (ii) the structural safety of a building; or
 - (iii) the operation or safety of infrastructure that is not a building; and
- (b) the person gives notice of the development or use that would otherwise be a PDA development offence to MEDQ as soon as practicable after starting the development or use.
- (2) However, subsection (1) does not apply if the person is required by an enforcement order to stop carrying out the development or use.
- (3) In this section—

emergency means an event or situation that involves an imminent and definite threat requiring immediate action (whether before, during or after the event or situation), other than routine maintenance due to wear and tear.

Example of an action not done because of an emergency—

the carrying out, in winter, of a use or of building or operational work in anticipation of the next cyclone season

Division 3 PDA development applications

Subdivision 1 Making application

82 How to make application

- (1) Each PDA development application must—
- (a) be made to MEDQ in the approved form; and
 - (b) *contain, or be accompanied by, the consent of the owner of the relevant land; and*
 - (c) be accompanied by the application fee decided by MEDQ.

Note—

A single application may be made for both a PDA preliminary approval and a PDA development permit.

- (2) *However, subsection (1)(b) does not apply to the extent the application is for operational work other than operational work below the high-water mark and outside the boundaries of a canal.*
- (3) *The application is a **properly made application** only if—*
 - (a) *it complies with subsection (1); or*
 - (b) *MEDQ receives and, after considering any noncompliance with subsection (1), accepts the application.*
- (4) *In this section—*
***canal** see the Coastal Protection and Management Act 1995, schedule.*

***high-water mark** see the Coastal Protection and Management Act 1995, schedule.*

82A Notice of properly made application

- (1) *If a PDA development application is a properly made application, MEDQ must give the applicant a notice stating that—*
 - (a) *the application complies with section 82(1); or*
 - (b) *MEDQ has accepted the application under section 82(3)(b).*
- (2) *The notice must state the date (the **properly made date**)—*
 - (a) *for an application mentioned in subsection (1)(a)—the application was made; or*
 - (b) *for an application mentioned in subsection (1)(b)—MEDQ accepted the application.*

Subdivision 2 Processing application

82B Application of subdivision

This subdivision applies in relation to a PDA development application that is a properly made application.

83 Information requests to applicant

- (1) MEDQ may, by notice (an *information request*), ask the applicant to, within a stated period of at least 20 business days, give further stated information relevant to the application that MEDQ needs to decide the application.
- (2) *However, an information request can not be made more than 20 business days after the properly made date for the application.*
- (3) *An information request must include a notice stating that the application will lapse if the applicant fails to give MEDQ any of the stated information within a stated period of at least 6 months after the information request is made.*
- (4) *If the applicant does not comply with the information request within the stated period or a longer period agreed between the applicant and MEDQ, MEDQ may refuse the application.*
- (5) However, MEDQ may refuse the application only if it has given the applicant at least 10 business days notice of its intention to do so.
- (6) *The inclusion in an information request of a notice under subsection (3) does not prevent MEDQ refusing the application under subsection (4).*

83A Lapsing of application—failure to give any requested information

- (1) *This section applies if—*
 - (a) *an information request has been made in relation to the application; and*

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- (b) *the applicant fails to give MEDQ any of the requested information within—*
 - (i) *the period stated in the notice included in the information request under section 83(3); or*
 - (ii) *a longer period agreed between the applicant and MEDQ.*
 - (2) *The application lapses.*

83B Notice of compliance with information request

- (1) *This section applies if—*
 - (a) *an information request has been made in relation to the application; and*
 - (b) *MEDQ is satisfied the applicant has complied with the information request within the period mentioned in section 83A(1)(b)(i) or (ii).*
- (2) *MEDQ must give the applicant a notice stating that—*
 - (a) *the applicant has complied with the information request; and*
 - (b) *if section 84 applies for the application—the applicant may start to comply with section 84(2).*

84 Notice of application

- (1) *This section applies only if—*
 - (a) *the relevant development instrument for the relevant priority development area requires public notice of any part of the PDA development application; or*
 - (b) *the relevant development is—*
 - (i) *PDA-associated development declared for the relevant priority development area by MEDQ under section 40C(1); and*
 - (ii) *PDA assessable development; or*

- (c) *MEDQ, within 20 business days after the properly made date for the application, gives the applicant notice that the applicant must comply with this section.*
- (2) The applicant must—
- (a) publish a notice about the application in a newspaper circulating in the area of the relevant local government; and
 - (b) place the notice on the relevant land in the way prescribed under a regulation; and
 - (c) give a copy of the notice to—
 - (i) MEDQ; and
 - (ii) the owners of all land that adjoins the relevant land; and
 - (iii) each entity MEDQ requires the applicant to give a copy to.
- (3) *However, if an information request has been made in relation to the application, the applicant must not start to comply with subsection (2) until the applicant has been given a notice under section 83B in relation to the request.*
- (4) The notice must—
- (a) state that—
 - (i) the applicant has made a PDA development application; and
 - (ii) the application may be inspected on the department's website; and
 - (b) describe the relevant land; and
 - (c) generally describe the relevant development; and
 - (d) invite anyone to make submissions to MEDQ about the application within a stated period (the *submission period*); and

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- (e) state that the making of a submission does not give rise to a right of appeal against a decision about the application.
 - (5) The submission period—
 - (a) must not start before subsection (2) is complied with; and
 - (b) must be at least 20 business days; and
 - (c) must not include any business day from 20 December in a particular year to 5 January in the following year, both days inclusive.
 - (6) A requirement under subsection (2)(c)(iii) may be made only if MEDQ considers the entity has an interest in the outcome of the application.

84A MEDQ must give notice of requirement to give compliance statement

- (1) *This section applies if the applicant is required to comply with section 84 for the application.*
- (2) *MEDQ must give the applicant a notice stating that the application will lapse if the applicant does not, within a stated period of at least 40 business days after the notice is given, give MEDQ a compliance statement in relation to the application.*
- (3) *However, the notice may not be given before—*
 - (a) *if an information request has been made in relation to the application—the applicant is given a notice under section 83B in relation to the request; or*
 - (b) *otherwise—the end of 20 business days after the properly made date for the application.*

84B Lapsing of application—failure to give compliance statement

- (1) *This section applies if the applicant does not give MEDQ a compliance statement in relation to the application within—*
 - (a) *the period stated in the notice given to the applicant under section 84A(2); or*
 - (b) *a longer period agreed between the applicant and MEDQ.*
- (2) *The application lapses.*
- (3) *Subsection (2) applies whether or not the applicant has complied with section 84 for the application.*

84C MEDQ must decide whether applicant has complied with s 84

- (1) *This section applies if the applicant gives MEDQ a compliance statement in relation to the application within—*
 - (a) *the period stated in the notice given to the applicant under section 84A(2); or*
 - (b) *a longer period agreed between the applicant and MEDQ.*
- (2) *MEDQ must decide whether the applicant has substantially complied with section 84 for the application.*
- (3) *If MEDQ decides the applicant has not substantially complied with section 84 for the application, it must give the applicant a notice stating—*
 - (a) *that the applicant has not substantially complied with section 84 for the application; and*
 - (b) *particulars of the applicant’s noncompliance; and*
 - (c) *that MEDQ may refuse the application if the applicant does not, within a stated period of at least 40 business days after the notice is given—*
 - (i) *comply with section 84 for the application; and*

- (ii) give *MEDQ* a further compliance statement in relation to the application; and
- (d) that for deciding under section 84D(2) whether the applicant has substantially complied with section 84 for the application, an action taken by the applicant to comply with section 84 before the notice is given is taken not to have happened.

Example—

An applicant is given a notice under this section stating that the applicant has not substantially complied with section 84 because of a failure to give a notice required under section 84(2)(c)(ii). Although the applicant had taken action to comply with the other requirements of section 84, including publishing a notice under section 84(2)(a), for section 84D(2), the other actions are taken not to have happened. To substantially comply with section 84, the applicant must, after receiving the notice under this section, publish a new notice under section 84(2)(a) and substantially comply with the other requirements of section 84.

84D MEDQ must decide whether applicant given s 84C(3) notice has complied with s 84

- (1) This section applies if the applicant—
 - (a) has been given a notice under section 84C(3); and
 - (b) gives *MEDQ* a further compliance statement in relation to the application within—
 - (i) the period stated in the notice; or
 - (ii) a longer period agreed between the applicant and *MEDQ*.
- (2) *MEDQ* must decide whether the applicant has substantially complied with section 84 for the application.
- (3) For subsection (2), an action taken by the applicant to comply with section 84 before the notice under section 84C(3) was given is taken not to have happened.

84E MEDQ may refuse application—failure to give further compliance statement or comply with s 84

- (1) *This section applies if the applicant has been given a notice under section 84C(3) and either of the following applies—*
 - (a) *the applicant fails, within the relevant period, to give MEDQ a further compliance statement in relation to the application;*
 - (b) *the applicant gives MEDQ a further compliance statement in relation to the application within the relevant period but MEDQ decides, under section 84D(2), that the applicant has not substantially complied with section 84 for the application.*
- (2) *MEDQ may refuse the application.*
- (3) *However, MEDQ may refuse the application only if it has given the applicant at least 10 business days notice of its intention to do so.*
- (4) *In this section—*

relevant period, *in relation to a notice given under section 84C(3), means—*

 - (a) *the period stated in the notice; or*
 - (b) *a longer period agreed between the applicant and MEDQ.*

84F Notice of refusal of application

- (1) *If MEDQ decides to refuse the application under section 83(4) or 84E(2), it must, within 5 business days after the decision is made, give the applicant notice of the decision.*
- (2) *The notice must—*
 - (a) *be in the approved form; and*
 - (b) *state that MEDQ has decided to refuse the application; and*
 - (c) *state the reasons for the decision.*

85 Deciding application generally

- (1) MEDQ can not decide the application unless MEDQ is satisfied—
 - (a) *if an information request has been made in relation to the application—the applicant has been given a notice under section 83B in relation to the request; and*
 - (b) *if section 84 applies for the application—MEDQ has decided under section 84C(2) or 84D(2) that the applicant has substantially complied with section 84 for the application; and*
 - (c) the submission period for the application has ended; and
 - (d) *if the relevant development is in a provisional priority development area for which the relevant development instrument is a draft provisional land use plan—*
 - (i) *the development is categorised under a relevant local categorising instrument as accepted development; or*
 - (ii) *both of the following apply—*
 - (A) *the development is categorised under a relevant local categorising instrument as assessable development requiring code assessment;*
 - (B) *if the development were assessed against the assessment benchmarks applying for the development under the relevant local categorising instrument, it would comply with all the assessment benchmarks.*
- (2) *Subject to sections 83(4) and 84E(2), MEDQ must decide the application within 40 business days after it is satisfied as mentioned in subsection (1).*
- (3) However, a failure to comply with subsection (2) does not prevent MEDQ from deciding the application.
- (4) MEDQ must decide to—

- (a) grant all or part of the PDA development approval applied for; or
 - (b) grant all or part of the PDA development approval applied for subject to conditions decided by MEDQ (each a ***PDA development condition***); or
 - (c) refuse to grant a PDA development approval.
- (5) To remove any doubt, it is declared that—
- (a) MEDQ may give a PDA preliminary approval even though the applicant sought a PDA development permit; and
 - (b) if MEDQ approves only part of an application, the balance of the application is taken to have been refused.
- (6) *In this section—*
- relevant local categorising instrument***, in relation to relevant development in a provisional priority development area, means a local categorising instrument within the meaning of the Planning Act that applies for the area to which the application relates.

86 Restrictions on granting approval

- (1) MEDQ can not grant the PDA development approval applied for if the relevant development would be inconsistent with the relevant development instrument for the relevant priority development area unless—
- (a) a preliminary approval under the Planning Act is in force for the relevant land and the relevant development would be consistent with the preliminary approval; or
 - (b) a PDA preliminary approval is in force for the relevant land and the relevant development would be consistent with the preliminary approval; or
 - (c) for a priority development area other than a provisional priority development area—there is a proposed development scheme and the relevant development

would be consistent with the proposed development scheme.

- (2) To remove any doubt, it is declared that subsection (1) does not require MEDQ to grant the PDA development approval only because subsection (1)(a), (b) or (c) applies.
- (2A) If PDA-associated development is declared for a priority development area under section 40C(1), the development is not inconsistent with the relevant development instrument for the area only because the instrument does not identify the development or adequately provide for its assessment.
- (3) In this section—
proposed development scheme, for the relevant priority development area, means a proposed development scheme, or a proposed amendment of a development scheme, for the area published under section 59, or section 59 as applied under section 67, that has not taken effect.

87 Matters to be considered in making decision

- (1) In deciding the application, MEDQ must consider—
 - (a) the main purpose of this Act; and
 - (b) any relevant State interest; and
 - (c) any submissions made to it about the application, during the submission period; and
 - (d) *the following instruments—*
 - (i) *for an application for development in, or PDA-associated development for, a provisional priority development area—*
 - (A) *if a provisional land use plan is in effect for the area when the application is decided—the provisional land use plan; or*
 - (B) *otherwise—the draft provisional land use plan for the area;*

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- (3) In deciding an application for PDA-associated development for a priority development area, MEDQ may, subject to section 86, give the weight it considers appropriate to any of the following instruments that would, under the Planning Act, have regulated the development if it were not PDA-associated development for the area—
- (a) a planning instrument that applies to the relevant land;
 - (b) assessment benchmarks for the development prescribed by regulation under the Planning Act;
 - (c) assessment benchmarks for the development made under another Act for the Planning Act.
- (4) Subsection (1)(c) does not prevent MEDQ from considering a submission about the application made to it after the submission period has ended.
- (5) *Subsection (6) applies for deciding an application for development in, or PDA-associated development (other than PDA-associated development declared under section 40C(1)) for, a priority development area if—*
- (a) *more than 1 development scheme, or more than 1 interim land use plan, is in effect for the area; or*
 - (b) *1 or more development schemes and 1 or more interim land use plans are in effect for the area.*
- (6) *A reference in subsection (1)(d)(ii) or (2) to the development scheme, proposed development scheme or interim land use plan for the priority development area is—*
- (a) *for an application for development in the priority development area—a reference to the development scheme, proposed development scheme or interim land use plan that applies or is proposed for the part of the area in which the development is to be carried out; or*
 - (b) *for an application for PDA-associated development (other than PDA-associated development declared under section 40C(1)) for the priority development area—a reference to the development scheme, proposed development scheme or interim land use plan that*

identifies the development as PDA-associated development.

(7) In this section—

proposed development scheme, for a priority development area, means a proposed development scheme, or a proposed amendment of a development scheme, for the area published under section 59, or section 59 as applied under section 67, that has not taken effect.

88 PDA development conditions

Without limiting section 85(4), a PDA development condition may—

- (a) nominate a stated entity to be the nominated assessing authority for the condition; or
- (b) relate to infrastructure, and the payment of charges or the surrender of land for infrastructure, for any priority development area; or
- (c) *require compliance with an infrastructure agreement that relates to the relevant land; or*
- (d) require the making of stated improvements to the relevant land; or
- (e) impose a condition or restriction on a disposal of the relevant land.

89 Decision notice

- (1) MEDQ must, within 5 business days after deciding the application, give notice of the decision (the ***decision notice***) to—
 - (a) the applicant; and
 - (b) the relevant local government; and
 - (c) if the decision was to grant a PDA development approval—any nominated assessing authority.

- (2) The decision notice must—
 - (a) be in the approved form; and
 - (b) state the decision; and
 - (c) state any PDA development conditions decided.
- (3) If the decision was to refuse to grant an approval, the decision notice must state the reasons for the refusal.
- (4) If the decision was to grant a PDA development approval, MEDQ must, when giving the decision notice to an entity mentioned in subsection (1), also give the entity a copy of any plans and specifications approved by MEDQ concerning the approval.

Subdivision 3 Appeals

90 Right of appeal against particular conditions

- (1) This section applies if a PDA development condition includes a nominated assessing authority (the *entity*).
- (2) The person who made the relevant PDA development application may appeal to the Planning and Environment Court against MEDQ's decision to impose the condition.
- (3) An appeal under subsection (2) must be started within 20 business days after the day the applicant is given notice of the decision.
- (4) An appellant starts an appeal by lodging, with the registrar of the Planning and Environment Court, a written notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (5) The Planning and Environment Court Act 2016, part 5 applies, with necessary changes, to the appeal as if—
 - (a) the appeal were a Planning Act appeal under that Act; and

- (b) the entity were the only other party to the appeal.
- (6) However—
 - (a) the appellant must, as soon as practicable after giving the entity the notice of appeal, give MEDQ a copy of the notice; and
 - (b) MEDQ may, by lodging a notice of election with the registrar of the court, elect to become a party to the appeal.
- (7) MEDQ must give the other parties a copy of the notice of election as soon as practicable after it is lodged.

Subdivision 4 Miscellaneous provisions

91 Approved material change of use required for particular developments

- (1) This section applies if, when a PDA development application is made—
 - (a) a structure or works, the subject of the application, may not be used unless a PDA development permit exists for the material change of use of premises for which the structure is, or works are, proposed; and
 - (b) there is no PDA development permit for the change of use; and
 - (c) approval for the material change of use has not been applied for in the application or a separate application.
- (2) The application is taken also to be for the change of use.

92 Changing application

- (1) A PDA development application may be changed by the applicant only if—
 - (a) the applicant has given MEDQ a notice stating details of the proposed change; and

- (b) MEDQ has agreed in writing to the making of the change.
- (2) The agreement under subsection (1)(b) may be given only if MEDQ is satisfied the change would not result in the relevant development being substantially different.

93 **Withdrawing application**

A PDA development application may be withdrawn by the applicant by notice given to MEDQ at any time before the application is decided.

Note—

See section 129A in relation to the refunding and waiving of fees.

Division 4 PDA development approvals

94 **Types of PDA development approvals**

- (1) A *PDA preliminary approval* is a PDA development approval that—
 - (a) approves development, but does not authorise PDA assessable development to take place; and
 - (b) approves development—
 - (i) to the extent stated in the approval; and
 - (ii) subject to the conditions of the approval.
- (2) A *PDA development permit* is a PDA development approval that authorises the carrying out of PDA assessable development—
 - (a) to the extent provided for under the permit; and
 - (b) subject to—
 - (i) the conditions of the permit; and

- (ii) any PDA preliminary approval relating to the development the permit authorises, including any conditions of the PDA preliminary approval.
- (3) There is no requirement to get a PDA preliminary approval for development.

Note—

PDA preliminary approvals assist in the staging of approvals.

95 Duration of approval

- (1) A PDA development approval has effect from when the decision notice for the relevant PDA development application is given.
- (2) The relevant development may, subject to any relevant PDA development conditions, start when the approval takes effect.
- (3) However, the approval ceases to have effect if it—
 - (a) is cancelled under section 98; or
 - (b) lapses under section 100 or 102.

96 Approval attaches to the relevant land

- (1) A PDA development approval attaches to the relevant land, and binds its owner, the owner's successors in title and any occupier of the land.
- (2) To remove any doubt, it is declared that subsection (1) applies even if later development, including reconfiguring a lot, is approved for the land, or the land as reconfigured under the PDA development approval.

97 Provision for enforcement of PDA development conditions

- (1) If there is a nominated assessing authority for a PDA development condition imposed on a PDA development approval, the Planning Act, chapter 5, part 3, and any other

Act mentioning a development approval under the Planning Act, applies to the condition as if—

- (a) the PDA development approval were a development approval under the Planning Act; and
 - (b) the nominated assessing authority were an enforcement authority under the Planning Act for development under the PDA development approval; and
 - (c) a reference in the Planning Act, chapter 5, part 3, or the other Act, to a development offence under the Planning Act were a reference to a PDA development offence.
- (2) To remove any doubt, it is declared that this section does not limit or otherwise affect MEDQ's ability to apply for an enforcement order or to start a proceeding under this Act relating to the condition.

98 Cancellation

- (1) MEDQ may cancel a PDA development approval only if the owner of the relevant land consents in writing to the cancellation.

Note—

See section 129A in relation to the refunding and waiving of fees.

- (2) However, MEDQ can not cancel the PDA development approval if the relevant development has substantially commenced.

99 Application to change PDA development approval

- (1) A person may apply (the ***amendment application***) to MEDQ to change a PDA development approval.
- (2) However, the amendment application may be made only if MEDQ is satisfied the change would not result in the relevant development being substantially different.
- (3) Division 3 applies for the amendment application as if—

[s 100]

- (a) a reference in the division to a PDA development application were a reference to the amendment application; and
 - (b) a reference in the division to a PDA development approval were a reference to a changed PDA development approval; and
 - (c) a reference in the division to the granting of a PDA development approval were a reference to the making of the change.
- (4) *Despite subsection (3), section 84(2) to (6) applies for the amendment application only in a circumstance mentioned in section 84(1)(c).*

100 When approval lapses generally

- (1) This section applies subject to section 102(5) and any extension granted under section 102.
- (2) A PDA development approval lapses at the end of its currency period unless—
 - (a) for development that is a material change of use—the change of use happens before the currency period ends; or
 - (b) for development that is reconfiguring a lot—the plan for the reconfiguration of the lot is given to MEDQ for its approval before the currency period ends; or
 - (c) for development not mentioned in paragraph (a) or (b)—development under the approval substantially starts before the currency period ends.
- (3) To the extent the PDA development approval is for development other than a material change of use or reconfiguring a lot, its *currency period* is—
 - (a) generally—2 years from the day the approval takes effect (the *day of effect*); or
 - (b) if the approval states a different period—the stated period.

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- (4) To the extent the PDA development approval is for development that is a material change of use, its *currency period* is—
 - (a) 6 years from the day of effect; or
 - (b) if the approval states a different period—the stated period.
 - (5) To the extent the PDA development approval is for development that is reconfiguring a lot, its *currency period* is—
 - (a) 4 years from the day of effect; or
 - (b) if the approval states a different period—the stated period.

101 Application to extend currency period

- (1) Before a PDA development approval lapses under section 100(2), a person having an interest in the relevant land may apply to MEDQ to extend the approval's currency period applying under section 100.
- (2) However, an application under subsection (1) can not be made for a PDA development approval for a provisional priority development area.
- (3) The application must be—
 - (a) in the approved form; and
 - (b) made before the currency period ends; and
 - (c) accompanied by the application fee decided by MEDQ.

102 Deciding extension application

- (1) This section applies if an application for an extension is made under section 101.
- (2) Before granting or refusing the extension, MEDQ must consult with each nominated assessing authority under the PDA development approval.

- (3) MEDQ must grant or refuse the extension within—
 - (a) generally—20 business days after the making of the application; or
 - (b) if, during the 20 business days, MEDQ and the applicant agree on a longer period—the longer period.
- (4) MEDQ must, within 5 business days after making the decision, give notice of the decision to the applicant and each nominated assessing authority under the PDA development approval.
- (5) Despite section 100, the PDA development approval does not lapse until MEDQ has given the applicant the notice under subsection (4).
- (6) If the decision was to refuse the extension, the notice must state the reasons for the refusal.

Division 5 Miscellaneous provisions

103 *Use or preservation covenants*

- (1) *A use or preservation covenant entered into in connection with a PDA development application is of no effect unless the covenant is required under—*
 - (a) *a PDA development condition; or*
 - (b) *an infrastructure agreement.*
- (2) *If the PDA development condition or infrastructure agreement under which a use or preservation covenant is required is changed in a way that affects rights or responsibilities under the covenant—*
 - (a) *the covenantee and the covenantor must execute an instrument that amends the covenant to reflect the change; and*
 - (b) *the covenantor must register the instrument.*

- (3) *Also, the covenantee under a use or preservation covenant must register an instrument releasing the covenant if—*
- (a) *the PDA development condition or infrastructure agreement under which the covenant was required ceases to require the covenant; or*
 - (b) *for a covenant required under a PDA development condition—the PDA development approval that was subject to the condition lapses or otherwise ends; or*
 - (c) *for a covenant required under an infrastructure agreement—the infrastructure agreement lapses or otherwise ends.*

- (4) *In this section—*

register, *an instrument in relation to a use or preservation covenant, means—*

- (a) *if the covenant is registered under the Land Act 1994—register the instrument under that Act; or*
- (b) *if the covenant is registered under the Land Title Act 1994—register the instrument under that Act.*

use or preservation covenant *means a covenant mentioned in the Land Act 1994, section 373A(5)(a) or (b) or the Land Title Act 1994, section 97A(3)(a) or (b).*

104 Plans of subdivision

- (1) This section applies to a plan of subdivision if, under another Act, the plan requires MEDQ's approval, in whatever form, before the plan can be registered or otherwise recorded under that Act.
- (2) In deciding whether to approve the plan of subdivision, MEDQ must comply with the process prescribed by regulation for approving plans of subdivision.
- (3) In this section—

authorised electricity entity *means an authorised electricity entity—*

- (a) to which the *Acquisition of Land Act 1967* applies in the circumstances mentioned in the *Electricity Act 1994*, section 116(4); and
- (b) as defined in section 116(8) of the *Electricity Act 1994*.

constructing authority see the *Acquisition of Land Act 1967*, schedule 2.

plan of subdivision means a plan or agreement (however described) for reconfiguring a lot—

- (a) unless the reconfiguration relates to—
 - (i) the acquisition of land, including by agreement, under the *Acquisition of Land Act 1967*, by a constructing authority or an authorised electricity entity, for a purpose for which land may be taken under that Act; or
 - (ii) the acquisition of land by agreement, other than under the *Acquisition of Land Act 1967*, by a constructing authority or an authorised electricity entity, for a purpose for which land may be taken under that Act; or
 - (iii) land held by the State, or a statutory body representing the State, that is being reconfigured for a purpose for which land may be taken under the *Acquisition of Land Act 1967*, whether or not the land relates to an acquisition of land; or
 - (iv) the acquisition of land for water infrastructure; or
 - (v) a lot that is, or includes, airport land under the *Airport Assets (Restructuring and Disposal) Act 2008*; or
 - (vi) a lot that is, or includes, strategic port land or Brisbane core port land under the *Transport Infrastructure Act 1994*; or
- (b) other than a plan of survey lodged under the *Acquisition of Land Act 1967*, section 12A as a result of a reconfiguration relating to an acquisition of land mentioned in paragraph (a)(i).

Part 5 **Enforcement notices,
enforcement orders and other
court orders**

Division 1AA **Enforcement notices**

104A **Application of Planning Act provisions for enforcement notices**

- (1) *The Planning Act, chapter 5, part 3 applies in relation to a PDA development offence, with necessary changes, as if—*
- (a) *a reference in the part to an enforcement authority were a reference to MEDQ; and*
 - (b) *a reference in the part to a development offence were a reference to a PDA development offence; and*
 - (c) *a reference in the part to a development permit were a reference to a PDA development permit; and*
 - (d) *a reference in the part to accepted development were a reference to PDA accepted development; and*
 - (e) *the reference in the part to a development approval were a reference to a PDA development approval; and*
 - (f) *the reference in section 172(c) of that Act to appealing the decision on the application were a reference to appealing the decision on the application to grant the PDA development permit subject to a PDA development condition that includes a nominated assessing authority for the condition.*
- (2) *Also, the Planning Act, section 229 and schedule 1 apply in relation to a decision to give an enforcement notice under chapter 5, part 3 of that Act, as applied under subsection (1) and, for that purpose, schedule 1 applies as if a reference in the schedule to the enforcement authority were a reference to MEDQ.*

- (3) *To remove any doubt, it is declared that this section does not limit or otherwise affect MEDQ's ability to apply for an enforcement order, or to take any other action under this Act, in relation to the PDA development offence.*

Division 1 Enforcement orders

105 Starting proceeding for enforcement order

- (1) MEDQ may start a proceeding in the Planning and Environment Court—
- (a) for an enforcement order to remedy or restrain the commission of a PDA development offence; or
 - (b) if MEDQ has started a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 106.
- (2) A proceeding for an enforcement order may be started whether or not anyone's right has been, or may be, infringed by, or because of, the commission of the offence.

106 Making interim enforcement order

- (1) The Planning and Environment Court may make an order pending a decision of a proceeding for an enforcement order if the court is satisfied it would be appropriate to make the order.
- (2) The court may make the order subject to conditions.
- (3) However, a condition can not require MEDQ to give an undertaking about damages.

107 Making enforcement order

- (1) The Planning and Environment Court may make an enforcement order if the court is satisfied the relevant offence—
- (a) is being, or has been, committed; or

- (b) will be committed unless the enforcement order is made.
- (2) If the court is satisfied the offence is being or has been committed, it may make the order whether or not there has been a prosecution for the offence.

108 Effect of enforcement order

- (1) An enforcement order may direct a party to the proceeding for the order—
 - (a) to stop an activity that constitutes, or will constitute, a PDA development offence; or
 - (b) not to start an activity that will constitute a PDA development offence; or
 - (c) to do anything required to stop committing a PDA development offence; or
 - (d) to return anything to a condition as close as practicable to the condition it was in immediately before a PDA development offence was committed; or
 - (e) to do anything about a development or use to comply with this Act.
- (2) Without limiting the Planning and Environment Court's powers, it may make an enforcement order requiring—
 - (a) the repairing, demolition or removal of a building; or
 - (b) for a PDA development offence relating to the clearing of vegetation on freehold land—
 - (i) rehabilitation or restoration of the area cleared; or
 - (ii) if the area cleared is not capable of being rehabilitated or restored—the planting and nurturing of stated vegetation on a stated area of equivalent size.
- (3) An enforcement order must state the time by which it must be complied with.
- (4) *An enforcement order may be in terms the court considers appropriate to secure compliance with this Act.*

(5) In this section—

clearing, of vegetation—

- (a) means removing, cutting down, ringbarking, pushing over, poisoning or destroying it in any way, including by burning, flooding or draining; but
- (b) does not include lopping a tree or the destruction of standing vegetation by stock.

root zone, of a tree or plant, means—

- (a) *the roots of the tree or plant, including any buttress roots; or*
- (b) *the soil in or on which the roots are situated—*
 - (i) *of an area measured by extending horizontally in all directions from the base of the trunk of the tree or plant to the points that are vertically below the ends of its outermost branches; and*
 - (ii) *to a depth of 1m below the surface of the soil.*

vegetation—

- (a) *means a tree or plant, whether living or dead; and*
- (b) *includes—*
 - (i) *the regrowth of a tree or plant; and*
 - (ii) *the root zone of a tree or plant.*

109 Powers about enforcement orders

- (1) The Planning and Environment Court's power to make an enforcement order to stop, or not to start, an activity may be exercised—
 - (a) whether or not it appears to the court that the person against whom the order is made (the **relevant person**) intends to engage again, or to continue to engage again, in the activity; and
 - (b) whether or not the relevant person has previously engaged in an activity of the same type; and

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- (c) whether or not there is danger of substantial damage to property or the environment or injury to another person if the relevant person engages, or continues to engage, in the activity.
- (2) The court's power to make an enforcement order to do anything may be exercised—
 - (a) whether or not it appears to the court that the person against whom the order is made (also the **relevant person**) intends to fail, or to continue to fail, to do the thing; and
 - (b) whether or not the relevant person has previously failed to do a thing of the same type; and
 - (c) whether or not there is danger of substantial damage to property or the environment or injury to another person if the relevant person fails, or continues to fail, to do the thing.
 - (3) The court may cancel or change an enforcement order on the application of MEDQ or the person against whom the order is made.
 - (4) The court's powers under this section are in addition to, and do not limit, its other powers.

Note—

For costs, see the *Planning and Environment Court Act 2016*, part 6.

- (5) In this section—
environment see the *Environmental Protection Act 1994*, section 8.

110 Offence to contravene enforcement order

A person against whom an enforcement order has been made must comply with the order.

Maximum penalty—4,500 penalty units or 2 years imprisonment.

Note—

See also—

- (a) section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation; and
- (b) the *Planning and Environment Court Act 2016*, section 36.

Division 2 Magistrates Court orders

111 Orders Magistrates Court may make in PDA offence proceeding

- (1) *If a Magistrates Court convicts a defendant of a PDA development offence, the court may make an order against the defendant that the court considers appropriate.*
- (2) The order may be made in addition to, or in substitution for, any penalty the court may otherwise impose.
- (3) The order may require the defendant—
 - (a) to stop development or carrying on a use; or
 - (b) to demolish or remove work carried out; or
 - (c) to restore, as far as practicable, premises to the condition the premises were in immediately before development or use of the premises started; or
 - (d) to do, or not to do, another act to ensure development or use of the premises complies with a PDA development approval or a relevant development instrument; or
 - (e) for development that has started—to make a PDA development application for the development.
- (4) The order must state the time by which, or period within which, the order must be complied with.

112 Offence to contravene Magistrates Court order

A person against whom an order under section 111 has been made must comply with the order.

Maximum penalty—4,500 penalty units or 2 years imprisonment.

Note—

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation.

112A Order for compensation

- (1) *This section applies if a Magistrates Court—*
 - (a) *convicts a defendant of a PDA development offence; and*
 - (b) *finds that, because of the offence, another person has—*
 - (i) *suffered loss of income; or*
 - (ii) *suffered a reduction in the value of, or damage to, property; or*
 - (iii) *incurred expenses to replace or repair property or prevent or minimise, or attempt to prevent or minimise, the loss, reduction or damage.*
- (2) *The Magistrates Court may order the defendant to pay the other person compensation for the loss, reduction or damage suffered or the expenses incurred.*
- (3) *This section does not limit the court's powers under the Penalties and Sentences Act 1992 or another law.*

112B Order for investigation expenses

- (1) *This section applies if—*
 - (a) *a Magistrates Court—*
 - (i) *convicts a defendant of a PDA development offence; and*

- (ii) *finds that MEDQ has reasonably incurred expenses in taking a sample or conducting an inspection, test, measurement or analysis during the investigation of the offence; and*
- (b) *MEDQ applies for an order for the payment of the expenses.*
- (2) *The Magistrates Court may order the defendant to pay MEDQ a reasonable amount for the expenses if the court considers it would be just to do so in the circumstances.*
- (3) *This section does not limit the court's powers under the Penalties and Sentences Act 1992 or another law.*

Division 3 Other provisions relating to court orders or proceedings

113 MEDQ may remedy noncompliance with particular orders

- (1) *This section applies if a person against whom an enforcement order, or an order under section 111, has been made does not comply with the order within the period stated in the order.*
- (2) *MEDQ may—*
 - (a) *take the action required under the order; and*
 - (b) *recover the reasonable costs of taking the action as a debt owing by the person to MEDQ.*

114 Planning and Environment Court may make declarations

- (1) MEDQ may bring a proceeding in the Planning and Environment Court for a declaration about—
 - (a) a matter done, to be done or that should have been done for this chapter or the repealed ULDA Act; or
 - (b) the construction of this chapter or the repealed ULDA Act; or

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- (c) the lawfulness of land use or development relating to a priority development area.
 - (2) The court may make an order about a declaration made under subsection (1).
 - (3) Subsection (4) applies to a proceeding mentioned in subsection (1) if the land to which the proceeding relates ceases to be in, or to be PDA-associated land for, a priority development area.
 - (4) To remove any doubt, it is declared that the proceeding is not affected only because the land has ceased to be in, or to be PDA-associated land for, a priority development area.

Part 6 Particular charges

Division 1 Special rates or charges

115 Levying special rates or charges

- (1) MEDQ may make and levy on owners or occupiers of rateable land in a priority development area, or rateable land that is PDA-associated land for a priority development area, a special rate or charge on the land if—
 - (a) the rate or charge is for a service, facility or activity provided by MEDQ, or by a local government or someone else at MEDQ's request; and
 - (b) in MEDQ's opinion—
 - (i) the land, or the owner or occupier of the land, has or will specially benefit from, or has or will have special access to, the service, facility or activity; or
 - (ii) the owner or occupier of the land, or the use made or to be made of the land, has, or will, specially contribute to the need for the service, facility or activity.

- (2) The special rate or charge may be made and levied on the bases MEDQ considers appropriate.

Note—

See also section 117 in relation to the recovery of a special rate or charge.

- (3) MEDQ may fix a minimum amount of the special rate or charge.
- (4) Without limiting subsection (2), the amount of the special rate or charge may vary according to the extent to which, in MEDQ's opinion—
- (a) the land, or the owner or occupier of the land, has or will specially benefit from, or has or will have special access to, the service, facility or activity; or
 - (b) the owner or occupier of the land, or the use made or to be made of the land, has, or will, specially contribute to the need for the service, facility or activity.
- (5) MEDQ's instrument making the special rate or charge must identify—
- (a) the rateable land to which the rate or charge applies; and
 - (b) the overall plan for the supply of the service, facility or activity.
- (6) The overall plan must—
- (a) be adopted by MEDQ either before, or at the same time as, MEDQ first makes the special rate or charge; and
 - (b) identify the rateable land to which the rate or charge applies; and
 - (c) describe the service, facility or activity; and
 - (d) state the estimated cost of implementing the overall plan; and
 - (e) state the estimated time for implementing the overall plan.
- (7) MEDQ may identify parcels of rateable land to which the rate or charge applies in any way MEDQ considers appropriate.

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- (8) Subsection (1) is taken to have been complied with if the special rate or charge is made and levied on—
- (a) all rateable land that, at the time of making and levying the rate or charge, could reasonably be identified as land on which the rate or charge may be made and levied; or
 - (b) all rateable land on which the rate or charge may be made and levied, other than land accidentally omitted.

116 Application of special rate or charge

- (1) A special rate or charge collected for a particular service, facility or activity must be used for that purpose.
- (2) However, the special rate or charge need not be held in trust.

Division 2 Infrastructure expenses recoupment charges

116A Definitions for div 2

In this division—

charge area means 1 of the following identified in an authorising instrument—

- (a) a single priority development area;
- (b) a part of a single priority development area;
- (c) an area consisting of 2 or more priority development areas, or parts of 2 or more priority development areas, in the same local government area;
- (d) PDA-associated land for a priority development area.

provision, of infrastructure, includes coordination of the provision of the infrastructure.

116B Making and levying charge

- (1) Subsection (2) applies if MEDQ incurs, or reasonably expects to incur, an expense for the provision of infrastructure in relation to land in a charge area.
- (2) MEDQ may, by instrument (the *authorising instrument*), make and levy on owners of rateable land in the charge area a charge (an *infrastructure expenses recoupment charge*) on the rateable land to recoup, or provide for payment of, the expense.
- (3) However, subsection (2) does not apply if—
 - (a) the infrastructure is a facility or service for which a special rate or charge has been made and levied; or
 - (b) the expense is recouped or provision is made for payment of the expense, other than by levying the charge.
- (4) Subsection (2) is taken to have been complied with if the charge is made and levied on—
 - (a) all rateable land that, at the time of making and levying the charge, could reasonably be identified as land on which the charge may be made and levied; or
 - (b) all rateable land on which the charge may be made and levied, other than land accidentally omitted.
- (5) To remove any doubt, it is declared that subsection (2) applies even if MEDQ incurred, or reasonably expected to incur, the expense for the provision of infrastructure in relation to the land before the land was in a charge area.

116C Requirements for authorising instrument

- (1) The authorising instrument for an infrastructure expenses recoupment charge must—
 - (a) identify—
 - (i) the charge area to which the charge relates; and
 - (ii) the rateable land to which the charge applies; and

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- (iii) the overall plan for the provision of the infrastructure to which the charge relates; and
 - (b) state—
 - (i) the amount of the charge for the residential land in the charge area; and
 - (ii) the way the amount of the charge for the non-residential land in the charge area is worked out; and
 - (iii) the rate, by reference to a stated index that is relevant to the estimated cost of the provision of infrastructure, by which the amount of the charge can be increased; and
 - (iv) the intervals at which the amount of the charge can be increased.
 - (2) The overall plan must—
 - (a) describe the infrastructure to which the charge relates; and
 - (b) state the estimated expenses and time for the provision of the infrastructure.
 - (3) MEDQ may identify parcels of rateable land to which the charge applies in any way MEDQ considers appropriate.
 - (4) In this section—
 - non-residential land* means rateable land other than residential land.
 - residential land* means rateable land for which a residential use under a development scheme is provided.

116D Basis and amount of charge

- (1) An infrastructure expenses recoupment charge may be made and levied on the bases MEDQ considers appropriate.

Note—

See also section 117 in relation to the recovery of the charge.

[s 116E]

- (2) Without limiting subsection (1), MEDQ may—
 - (a) fix a minimum amount of the charge; or
 - (b) decide whether a discount for payment of the charge applies and the amount and terms of any discount.
- (3) However, an infrastructure expenses recoupment charge may be increased by no more than the rate, and only at the intervals, stated in the authorising instrument for the charge.

116E Making and levying of charge by superseding public sector entity

- (1) This section applies if—
 - (a) MEDQ has made and levied an infrastructure expenses recoupment charge to recoup an incurred expense, or provide for the payment of an expected expense, for the provision of infrastructure (the *planned infrastructure*) in relation to land (the *relevant land*) in a charge area consisting of the whole or part of a priority development area or PDA-associated land for a priority development area; and
 - (b) *the relevant land ceases to be in, or to be PDA-associated land for, a priority development area.*
- (2) However, this section does not apply for an expense that MEDQ has recouped.
- (3) *On and after the cessation—*
 - (a) *the infrastructure expenses recoupment charge is taken to have been made and levied by the superseding public sector entity for the infrastructure; and*
 - (b) the superseding public sector entity may continue to make and levy the infrastructure expenses recoupment charge.
- (4) For subsection (3)(b), this division, other than section 116B(1) and (5) and this section, applies as if a reference in the division to MEDQ were a reference to the superseding public sector entity.

- (5) However, to remove any doubt, it is declared that subsections (3)(b) and (4) do not authorise the superseding public sector entity to make and levy an infrastructure expenses recoupment charge to recoup or provide for an expense, other than for the provision of the planned infrastructure.

Division 3 Recovery of relevant charges

116F Definitions for div 3

In this division—

charge notice see section 116G(1).

charging entity means—

- (a) for an infrastructure expenses recoupment charge made and levied, or taken to have been made and levied, by a superseding public sector entity—the public sector entity; or
- (b) otherwise—MEDQ.

relevant charge means—

- (a) a special rate or charge; or
- (b) an infrastructure expenses recoupment charge.

116G Charge notice

- (1) The charging entity must give the owner of each parcel of rateable land on which a relevant charge is levied notice of the charge (a *charge notice*).
- (2) The charge notice must state—
 - (a) the rateable land and the relevant charge; and
 - (b) the amount of the charge payable; and
 - (c) the due date for payment of the charge; and
 - (d) if a discount for the charge applies—

- (i) the terms of the discount; and
 - (ii) the last day of the discount period; and
 - (e) the ways in which the charge may be paid.
- (3) The charge notice may form part of another notice given by the charging entity to the owner of the land.

Example of another notice given by a charging entity—
a rate notice given by a local government

117 Recovery of relevant charge

- (1) A relevant charge does not become owing until 20 business days after the owner of the land on which the charge is levied is given a charge notice for the charge.
- (2) If there is more than 1 owner of the land, all the owners are jointly and severally liable to pay the amount.
- (3) If the amount becomes owing under subsection (1), the charging entity may recover it from the owner as a debt.
- (4) Also, the charging entity may recover the amount from the owner for the time being of the land.
- (5) If the charging entity may recover the amount under this section, the local government overdue rates or charges provisions apply for the amount as if—
 - (a) the relevant charge were a rate or charge under the *Local Government Act 2009* or the *City of Brisbane Act 2010* on the land to which the relevant charge applies; and
 - (b) a reference in the provisions to overdue rates and charges were a reference to the amount; and
 - (c) a reference in the provisions to a local government or the council were a reference to the charging entity; and
 - (d) a reference in the provisions to the chief executive officer of a local government or the council were a reference to the following—
 - (i) if the charging entity is MEDQ—MEDQ;

- (ii) if the charging entity is a superseding public sector entity—the chief executive or chief executive officer of the entity.
- (6) For land on which a special rate or charge is levied, a reference in subsection (1), (2) or (3) to the owner of the land includes a reference to the occupier of the land.
- (7) In this section—
- local government overdue rates or charges provisions*** means—
- (a) for land outside the City of Brisbane—the following provisions—
 - (i) the *Local Government Act 2009*, section 95;
 - (ii) each provision of a regulation made under the *Local Government Act 2009*, section 96; or
 - (b) for land in the City of Brisbane—the following provisions—
 - (i) the *City of Brisbane Act 2010*, section 97;
 - (ii) each provision of a regulation made under the *City of Brisbane Act 2010*, section 98.

Part 7

Infrastructure agreements relating to priority development areas

118 Application of pt 7

This part applies to an infrastructure agreement to which MEDQ is a party if it relates to land that is or was—

- (a) in a priority development area; or
- (b) PDA-associated land for a priority development area.

119 Exercise of discretion unaffected by infrastructure agreements

The infrastructure agreement is not invalid merely because its fulfilment depends on the exercise of a discretion by MEDQ about—

- (a) *a draft provisional land use plan or provisional land use plan for a provisional priority development area; or*
- (b) *an interim land use plan or development scheme for another priority development area; or*
- (c) *an existing or future PDA development application.*

120 When infrastructure agreements under Planning Act apply instead of particular approvals

- (1) *This section applies if the infrastructure agreement is made under the Planning Act.*
- (2) *The infrastructure agreement applies instead of a PDA development approval to the extent of any inconsistency.*
- (3) *Subsections (4) and (5) apply if—*
 - (a) *land to which the infrastructure agreement relates ceases to be in, or to be PDA-associated land for, a priority development area; and*
 - (b) *part of a PDA development approval for the land becomes a Planning Act approval or part of a water approval.*
- (4) *Despite the Planning Act, section 157(2), the infrastructure agreement applies instead of the Planning Act approval under section 157(1) of that Act, even if the chief executive of the department in which that Act is administered has not approved the agreement.*
- (5) *If the infrastructure agreement is made before the cessation, the agreement applies instead of the part of the water approval to the extent of any inconsistency.*

- (6) *To remove any doubt, it is declared that subsections (4) and (5) apply whether or not the infrastructure agreement is amended before or after the cessation.*

120A When water infrastructure agreements apply instead of particular approvals

- (1) *This section applies if the infrastructure agreement is a water infrastructure agreement.*
- (2) *If the water infrastructure agreement is made on or after the commencement, the agreement applies instead of a PDA development approval to the extent of any inconsistency.*
- (3) *Subsection (4) applies if—*
- (a) *land to which the water infrastructure agreement relates ceases to be in, or to be PDA-associated land for, a priority development area; and*
 - (b) *part of a PDA development approval for the land becomes part of a water approval.*
- (4) *Despite the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, section 99BRDO, the water infrastructure agreement prevails over the part of the water approval to the extent of any inconsistency only if the agreement is made on or after the commencement.*

121 Infrastructure agreement continues beyond cessation of priority development area

- (1) This section applies if—
- (a) land ceases to be in, or to be PDA-associated land for, a priority development area; and
 - (b) *an infrastructure agreement in relation to the land was in force immediately before the land ceased to be in, or to be PDA-associated land for, the priority development area; and*
 - (c) MEDQ has elected not to continue to be a party to the agreement.

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- (2) *A superseding public sector entity for infrastructure that is the subject of the infrastructure agreement, and that is being provided in relation to the land, is taken to be a party to the agreement.*
- (3) *MEDQ's rights and responsibilities under the infrastructure agreement for the infrastructure become the rights and responsibilities of the superseding public sector entity.*
- (4) *To remove any doubt, it is declared that sections 119, 120 and 120A continue to apply to the infrastructure agreement.*

122 Consultation with public sector entities before entering into particular infrastructure agreements

- (1) *This section applies if a proposed infrastructure agreement would, if entered into, likely continue to apply in relation to land after the land ceases to be in, or to be PDA-associated land for, a priority development area.*
- (2) *Before entering into the proposed infrastructure agreement, MEDQ must consult about the terms of the agreement with the entities MEDQ considers will be superseding public sector entities for infrastructure the subject of the agreement.*

Part 8 MEDQ's powers relating to priority development areas and PDA-associated development

122A Definitions for part

In this part—

***MEDQ agent** means an agent of MEDQ.*

***MEDQ employee** means an employee of the department whose services are made available to MEDQ under section 29.*

122B Powers for investigation and enforcement of PDA development offences and related matters

The Planning Act, chapter 5, parts 6, 7 and 8 applies as if—

- (a) *a reference in the parts to the chief executive were a reference to MEDQ; and*
- (b) *the reference in section 182(1)(a) of that Act to an officer of the department were a reference to an MEDQ agent or MEDQ employee; and*
- (c) *a reference in the parts to a development approval were a reference to a PDA development approval; and*
- (d) *a reference in the parts to an offence against the Planning Act were a reference to a PDA development offence; and*
- (e) *a reference in the parts to a warrant issued or power exercised under that Act, or a provision of that Act, were a reference to a warrant issued or power exercised under those parts as applied under this section.*

123 Application of local government entry powers for MEDQ's functions or powers

- (1) This section applies to—
 - (a) land in, or a structure on, a priority development area or a lot adjoining the priority development area; or
 - (b) land or a structure the subject of PDA-associated development for a priority development area or a lot adjoining the land or structure.
- (2) The local government entry powers provisions apply to MEDQ and each authorised employee or agent of MEDQ as if—
 - (a) MEDQ were a local government; and
 - (b) the authorised employee or agent were an employee or agent of a local government; and

- (c) a reference to the local government were a reference to MEDQ; and
 - (d) a reference to an employee or agent of the local government were a reference to an authorised employee or agent of MEDQ; and
 - (e) a reference in the sections to any of the following were a reference to the performance of MEDQ's functions or the exercise of its powers—
 - (i) the exercise of the jurisdiction of local government;
 - (ii) the exercise of a power under a local government Act;
 - (iii) the exercise of the local government's jurisdiction;
 - (iv) local government purposes; and
 - (f) a reference to the local government's facilities on the land were a reference to MEDQ's facilities on the land.
- (3) However, if the occupier of the land or structure is present at the place, before entering the place, an authorised employee or agent of MEDQ must do, or make a reasonable attempt to do, the following things—
- (a) identify himself or herself to the occupier, by complying with section 31;
 - (b) tell the occupier the purpose of the entry;
 - (c) seek the consent of the occupier to the entry;
 - (d) tell the occupier the employee or agent is permitted under this Act to enter the place without the occupier's consent.
- (4) If the occupier is not present, the employee or agent must take reasonable steps to advise the occupier of the employee's or agent's intention to enter the place.
- (5) Subsections (3) and (4) do not require the employee or agent to take a step that the employee or agent reasonably believes may frustrate or otherwise hinder the purposes of the entry.

(6) In this section—

authorised employee or agent, of MEDQ, means an MEDQ employee or MEDQ agent who has, under section 30, been issued with an identity card that is still in force.

local government entry powers provisions means—

- (a) for land outside the City of Brisbane—the *Local Government Act 2009*, sections 144, 146 and 147; or
- (b) for land in the City of Brisbane—the *City of Brisbane Act 2010*, sections 134, 136 and 137.

lot see the Planning Act, schedule 2.

124 Roads and road closures

- (1) MEDQ may perform functions or exercise powers for a road that MEDQ considers necessary or desirable to perform its other functions in relation to—
 - (a) a priority development area; or
 - (b) PDA-associated development for a priority development area.
- (2) Without limiting subsection (1), MEDQ may, by gazette notice, permanently or temporarily close all or part of a road.
- (3) Before the closing of the road takes effect, MEDQ must publish a notice MEDQ considers appropriate about the closure in a newspaper circulating in the relevant local government area.
- (4) Failure to comply with subsection (3) does not invalidate the closure.
- (5) MEDQ may do everything necessary to stop traffic using a road or part of a road closed under this section.
- (6) To remove any doubt, it is declared that this section applies—
 - (a) whether or not a road is a State-controlled road under the *Transport Infrastructure Act 1994*; and
 - (b) whether or not the *Land Act 1994* applies to a road.

125 Vesting land in permanently closed road or unallocated State land in MEDQ

- (1) MEDQ may, by gazette notice, declare any of the following is vested in MEDQ, in fee simple—
 - (a) any land that comprised a road under the *Land Act 1994* that has been permanently closed under section 124;
 - (b) unallocated State land in a priority development area.
- (2) The chief executive of the department in which the *Land Act 1994* is administered must, under that Act, register the vesting if MEDQ lodges in the land registry under that Act—
 - (a) a request under that Act to register the vesting; and
 - (b) if that chief executive so requires—a plan of subdivision under that Act for the land the subject of the vesting; and
 - (c) a copy of the gazette notice.
- (3) On the registration of the request to vest, the Governor in Council may issue to MEDQ a deed of grant under the *Land Act 1994* for the land the subject of the vesting.
- (4) Despite the *Land Act 1994* and the *Land Title Act 1994*, no fee is payable by MEDQ in relation to the registration of the vesting or to give effect to it.

126 Giving information about roads to relevant local government

- (1) This section applies if, under this chapter, MEDQ performs a function or exercises a power relating to a road or former road.
- (2) MEDQ must give the relevant local government the information MEDQ has to allow the local government to comply with its obligation for its map and register of roads under the *Local Government Act 2009*, section 74 or, for the Brisbane City Council, the *City of Brisbane Act 2010*, section 81.

127 Direction to government entity or local government to accept transfer

- (1) MEDQ may give a government entity or local government (the *directed entity*) a written direction to accept the transfer to it of—
 - (a) stated land in a priority development area, or stated PDA-associated land for a priority development area, owned by MEDQ; or
 - (b) a stated amount from the Fund for providing or maintaining infrastructure relating to stated land in a priority development area, or stated PDA-associated land for a priority development area, owned by MEDQ.
- (2) However, the direction may be given only if MEDQ is satisfied the transfer is reasonably necessary for the purpose of this Act.
- (3) The direction may state conditions on which the transfer must be made.
- (4) The directed entity must do every thing reasonably necessary to comply with the direction.
- (5) If the directed entity is a local government, on the making of the transfer, the stated land is taken to be land that the local government holds on trust in fee simple to which the Planning Act, section 159 applies.

128 Direction to government entity or local government to provide or maintain infrastructure

- (1) MEDQ may give a written direction to a government entity or local government (the *directed entity*) to provide or maintain stated infrastructure in, or relating to, a stated priority development area.
- (2) However, the direction may be given only if MEDQ is satisfied the provision or the maintenance of the infrastructure by the directed entity is necessary for the proper and orderly planning, development and management of the priority development area.

- (3) The direction may state conditions on which the infrastructure must be provided or maintained.
- (4) The directed entity must comply with the direction.
- (5) Subsection (4) applies despite any other Act or law.

Part 9 Fees

129 Application fees

- (1) This section applies if MEDQ is deciding the fee for an application under this chapter.
- (2) The fee can not be more than the actual cost of considering and processing the application.
- (3) However, for the following applications the fee may also include a reasonable component to recover MEDQ's costs of making or amending the relevant development instrument—
 - (a) a PDA development application;
 - (b) *an amendment application.*

129A Refunding and waiving fees

- (1) *MEDQ may, but need not—*
 - (a) *refund all or part of a required fee; or*
 - (b) *waive all or part of a required fee.*
- (2) *In this section—*
required fee means a fee required to be paid for an application under this chapter.

Chapter 4 Establishment etc. of other entities

Part 1 Economic Development Board

Division 1 Establishment and functions

130 Establishment

The Economic Development Board is established.

131 Board's functions

- (1) The functions of the board are—
 - (a) advising, and making recommendations to, MEDQ about how MEDQ can give effect to the main purpose of this Act; and
 - (b) monitoring, and reporting to MEDQ about, the performance of MEDQ's functions or exercise of MEDQ's powers by entities (including the board) to whom the functions or powers are delegated; and
 - (c) ensuring MEDQ adopts best practice corporate governance and financial management and accountability arrangements; and
 - (d) performing the functions, and exercising the powers, of MEDQ delegated to the board under this Act.
- (2) The board may do all things necessary or convenient to be done for the performance of its functions.

Division 2 Membership

132 Membership of the board

- (1) The board consists of the following persons (each a *board member*)—
 - (a) the chief executive of the department;
 - (b) the chief executive of the department in which the *Auditor-General Act 2009* is administered;
 - (c) the chief executive of the department in which the *Financial Accountability Act 2009* is administered;
 - (d) no more than 3 other members appointed by the Governor in Council.
- (2) A person is eligible for appointment under subsection (1)(d) only if the person—
 - (a) has extensive knowledge of and experience in 1 or more of the following—
 - (i) local government;
 - (ii) land use planning;
 - (iii) social policy or community development;
 - (iv) law, economics or accounting;
 - (v) the construction or development industries;
 - (vi) natural resource and environmental management;or
 - (b) has other knowledge and experience the Governor in Council considers appropriate.
- (3) A member appointed under subsection (1)(d) may be appointed on a full-time or part-time basis.
- (4) A member appointed under subsection (1)(d) is appointed under this Act and not the *Public Service Act 2008*.

133 Chairperson and deputy chairperson

- (1) The chief executive of the department is the chairperson of the board.
- (2) MEDQ must appoint a board member, other than the chairperson, as the deputy chairperson.
- (3) Subject to subsection (4), the deputy chairperson holds that office for the term decided by MEDQ.
- (4) A vacancy occurs in the office of deputy chairperson if the person holding the office stops being a board member or resigns the office.
- (5) A person holding office as deputy chairperson resigns the office by signed notice of resignation given to MEDQ.
- (6) A person's resignation from the office of deputy chairperson does not, of itself, stop the person from being a board member.
- (7) The deputy chairperson is to act as chairperson during a period when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

134 Terms and conditions of appointment etc.

- (1) Subject to subsections (5) and (6), an appointed board member holds office for the term stated in the member's instrument of appointment.
- (2) The term stated in the instrument of appointment must not be more than 5 years.
- (3) An appointed board member is to be paid the remuneration and allowances decided by the Governor in Council.
- (4) An appointed board member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.
- (5) An appointed board member may resign by signed notice given to MEDQ.

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- (6) The Governor in Council may end an appointed board member's appointment if the member—
 - (a) is convicted of an indictable offence; or
 - (b) is or becomes an insolvent under administration under the Corporations Act, section 9; or
 - (c) is disqualified from managing corporations under the Corporations Act, part 2D.6; or
 - (d) becomes incapable of performing the functions of a board member because of physical or mental incapacity or some other reason; or
 - (e) is guilty of misconduct of a type that could warrant dismissal from the public service if the member were an officer of the public service; or
 - (f) does not comply with section 135(2) or (3); or
 - (g) does not comply with section 161; or
 - (h) fails to comply with section 163.

(7) In this section—

appointed board member means a board member appointed under section 132(1)(d).

135 Disclosure of interests

- (1) This section applies if—
 - (a) a board member, or a close relative of a board member, has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the board member's functions for the matter.
- (2) The board member must, as soon as practicable, disclose the interest to—
 - (a) for the chairperson—all the other members; or
 - (b) for another member—the chairperson.

Maximum penalty—100 penalty units.

- (3) If a board member has disclosed an interest relating to a matter, the member must not participate in the board's consideration of the matter.

Maximum penalty—100 penalty units.

Division 3 Meetings and other business of the board

136 Conduct of business

Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

137 Times and places of meetings

- (1) Board meetings are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked in writing to do so by at least 2 board members.
- (3) Also, the chairperson must call a meeting at least once in each quarter.

138 Quorum

A quorum for a board meeting is more than half of the number of board members.

139 Attendance by proxy

- (1) A board member may attend a meeting of the board by proxy.
- (2) A board member is not entitled to preside at a meeting of the board merely because the member is the proxy holder for the chairperson or deputy chairperson.

140 Presiding at meetings

- (1) The chairperson is to preside at all board meetings at which the chairperson is present.
- (2) If the chairperson is not present, the deputy chairperson is to preside.
- (3) If the chairperson and deputy chairperson are both not present, the board member chosen by the board members present is to preside.

141 Conduct of meetings

- (1) The board may hold meetings, or allow board members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.
- (2) A person who takes part in a board meeting under subsection (1) is taken to be present at the meeting.
- (3) A decision at a board meeting must be a majority decision of the board members present.
- (4) If the votes of the board members present at the board meeting are equal, the member presiding has a casting vote.

142 Decisions outside meetings

A decision of the board, other than a decision at a board meeting, may be made only with the written agreement of a majority of the board members.

143 Minutes and record of decisions

The board must keep—

- (a) minutes of its meetings; and
- (b) a record of any decisions under section 142.

Part 3 Local representative committees

158 Establishment

- (1) MEDQ may establish a committee (a *local representative committee*) for an area to help MEDQ, or its delegates, perform MEDQ's functions in the area.
- (2) A local representative committee consists of the following persons appointed by MEDQ—
 - (a) a board member;
 - (b) no more than 4 other persons who MEDQ considers can appropriately represent the interests of entities affected by development in the area, including, for example, a chief executive officer of a local government.
- (3) A member of a local representative committee is appointed on the terms and conditions MEDQ considers appropriate, including terms about remuneration.
- (4) A local representative committee may conduct its business, including its meetings, in the way it considers appropriate.

159 Functions

- (1) The functions of a local representative committee for an area are—
 - (a) advising, and making recommendations to, MEDQ and the board about—
 - (i) the impact, or potential impact, of proposed development in the area, including, for example, the impact or potential impact on the environment or public amenity; and
 - (ii) community needs and expectations in the area; and
 - (b) performing the functions, and exercising the powers, of MEDQ delegated to the committee under this Act; and

- (c) reporting to MEDQ and the board about the committee's performance of its functions under this Act.
- (2) A local representative committee may do all things necessary or convenient to be done for the performance of its functions.

Part 4 **Provisions applying to members**

160 Report about person's criminal history for particular appointments

- (1) *To decide whether to recommend to the Governor in Council a person for appointment as a board member under section 132(1)(d), MEDQ may ask the commissioner of the police service for—*
 - (a) a written report about the person's criminal history; and
 - (b) a brief description of the circumstances of any conviction mentioned in the criminal history.
- (2) The commissioner of the police service must comply with a request under subsection (1).
- (3) However, MEDQ may make a request about a person under subsection (1) only if the person has given MEDQ written consent for the request.
- (4) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) MEDQ must ensure a report given to MEDQ under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (6) MEDQ may delegate its power under this section to an appropriately qualified public service officer.
- (7) In this section—

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than for a spent conviction.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

161 Duty to act honestly and exercise care and diligence

- (1) *A board member or committee member must act honestly, and must exercise a reasonable degree of care and diligence, when performing the member's functions and exercising the member's powers.*
- (2) *A person who is or was a board member or committee member must not make improper use of information acquired because of the person's position as a board member or committee member—*
 - (a) to gain, directly or indirectly, an advantage for the person or for any other person; or
 - (b) to cause detriment to MEDQ.
- (3) *A board member or committee member must not make improper use of the member's position as a member—*
 - (a) to gain, directly or indirectly, an advantage for the member or for any other person; or
 - (b) to cause detriment to MEDQ.
- (4) This section—
 - (a) *has effect in addition to, and not in derogation of, any law relating to the civil or criminal liability of a person because of the person's office as a board member or committee member; and*

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- (b) does not prevent the starting of a civil or criminal proceeding in respect of civil or criminal liability.

Note—

See also section 171 (Protection from civil liability).

162 MEDQ may bring proceedings

- (1) *If a board member or committee member contravenes section 161, MEDQ may recover from the member as a debt due to MEDQ either or both of the following—*
 - (a) if the member or any other person made a profit as a result of the contravention—an amount equal to the profit;
 - (b) if MEDQ has suffered loss or damage as a result of the contravention—an amount equal to the loss or damage.
- (2) A proceeding mentioned in subsection (1) may be—
 - (a) brought in the name of MEDQ; and
 - (b) started in a court of competent jurisdiction.

Chapter 5 General

Part 1 Other offences

163 Privacy

- (1) This section applies to a person who—
 - (a) is, or has been, a person performing functions or exercising powers under this Act; and
 - (b) obtains in the course of, or because of, the performance of a function or exercise of a power under this Act,

personal or confidential information that is not publicly available.

- (2) The person must not—
 - (a) make a record of the information; or
 - (b) divulge or communicate the information to anyone else, whether directly or indirectly; or
 - (c) use the information to benefit any person.

Maximum penalty—100 penalty units.

- (3) However, subsection (2) does not apply if the record is made, or the information is divulged, communicated or used—
 - (a) for, or as a part of, a function of MEDQ; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) as required by law.

164 Liability of executive officer for particular offences committed by corporation

- (1) An executive officer of a corporation commits an offence if—
 - (a) the corporation commits an offence against an executive liability provision; and
 - (b) the officer does not take all reasonable steps to ensure the corporation does not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

- (2) In deciding whether things done or omitted to be done by an executive officer of a corporation constitute reasonable steps for subsection (1)(b), the court may have regard to—
 - (a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against the executive liability provision; and

- (b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against the executive liability provision; and
- (c) any other relevant matter.
- (3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, an offence against the executive liability provision.
- (4) This section does not affect the following—
 - (a) the liability of the corporation for an offence against the executive liability provision;
 - (b) the liability, under chapter 2 of the Criminal Code, of any person, whether or not the person is an executive officer of the corporation, for an offence against the executive liability provision.
- (5) In this section—

executive liability provision means any of the following provisions—

- (a) section 73(1);
- (b) section 75;
- (c) section 76;
- (d) section 110;
- (e) section 112.

executive officer, of a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person's position is given the name of executive office.

165 Giving MEDQ a false or misleading document

A person must not, in relation to the performance of MEDQ's functions, give MEDQ a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—1,665 penalty units.

Part 2 Proceedings

166 Proceedings for offences

A proceeding for an offence against this Act—

- (a) *is to be heard and decided summarily; and*
- (b) *may be brought only by MEDQ or a person acting for MEDQ.*

167 Limitation on time for starting proceeding for offence

A proceeding for an offence against this Act must start—

- (a) *within 1 year after the commission of the offence; or*
- (b) *within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed.*

168 Evidentiary aids

A certificate purporting to be signed by or for MEDQ stating any of the following matters is evidence of the matter—

- (a) a decision, direction or notice under this Act or the repealed ULDA Act;
- (b) a thing that must or may be included in a register kept under this Act;
- (c) that a stated document is another document kept under this Act;
- (d) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (e) that on a stated day—

- (4) *However, subsection (3) does not apply to a function or power if MEDQ has, when delegating the function or power to the local government, directed that the function or power can not be subdelegated.*
- (5) *A board member may delegate the member's functions as a member to an appropriately qualified officer or employee of a department.*
- (6) The Cross River Rail Delivery Authority may subdelegate a function or power of MEDQ delegated to it under subsection (1) to—
 - (a) a member of the authority's board of management; or
 - (b) the authority's chief executive officer; or
 - (c) an appropriately qualified member of the authority's staff.
- (7) *However, subsection (6) does not apply to a function or power if MEDQ has, when delegating the function or power to the Cross River Rail Delivery Authority, directed that the function or power can not be subdelegated.*
- (8) In this section—

Cross River Rail Delivery Authority means the Cross River Rail Delivery Authority established under the *Cross River Rail Delivery Authority Act 2016*, section 8.

170 MEDQ may give directions

- (1) An entity to whom a function or power is delegated under section 169 must perform the function or exercise the power subject to—
 - (a) the general direction and control of MEDQ; and
 - (b) any specific written directions given to it by MEDQ.
- (2) Without limiting subsection (1)(b), a direction under that provision may require the entity to give stated information to MEDQ.

171 Protection from civil liability

- (1) A prescribed person carrying out functions, or exercising powers, under this Act is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act or a direction or a requirement under this Act.

Note—

In relation to a person who is or was a board member or committee member, see also section 161 (Duty to act honestly and exercise care and diligence).

- (2) If subsection (1) prevents a civil liability attaching to the member or person, the liability attaches instead to the State.
- (3) In this section—

prescribed person means—

- (a) *a board member or committee member; or*
- (b) *another person to whom a function or power has been delegated under section 169.*

Part 3A Service of documents

171A Application of part

*This part applies if a person is required or permitted under this Act to serve a document (the **relevant document**) on another person (the **receiver**).*

171B Service of documents

- (1) *The person may serve the relevant document on the receiver by giving the receiver another document (a **communication**) stating that—*
 - (a) *the relevant document can be viewed on a stated website or other electronic medium; and*
 - (b) *the receiver may ask the person for a copy of the relevant document.*

-
- (2) *Also, if the receiver has given the person a notice stating an electronic address for service, the person may serve the relevant document on the receiver by sending to the electronic address—*
- (a) *the relevant document; or*
 - (b) *a notice (also a **communication**) stating the relevant document can be viewed by opening a stated hyperlink.*

Examples of an electronic address—

an email address, internet protocol address or digital mailbox address

- (3) *For subsections (1) and (2)(b), the receiver is taken to have been served with the relevant document only if, by accessing the website or other electronic medium or opening the hyperlink, the receiver would have been able to view the relevant document—*
- (a) *at the time the communication was given or sent (the **sending time**); and*
 - (b) *for a period after the sending time that, in the circumstances and having regard to the receiver's functions for the document, was reasonable to allow the receiver to—*
 - (i) *access the website or other electronic medium, or open the hyperlink; and*
 - (ii) *read or copy the relevant document.*
- (4) *Subsection (3) applies whether or not the receiver viewed the website or other electronic medium, or opened the hyperlink.*
- (5) *Subsection (6) applies if the receiver is given a communication under subsection (1) and asks the person for a copy of the relevant document in hard copy or electronic form.*
- (6) *The person must, as soon as practicable after the request is made, give the receiver a copy of the relevant document in the requested form.*
- (7) *This section does not limit the Acts Interpretation Act 1954, section 39 or the Electronic Transactions (Queensland) Act 2001.*

171C Certificate of service

- (1) *In a civil or criminal proceeding, a certificate of service in relation to a communication that states the following matters is evidence of those matters—*
 - (a) *the sending time for the communication;*
 - (b) *that, by accessing the website or other electronic medium, or opening the hyperlink, stated in the communication, the receiver would have been able to view the relevant document—*
 - (i) *at the sending time; and*
 - (ii) *for a stated period after that time.*
- (2) *In this section—*

certificate of service, *in relation to a communication, means a certificate that—*

 - (a) *is signed by the person who gave or sent the communication; and*
 - (b) *attaches a copy of the communication.*

Part 4 Other administrative matters

172 Registers

- (1) MEDQ must keep a register of each of the following—
 - (a) *draft provisional land use plans that have taken effect;*
 - (b) *reports on draft provisional land use plans under section 36E(3)(a);*
 - (c) *provisional land use plans that have taken effect, as amended from time to time;*
 - (d) *each amendment of a provisional land use plan made or proposed under section 36H or 36I;*
 - (e) *interim land use plans that have taken effect;*

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- (f) each proposed development scheme or proposed amendments of development schemes under chapter 3, part 3;
 - (g) the following information about PDA-associated development for a priority development area—
 - (i) a description of the development, including plans and supporting documentation;
 - (ii) whether the development was declared by MEDQ under section 40C(1) or identified in the relevant development instrument for the area;
 - (iii) a description of the land on which the development is, or is proposed to be, located;
 - (h) declarations made by MEDQ under section 40C(1);
 - (i) reports on development schemes under section 63(2);
 - (j) development schemes that have taken effect;
 - (k) PDA development applications;
 - (l) PDA development approvals;
 - (m) *PDA exemption certificates*;
 - (n) by-laws;
 - (o) special rates and charges;
 - (p) infrastructure expenses recoupment charges;
 - (q) directions given under sections 127 and 128.
- (2) MEDQ may also keep a register of other documents or information relating to this Act that MEDQ considers appropriate.
- (3) MEDQ may keep a register in the way it considers appropriate.
- (4) However, the documents included in the registers must also be published on the department's website.

173 Access to registers

- (1) MEDQ must—
 - (a) keep each register open for inspection by the public during office hours on business days at the places MEDQ considers appropriate; and
 - (b) allow a person to search and take extracts from the register; and
 - (c) give a person who asks for it a copy of all or part of a document or information held in the register, on payment of the fee decided by MEDQ.
- (2) The fee can not be more than the actual cost of giving the copy.

174 Matters to be included in department's annual report

- (1) The chief executive must ensure the department's annual report for a financial year includes information about the performance of MEDQ's functions in the year.
- (2) Without limiting subsection (1), the report must include—
 - (a) *information about how the board or local representative committees have contributed to the achievement of MEDQ's functions; and*
 - (b) any other matter prescribed under a regulation.
- (3) In this section—
annual report means annual report under the *Financial Accountability Act 2009*.

175 Approved forms

MEDQ may approve forms for use under this Act.

176 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.

- (2) A regulation may—
- (a) *provide for development in 1 or more priority development areas to be identified as PDA assessable development or PDA accepted development; or*
 - (b) provide for any matter for which by-laws may be made; or
 - (c) impose a penalty of no more than 20 penalty units for contravention of a regulation.

Chapter 6 Transitional provisions and repeals for Act No. 43 of 2012

Part 1 Preliminary

177 Definitions for ch 6

In this chapter—

commencement means the commencement of this section.

former entity means—

- (a) the corporation established under the repealed ID Act, section 5; or
- (b) the former ULDA.

former ULDA means the authority established under the repealed ULDA Act, section 93.

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

SPA development approval means a development approval under the repealed Sustainable Planning Act.

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- (b) the person's accruing rights, including to superannuation or recreation, sick, long service or other leave, are not affected;
 - (c) continuity of service is not interrupted, except that the person is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service;
 - (d) the employment does not constitute a termination of employment or a retrenchment or redundancy;
 - (e) the person is not entitled to a payment or other benefit because he or she is no longer employed by the former ULDA.
- (4) Subject to this section, the chief executive may issue a direction to a person to facilitate the transition of employees from the former ULDA to the department.
 - (5) A person given a direction must comply with the direction.
 - (6) If a person employed under subsection (2) was employed by the former ULDA under a contract, the person is taken to be employed by the department under the contract under which the person was employed before the commencement.
 - (7) In this section—
employee, of the former ULDA, does not include the chief executive officer appointed under the repealed ULDA Act, section 120.

180 MEDQ is legal successor

- (1) MEDQ is the successor in law of each former entity.
- (2) Subsection (1) is not limited by another provision of this part.

181 Assets and liabilities etc. of a former entity

- (1) At the commencement—

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- (a) the assets and liabilities of a former entity immediately before the commencement become assets and liabilities of MEDQ; and
- (b) any infrastructure agreements, contracts, leases, licences, undertakings or other agreements or arrangements to which a former entity is a party, in force immediately before the commencement—
 - (i) are taken to have been entered into by MEDQ; and
 - (ii) may be enforced against or by MEDQ; and

Example of another arrangement—

an arrangement under which the former ULDA was able to borrow an amount from another statutory body, for example, the Queensland Treasury Corporation

- (c) any property that, immediately before the commencement, was held on trust or subject to a condition, by a former entity continues to be held on the same trust, or subject to the same condition, by MEDQ.
- (2) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by MEDQ, record the vesting of property under this section in MEDQ.

182 Proceeding not yet started by or against a former entity

- (1) This section applies if, immediately before the commencement, a proceeding could have been started by or against a former entity within a particular period (the *prescribed period*).
- (2) The proceeding may be started by or against MEDQ within the prescribed period.

183 Proceeding to which a former entity was a party

- (1) This section applies to a proceeding that, immediately before the commencement, had not ended and to which a former entity was a party.

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- (2) At the commencement, MEDQ becomes a party to the proceeding in place of the former entity.

184 Records of former entity

All records of a former entity are records of MEDQ under this Act.

185 References to former entity and former entity's website

- (1) In an Act or document, a reference to a former entity is taken, if the context permits, to be a reference to MEDQ.
- (2) In an Act or document, a reference to a former entity's website is taken, if the context permits, to be a reference to the department's website.

186 Amounts in Estates Construction Fund at the commencement

The amount that, immediately before the commencement, is the balance credited to the Estates Construction Fund under the repealed ID Act forms part of the fund continued in existence under section 25.

187 Annual reporting

- (1) This section applies if the commencement falls in the middle of a financial year.
- (2) The department's annual report for the financial year must include information about the former entity's operations that would have been required to be included in the department's annual report if the repealed IDA Act and repealed ULDA Act had not been repealed.
- (3) In this section—
annual report means annual report under the *Financial Accountability Act 2009*.

188 Offences relating to former entity

- (1) This section applies if—
 - (a) under a provision of an Act, as in force before the commencement (*relevant law*), a person who did or omitted to do an act in relation to a former entity, or something done or required to be done by a former entity, committed an offence; and
 - (b) the provision is—
 - (i) amended by this Act so that it no longer applies in relation to the former entity, or something done or required to be done by the former entity; or
 - (ii) repealed by this Act.
- (2) A proceeding for the offence may be continued or started, and the provisions of the relevant law that are necessary or convenient to be used in relation to the proceeding continue to apply, as if this Act had not commenced.
- (3) For subsection (2), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.
- (4) Subsection (2) applies despite the Criminal Code, section 11.

189 Other things done by former entity

- (1) This section applies to anything done by a former entity under an Act—
 - (a) whose effect had not ended immediately before the commencement; and
 - (b) that, at the commencement, is something that MEDQ can do under that Act; and
 - (c) that is not otherwise dealt with by a provision of this part.
- (2) The thing done by the former entity—
 - (a) continues to have effect; and

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- (b) from the commencement, is taken to have been done by MEDQ.
- (3) Without limiting subsection (2)—
- (a) the performance of a function or exercise of a power under the repealed ULDA Act, section 99 that is still in effect immediately before the commencement is, from the commencement, taken to have been performed or exercised by MEDQ under section 124 of this Act; and
- (b) a special rate or charge on land made and levied under the repealed ULDA Act, section 101 that has not been paid immediately before the commencement is, from the commencement, taken to be made and levied by MEDQ under section 115 of this Act; and
- (c) a notice given by the former ULDA for a special rate or charge under the repealed ULDA Act, section 127 that has not been complied with immediately before the commencement is taken to have been given by MEDQ under section 117 of this Act; and
- (d) any consultation conducted by the former ULDA under the repealed ULDA Act, section 136E before the commencement is taken to have been conducted by MEDQ under section 122 of this Act; and
- (e) a request made by the former ULDA under the repealed ULDA Act, section 139 that has not been complied with at the commencement is taken to be made by MEDQ under section 52 of this Act; and
- (f) an endorsement, approval or decision (however called) given or made by a former entity, that is of a kind that MEDQ can give or make under an Act as in force at the commencement, is taken to have been given or made by MEDQ.

Examples for paragraph (f)—

- endorsements given by the former ULDA under the *Body Corporate and Community Management 1997*, section 60
- approvals of plans of subdivision given by the former ULDA under the repealed ULDA Act, section 80

Part 3 Existing urban development areas

190 Existing urban development areas

- (1) A part of the State that was an urban development area under the repealed ULDA Act immediately before the commencement is, from the commencement, taken to be a priority development area under this Act.
- (2) A transitioned UDA may keep the name given to it under the repealed ULDA Act.
- (3) The operation of subsection (1) is not affected by the transitioned UDA having a name that includes the term 'urban development area' or 'UDA'.

191 Existing interim land use plans for transitioned UDAs

- (1) This section applies if an interim land use plan made under the repealed ULDA Act for a transitioned UDA was in effect immediately before the commencement.
- (2) From the commencement, the interim land use plan is taken to be an interim land use plan made under this Act for the transitioned UDA.
- (3) The interim land use plan applies with necessary and convenient changes to facilitate the application of this Act to the transitioned UDA.
- (4) Without limiting subsection (3)—
 - (a) a reference in the interim land use plan to the former ULDA is taken to be a reference to MEDQ; and
 - (b) a reference in the interim land use plan to urban development area is taken to be a reference to a transitioned UDA; and
 - (c) a reference in the interim land use plan to any of the following terms is taken to be a reference to the

corresponding term under this Act for priority development areas—

- (i) UDA assessable development;
 - (ii) UDA self-assessable development;
 - (iii) UDA exempt development;
 - (iv) UDA development application;
 - (v) UDA development approval;
 - (vi) UDA preliminary approval;
 - (vii) UDA development permit;
 - (viii) UDA development condition.
- (5) The interim land use plan expires—
- (a) subject to paragraph (b), on the day it would have expired under the repealed ULDA Act, section 9 if that section had not been repealed; or
 - (b) if the former ULDA had prepared a proposed development scheme for the transitioned UDA, under the repealed ULDA Act, part 3, division 1—the earlier of the following—
 - (i) when MEDQ makes a development scheme under this Act for the transitioned UDA;
 - (ii) 60 business days after the commencement.
- (6) Without limiting subsection (2), the interim land use plan may be amended or revoked under this Act.
- (7) The interim land use plan may keep the name given to it under the repealed ULDA Act.
- (8) The operation of this section is not affected by the interim land use plan having a name that includes the term ‘urban development area’ or ‘UDA’.

192 MEDQ must make development scheme for transitioned UDA

- (1) This section applies if, at the commencement, a development scheme has not been made under the repealed ULDA Act for a transitioned UDA.
- (2) Subject to subsection (3), MEDQ must make a development scheme under this Act for the transitioned UDA.
- (3) For subsection (2), anything done or in existence in relation to a proposed development scheme under the repealed ULDA Act for the transitioned UDA is taken to have been done or in existence under this Act.
- (4) If, under subsection (3), MEDQ is taken to have complied with sections 58 to 61 for a proposed development scheme (the *proposed scheme*)—
 - (a) MEDQ must, as soon as practicable after the commencement, give each person (a *submitter*) who made a submission received within the submission period about the proposed scheme a notice stating that—
 - (i) MEDQ is considering making the proposed scheme under this Act; and
 - (ii) MEDQ’s report about the proposed scheme can be inspected on the department’s website; and
 - (iii) if the submitter is an affected owner for the transitioned UDA—that the submitter may, within 20 business days after receiving the notice, ask MEDQ to amend the proposed scheme to protect the owner’s interests; and
 - (b) MEDQ may, within the prescribed period, amend the proposed scheme in a way MEDQ considers appropriate, including, for example, to—
 - (i) protect an affected owner’s interests; or
 - (ii) ensure the implementation of the scheme complies with this Act; or

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- (iii) make a minor administrative amendment; and
 - (c) if MEDQ considers an amendment of the proposed scheme significantly changes the scheme, MEDQ must re-comply with sections 58 to 61 for the amended scheme.
- (5) For subsection (4)(b), the *prescribed period* is as follows—
- (a) 45 business days after the notice is given under subsection (4)(a);
 - (b) if, within 20 business days after being given the notice under subsection (4)(a), an affected owner for the transitioned UDA asks MEDQ to amend the proposed scheme to protect the affected owner's interests and MEDQ requires additional time to consider a matter raised by the affected owner—the period mentioned in paragraph (a) plus a further period of not more than 20 business days decided by MEDQ;
 - (c) if a caretaker period occurs within the period mentioned in paragraph (a)—that period plus a further period equal to the caretaker period plus 20 business days.
- (6) In this section—
- affected owner***, for a priority development area, means a person who owns land that—
- (a) is in the area; or
 - (b) shares a common boundary with the area; or
 - (c) is benefited by an easement, registered under the *Land Title Act 1994*, over the area or part of the area; or
 - (d) has a boundary, along a road, that is directly opposite a boundary of the area, along the same road; or
 - (e) MEDQ considers may be negatively affected by development in the area having regard to—
 - (i) the proximity of the land to the area; and

- (ii) the impact the development, including any proposed development, may have on the character and amenity of the land.

193 Existing development schemes for transitioned UDAs

- (1) This section applies if a development scheme made under the repealed ULDA Act for a transitioned UDA was in effect immediately before the commencement.
- (2) From the commencement, the development scheme is taken to be a development scheme made under this Act for the transitioned UDA.
- (3) The development scheme applies with necessary and convenient changes to facilitate the application of this Act to the transitioned UDA.
- (4) Without limiting subsection (3)—
 - (a) a reference in the development scheme to the former ULDA is taken to be a reference to MEDQ; and
 - (b) a reference in the development scheme to urban development area is taken to be a reference to a transitioned UDA; and
 - (c) a reference in the development scheme to any of the following terms is taken to be a reference to the corresponding term under this Act for priority development areas—
 - (i) UDA assessable development;
 - (ii) UDA self-assessable development;
 - (iii) UDA exempt development;
 - (iv) UDA development application;
 - (v) UDA development approval;
 - (vi) UDA preliminary approval;
 - (vii) UDA development permit;
 - (viii) UDA development condition.

- (5) Without limiting subsection (2), the development scheme may be amended or revoked by MEDQ under this Act.
- (6) For subsection (5), anything done by the former ULDA in relation to amending the development scheme under the repealed ULDA Act is taken to have been done by MEDQ under this Act.

194 Application of this Act to transitioned UDAs

- (1) This section provides for the application of this Act to transitioned UDAs.
- (2) This Act applies in relation to a transitioned UDA with necessary and convenient changes, including, for example, changes to allow for—
 - (a) the transitioned UDA having been declared before the commencement of this Act; and
 - (b) a transitioned interim land use plan or transitioned development scheme, or an amendment of a transitioned development scheme, having been made before the commencement of this Act.
- (3) Without limiting subsection (2), and to remove any doubt, it is declared that—
 - (a) development that a transitioned interim land use plan or transitioned development scheme for the transitioned UDA provides is UDA assessable development is PDA assessable development under this Act for the transitioned UDA; and
 - (b) development that a transitioned interim land use plan or transitioned development scheme for the transitioned UDA provides is UDA self-assessable development is PDA self-assessable development under this Act for the transitioned UDA.
- (4) In this section—

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transitioned development scheme means a development scheme made under the repealed ULDA Act that, under section 193, is taken to be made under this Act.

transitioned interim land use plan means an interim land use plan made under the repealed ULDA Act that, under section 191, is taken to be made under this Act.

195 Relationship with repealed Sustainable Planning Act

- (1) Subsection (2) applies if—
 - (a) the repealed ULDA Act, section 13 applied to a SPA development application; and
 - (b) the application has not been decided at the commencement.
- (2) The repealed ULDA Act, section 13 continues to apply in relation to the application as if that Act had not been repealed.
- (3) An SPA development approval for land in a transitioned UDA granted under the repealed ULDA Act, section 13(2) (whether before the commencement or under subsection (2)) is taken to be an SPA development approval for land in the transitioned UDA granted under section 44(2) of this Act.
- (4) An SPA development approval for land in a transitioned UDA continued under the repealed ULDA Act, section 14 is taken to be an SPA development approval for land in the transitioned UDA continued under section 45 of this Act.
- (5) An application relating to the Northshore Hamilton urban development area made under the repealed ULDA Act, section 14A that has not been decided at the commencement may be decided by MEDQ under section 46 of this Act.
- (6) For subsection (5), anything done by the former ULDA in relation to the application under the repealed ULDA Act is taken to have been done by MEDQ.
- (7) A community infrastructure designation continued in force, under the repealed ULDA Act, section 15(2), for land in a transitioned UDA is, from the commencement, taken to be a

community infrastructure designation for land in the transitioned UDA continued in force under section 47(2) of this Act.

(8) In this section—

community infrastructure designation means a community infrastructure designation under the repealed Sustainable Planning Act.

SPA development application means a development application under the repealed Sustainable Planning Act.

196 Regulation about transitioned UDAs

- (1) A regulation under this Act may include details of the following—
 - (a) each transitioned UDA;
 - (b) any of the following applying to a transitioned UDA—
 - (i) an interim land use plan;
 - (ii) a development scheme or an amendment of a development scheme.
- (2) A reference in section 42 to a declaration regulation includes a reference to a regulation made under subsection (1)(a).
- (3) Subsection (4) applies if—
 - (a) a regulation made under subsection (1) includes an interim land use plan or development scheme that was made by adopting, applying or incorporating all or part of another document (the ***adopted provisions***); and
 - (b) the adopted provisions are not part of, or attached to, the regulation.
- (4) The Minister must, when the regulation is tabled in the Legislative Assembly under the *Statutory Instruments Act 1992*, section 49, also table a copy of the adopted provisions.

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Note—

MEDQ must keep a register of interim land use plans and development schemes, as amended from time to time, and publish them on the department's website. See section 172.

- (5) A failure to comply with subsection (4) does not invalidate or otherwise affect the regulation.

Part 4 Provisions about cessation of an urban development area

197 Particular provisions about land or premises that were in urban development area

- (1) The repeal of the ULDA Act does not affect the operation of the following provisions of that Act applying to land or premises in an area that ceased to be an urban development area under that Act before the commencement—
 - (a) section 16(2);
 - (b) section 18;
 - (c) section 19.
- (2) Subsection (1) does not limit the *Acts Interpretation Act 1954*, section 20.

Part 5 Development and uses in existing urban development areas

198 Existing UDA development applications

- (1) This section applies to a UDA development application made under the repealed ULDA Act that—
 - (a) was a properly made application under the repealed ULDA Act, section 51; and

- (b) has not been decided at the commencement.
- (2) Subject to subsections (3) to (5), the UDA development application is taken to be a PDA development application made under this Act and must be decided by MEDQ under this Act.
- (3) For subsection (2)—
 - (a) anything done or existing in relation to the UDA development application under the repealed ULDA Act is taken to have been done or existing in relation to the PDA development application under this Act; and
 - (b) a reference in sections 86 and 87 to a proposed development scheme includes a reference to a proposed development scheme, or a proposed amendment of a development scheme, published under the repealed ULDA Act, section 25, or section 25 as applied under section 38 of that Act, that has not taken effect before the commencement.
- (4) Despite section 87(1)(a), MEDQ must consider the main purposes of the repealed ULDA Act, not the main purpose of this Act, in deciding the application.
- (5) If the repealed ULDA Act, section 17 applied to the UDA development application—
 - (a) the application must be decided as if the land the subject of the application were in a priority development area; and
 - (b) if a PDA development approval is granted because of the application, the approval is, immediately after it takes effect under this Act, taken to be an SPA development approval.

199 Appeals against existing decisions on UDA development applications

- (1) Subsection (2) applies if—

- (a) immediately before the commencement, a person could have, under the repealed ULDA Act, section 61, appealed to the Planning and Environment Court against the former ULDA's decision to impose a UDA development condition that includes a nominated assessing authority; and
- (b) at the commencement—
 - (i) the period within which the appeal could have been started (the *appeal period*) has not ended; and
 - (ii) the person has not started the appeal.
- (2) The person may, within the appeal period, appeal to the Planning and Environment Court against the decision, and the court must hear and decide the appeal under the repealed ULDA Act as if it had not been repealed.
- (3) Subsection (4) applies if—
 - (a) before the commencement, a person has, under the repealed ULDA Act, appealed to the Planning and Environment Court against a decision of the former ULDA; and
 - (b) the appeal has not been finally dealt with at the commencement.
- (4) The Planning and Environment Court must hear, or continue to hear, and decide the appeal under the repealed ULDA Act as if it had not been repealed.
- (5) MEDQ must give effect to the outcome of an appeal started under subsection (2), or continued under subsection (4), in relation to the relevant PDA development approval under this Act.
- (6) If the appeal relates to land that has ceased to be in an urban development area under the repealed ULDA Act, and section 16(3) of that Act applied to the appeal, the appeal must be decided as if the cessation had not happened.

200 Ministerial call in for existing decisions on UDA development applications not started at the commencement

- (1) This section applies if—
 - (a) immediately before the commencement, the Minister administering the repealed ULDA Act could have, under the repealed ULDA Act, section 63, called in a UDA development application for which a decision notice had been given by the former ULDA; and
 - (b) at the commencement—
 - (i) the period within which the application could have been called in (the *call in period*) has not ended; and
 - (ii) the Minister has not called in the application.
- (2) The Minister may, by notice to MEDQ given before the call in period ends, call in the application.
- (3) The repealed ULDA Act, sections 64 to 66 apply in relation to the call in as if—
 - (a) a reference to the call in notice were a reference to the notice given under subsection (2); and
 - (b) the requirement to give a copy of the call in notice under the repealed ULDA Act, section 65 were a requirement that MEDQ give the copy to the persons mentioned in that section.
- (4) The Minister's decision on the call in is taken, for this Act other than section 90, to be a decision of MEDQ on a development application decided under section 198.
- (5) To remove any doubt, it is declared that no right of appeal applies under the repealed ULDA Act, section 61 or section 90 of this Act in relation to the Minister's decision on the call in.

201 Ministerial call in for existing decisions on UDA development applications started but not finished at the commencement

- (1) This section applies if—
 - (a) before the commencement, the Minister administering the repealed ULDA Act has, under the repealed ULDA Act, section 63, called in a UDA development application for which a decision notice had been given by the former ULDA; and
 - (b) at the commencement, the UDA development application has not been finally dealt with under the repealed ULDA Act, part 4, division 3, subdivision 4.
- (2) The repealed ULDA Act, sections 64 to 66 continue to apply in relation to the call in.
- (3) If the requirement to give a copy of the call in notice under the repealed ULDA Act, section 65 has not been complied with at the commencement, the requirement applies as if it were a requirement that MEDQ give the copy to the persons mentioned in that section.
- (4) The Minister's decision on the call in is taken, for this Act other than section 90, to be a decision of MEDQ on a development application decided under section 198.
- (5) To remove any doubt, it is declared that no right of appeal applies under the repealed ULDA Act, section 61 or section 90 of this Act in relation to the Minister's decision on the call in.

202 Existing UDA development approvals

- (1) A UDA development approval in effect under the repealed ULDA Act immediately before the commencement is, from the commencement, taken to be a PDA development approval of the same kind under this Act.
- (2) To remove any doubt, it is declared that, in this Act—
 - (a) a reference to a PDA development approval includes a reference to a UDA development approval that is taken

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- to be a PDA development approval under subsection (1);
and
- (b) a reference to a PDA preliminary approval includes a reference to a UDA preliminary approval that is taken to be a PDA preliminary approval under subsection (1);
and
 - (c) a reference to a PDA development permit includes a reference to a UDA development permit that is taken to be a PDA development permit under subsection (1); and
 - (d) a reference to a PDA development condition includes a reference to a condition imposed by the former ULDA on a UDA development approval that is taken to be a PDA development approval under subsection (1).
- (3) Subject to section 102(5) and any extension granted under section 102, the development approval's currency period for section 100 is the currency period applying, under the repealed ULDA Act, to the UDA development approval immediately before the commencement.
- (4) The development approval applies with necessary and convenient changes to facilitate the application of this Act to the approval.
- (5) Without limiting subsection (4)—
- (a) a reference in the development approval to the former ULDA it taken to be a reference to MEDQ; and
 - (b) a reference in the development approval to urban development area is taken to be a reference to a transitioned UDA; and
 - (c) a reference in the development approval to any of the following terms is taken to be a reference to the corresponding term under this Act for priority development areas—
 - (i) UDA assessable development;
 - (ii) UDA self-assessable development;
 - (iii) UDA exempt development;

- (iv) UDA preliminary approval;
- (v) UDA development permit;
- (vi) UDA development condition.

203 Existing applications to extend currency period

- (1) This section applies if—
 - (a) before the commencement, a person has applied for an extension of a UDA development approval's currency period under the repealed ULDA Act, section 77; and
 - (b) the application has not been decided at the commencement.
- (2) The application is taken to be an application made under section 101 of this Act and must be decided by MEDQ under this Act.
- (3) For subsection (2), anything done or existing in relation to the application under the repealed ULDA Act is taken to have been done or existing in relation to the application under this Act.

204 Plans of subdivision requiring former ULDA's approval

- (1) This section applies to a plan of subdivision for which compliance assessment under the repealed Sustainable Planning Act required under the repealed ULDA Act, section 80 has started, but not ended, at the commencement.
- (2) The compliance assessment may be finished under section 104 of this Act as if that section applied to the plan of subdivision.
- (3) For subsection (2), anything done by the former ULDA under the repealed ULDA Act in relation to the SPA compliance assessment is taken to have been done by MEDQ.
- (4) In this section—

plan of subdivision means a plan or agreement, however called, for reconfiguring a lot.

**205 Special provision for Environmental Protection
(Greentape Reduction) and Other Legislation
Amendment Act 2012**

- (1) Subsections (2) and (3) apply if this part commences before the commencement of the Greentape Reduction Amendment Act, section 60, to the extent it inserts section 679 into the Environmental Protection Act.
- (2) The EPA, section 679 applies with the following changes—
 - (a) a reference in the section to a UDA development approval is taken to be a reference to a PDA development approval;
 - (b) a reference in the section to UDA development conditions is taken to be a reference to PDA development conditions;
 - (c) the reference in subsection (1)(b) to the ULDA Act, section 58(a) is taken to be a reference to section 88(a) of this Act;
 - (d) the reference in subsection (2)(c) to a UDA development offence is taken to be a reference to a PDA development offence;
 - (e) the reference in subsection (3) to the day a UDA development approval had effect under the ULDA Act is taken to be a reference to—
 - (i) for a UDA development approval under the repealed ULDA Act taken to be a PDA development approval under this Act—the day the UDA development approval had effect under the repealed ULDA Act; or
 - (ii) for a PDA development approval given under this Act—the day the PDA development approval had effect under this Act;
 - (f) the reference in subsection (4) to the anniversary of the day the UDA development approval was given is taken to be a reference to—

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- (i) for a UDA development approval under the repealed ULDA Act taken to be a PDA development approval under this Act—the anniversary of the day the UDA development approval was given under the repealed ULDA Act; or
 - (ii) for a PDA development approval given under this Act—the day the PDA development approval was given under this Act.
- (3) The EPA, section 694, definition *transitional authority*, paragraph (c) applies with necessary and convenient changes to allow for the application of the EPA, section 679 with the changes mentioned in subsection (2).
- (4) Subsection (5) applies if this part commences after the commencement of the Greentape Reduction Amendment Act, section 60, to the extent it inserts section 679 into the Environmental Protection Act.
- (5) The carrying out of a prescribed ERA under UDA development conditions of a UDA development approval that, under the EPA, section 679, are taken to be an environmental authority under the Environmental Protection Act, chapter 5 is not a PDA development offence.
- (6) In this section—

Environmental Protection Act means the *Environmental Protection Act 1994*.

EPA, section 679 means the Environmental Protection Act, section 679 as inserted by the Greentape Reduction Amendment Act, section 60.

EPA, section 694, definition transitional authority means the Environmental Protection Act, section 694, definition *transitional authority* as inserted by the Greentape Reduction Amendment Act, section 60.

Greentape Reduction Amendment Act means the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

Part 6 Proceedings and related matters

206 Starting proceeding for enforcement order for offence committed before the commencement

- (1) This section applies if—
 - (a) a UDA development offence under the repealed ULDA Act was committed before the commencement; and
 - (b) at the commencement, the former ULDA had not started a proceeding for an enforcement order under the repealed ULDA Act, section 81 in relation to the offence.
- (2) MEDQ may start a proceeding under section 105 for an enforcement order to remedy or restrain the commission of the offence.

207 Existing proceeding for enforcement order

- (1) This section applies in relation to a proceeding for an enforcement order started under the repealed ULDA Act, section 81 that has not been decided at the commencement.
- (2) The Planning and Environment Court must decide the proceeding under the repealed ULDA Act, part 5, division 1 as if that Act had not been repealed.
- (3) The repealed ULDA Act, sections 81 to 85 continue to apply in relation to the proceeding.
- (4) If the court makes an enforcement order, the enforcement order is taken to be an enforcement order made under chapter 3, part 5, division 1 of this Act, and sections 110 and 113 apply to the order.

208 Existing enforcement order

An enforcement order made under the repealed ULDA Act, part 5, division 1 that is still in force at the commencement is,

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from the commencement, taken to be an enforcement order made under chapter 3, part 5, division 1 of this Act, and sections 110 and 113 apply to the order.

209 Proceedings for offence committed before commencement

- (1) This section applies in relation to a proceeding for an offence committed against the repealed ULDA Act before the commencement that—
 - (a) is started after the commencement; or
 - (b) was started before the commencement but has not been decided at the commencement.

Note—

See the *Acts Interpretation Act 1954*, section 20A in relation to starting and continuing proceedings for offences committed under repealed laws.

- (2) The repealed ULDA Act, section 89 continues to apply in relation to the offence, as if that Act had not been repealed.
- (3) If the Magistrates Court makes an order under the repealed ULDA Act, section 89, the order is taken to be an order made under section 111 of this Act, and sections 112 and 113 apply to the order.

210 Existing Magistrates Court order

An order made under the repealed ULDA Act, section 89 that is still in force at the commencement is, from the commencement, taken to be an order made under section 111 of this Act, and sections 112 and 113 apply to the order.

211 MEDQ's power to recover cost of works to remedy stated public nuisance

- (1) This section applies if—

-
- (a) before the commencement, the former ULDA carried out works under the repealed ULDA Act, section 91(2); and
 - (b) the former ULDA has not recovered the costs of the works from a person under the repealed ULDA Act, section 91(3).
- (2) MEDQ may recover the costs from the person as debt.

212 Existing proceedings for declaration

- (1) This section applies in relation to a proceeding for a declaration started under the repealed ULDA Act, section 92 that has not been decided at the commencement.
- (2) The Planning and Environment Court—
 - (a) may make a declaration about either or both of the following—
 - (i) the matter mentioned in the repealed ULDA Act, section 92(1) for which the declaration was sought;
 - (ii) a matter mentioned in section 114(1) of this Act that corresponds to the matter mentioned in the repealed ULDA Act, section 92(1) for which the declaration was sought; and
 - (b) may make an order about the declaration made under paragraph (a).
- (3) If the court makes a declaration under subsection (2)(a), the declaration is taken to be a declaration made under section 114(1).
- (4) If the court makes an order under subsection (2)(b), the order is taken to be an order made under section 114(2).

Part 7 Other transitional provisions

213 Existing directions to government entity or local government to accept transfer

- (1) This section applies if—
 - (a) the Governor in Council has given a direction to a government entity or local government (the *directed entity*) under the repealed ULDA Act, section 137; and
 - (b) at the commencement, the transfer the subject of the direction has not happened.
- (2) The direction continues in effect and the directed entity must do every thing reasonably necessary to comply with the direction.
- (3) If the directed entity is a local government, on the making of a transfer, the stated land is taken to be land that the local government holds on trust in fee simple to which the repealed Sustainable Planning Act, section 659 applies.
- (4) The transfer of the stated land or stated fund to MEDQ under section 181 does not affect the operation of this section.

214 Existing directions to government entity or local government to provide or maintain infrastructure

- (1) This section applies if—
 - (a) the Governor in Council has given a direction to a government entity or local government (the *directed entity*) under the repealed ULDA Act, section 138; and
 - (b) at the commencement, the direction has not been fully complied with.
- (2) The direction continues in effect and the directed entity must comply with the direction.
- (3) Subsection (2) applies despite any other Act or law.

Part 8 Repeals

216 Repeals

The following Acts are repealed—

- the Industrial Development Act 1963, No. 28
- the Urban Land Development Authority Act 2007, No. 41.

Chapter 7 Other transitional provisions

Part 1 Transitional provisions for Queen's Wharf Brisbane Act 2016

217 Definition for part

In this part—

amended, in relation to a provision of this Act, means the provision as amended by the *Queen's Wharf Brisbane Act 2016*.

218 Application of amendments about PDA-associated development

- (1) This section applies in relation to amended chapter 3 to the extent it relates to PDA-associated development, or PDA-associated land, for a priority development area.
- (2) Amended chapter 3 applies to development only if it substantially starts on or after the commencement.

219 Application of amended s 103

Amended section 103 applies to a priority development area whether the area was declared or otherwise came into existence before, on or after the commencement.

**Part 2 Transitional provisions for
Planning (Consequential) and
Other Legislation Amendment
Act 2016**

220 Definitions for part

In this part—

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

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

**221 Existing SPA development application made before
priority development area declared**

- (1) This section applies if, immediately before the declaration of an area as a priority development area—
 - (a) an existing SPA development application had been made for land in the area; and
 - (b) the application was a properly made application under the repealed Planning Act and had not lapsed under that repealed Act; and
 - (c) the application had not been decided.
- (2) Former section 44(2) continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) If a development approval is given under the repealed Planning Act for the application, the carrying out of

development, or use of land, under the approval is not a PDA development offence.

(4) In this section—

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

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

222 Existing PDA development application for PDA-associated development

- (1) This section applies to a PDA development application for PDA-associated development for a priority development area made, but not decided, before the commencement.
- (2) Former section 87(2A) continues to apply in relation to the application as if the amending Act had not been enacted.

223 Unfinished compliance assessment for plan of subdivision

- (1) This section applies if—
 - (a) before the commencement, SPA compliance assessment under former section 104 had started for a plan of subdivision; and
 - (b) the assessment had not finished before the commencement.
- (2) Former section 104 continues to apply in relation to the plan as if the amending Act had not been enacted.

224 Existing PDA development approval

- (1) This section applies to a PDA development approval given before the commencement.
- (2) Former section 100 continues to apply in relation to the approval as if the amending Act had not been enacted.

Part 3 **Transitional provisions for
Economic Development and
Other Legislation Amendment
Act 2018**

Division 1 **Preliminary**

225 **Definitions for part**

In this part—

amendment Act means the Economic Development and Other Legislation Amendment Act 2018.

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

new, in relation to a provision of this Act, means as amended or inserted by the amendment Act.

Division 2 **Provisions for amendments
commencing on assent**

226 **References to PDA self-assessable development and
PDA exempt development**

- (1) A reference in another Act or a document to PDA self-assessable development is taken to be a reference—
- (a) to the extent the development complies with the requirements about carrying out the development under the relevant development instrument for the priority development area—to PDA accepted development; or
 - (b) otherwise—to PDA assessable development.

- (2) *A reference in another Act or a document to PDA exempt development is taken to be a reference to PDA accepted development.*

227 Provisional land use plan made under declaration regulation

- (1) *This section applies to a provisional land use plan for a provisional priority development area made under a declaration regulation mentioned in former section 35 and in effect immediately before the commencement.*
- (2) *The provisional land use plan is taken to have been—*
- (a) *made under new section 36E(1); and*
 - (b) *notified under a gazette notice under new section 36E(3)(c) published on the day the declaration regulation commenced.*

228 Interim land use plan made under declaration regulation

- (1) *This section applies to an interim land use plan for a priority development area made under a declaration regulation mentioned in former section 38 and in effect immediately before the commencement.*
- (2) *The interim land use plan is taken to have been made under new section 38.*

229 Application of former s 42M to particular material change of use

- (1) *This section applies if, immediately before the commencement, a material change of use was taken to be a lawful use under former section 42M.*
- (2) *Former section 42M continues to apply to the material change of use as if the amendment Act, part 6, division 2 had not commenced.*

230 Development scheme approved under regulation

- (1) *This section applies to a development scheme for a priority development area, or a transitioned UDA, approved under a regulation made under former section 64 and in effect immediately before the commencement.*
- (2) *The development scheme is taken to have been notified under a gazette notice under new section 63(3)(b) published on the day the regulation commenced.*
- (3) *In this section—*
transitioned UDA *see section 177.*

231 Amendment of development scheme approved under regulation

- (1) *This section applies to an amendment of a development scheme approved under a regulation made under former section 68.*
- (2) *The amendment is taken to have been notified under a gazette notice under new section 63(3)(b), as applied under section 67(2), published on the day the regulation commenced.*

232 Proceedings for offence against former s 74 or former s 164

- (1) *This section applies if a person is alleged to have committed either of the following offences before the commencement—*
 - (a) *an offence against former section 74;*
 - (b) *an offence against former section 164(1) in relation to an offence against an executive liability provision mentioned in former section 164(5), definition executive liability provision, paragraph (b).*
- (2) *Without limiting the Acts Interpretation Act 1954, section 20, a proceeding for the offence may be started or continued, and the person may be punished for the offence, as if the amendment Act, part 6, division 2 had not commenced.*

- (3) *Subsection (2) applies despite the Criminal Code, section 11.*

233 Existing PDA development applications

- (1) *This section applies if a PDA development application was made, but not decided, before the commencement.*
- (2) *This Act, as in force immediately before the commencement, continues to apply in relation to the PDA development application as if the amendment Act, part 6, division 2 had not commenced.*

234 Dissolution of Commonwealth Games Infrastructure Authority

- (1) *On the commencement—*
- (a) *the Commonwealth Games Infrastructure Authority established under former section 144 is dissolved; and*
- (b) *the authority members under former section 146 who held office immediately before the commencement go out of office.*
- (2) *No compensation is payable to a person because of subsection (1).*

Division 3 Provisions for amendments commencing by proclamation

235 Existing PDA development applications

- (1) *This section applies if a PDA development application—*
- (a) *was made on or after the commencement of the amendment Act, part 6, division 2; but*
- (b) *was not decided before the commencement of this section.*
- (2) *This Act, as in force immediately before the commencement of this section, continues to apply in relation to the PDA*

development application as if the amendment Act, part 6, division 3 had not commenced.

236 Application of new s 103(1)

New section 103(1) applies only to a use or preservation covenant entered into on or after the commencement.

237 Application of new s 113

- (1) *New section 113 applies only in relation to an enforcement order, or order under section 111, made on or after the commencement.*
- (2) *Former section 113 continues to apply in relation to an enforcement order, or order under section 111, made before the commencement as if the amendment Act, part 6, division 3 had not commenced.*

Schedule 1 Dictionary

section 6

additional land, for chapter 3, part 2, division 2B, see section 40G(2)(a).

amendment application see section 99(1).

appropriately qualified, for a function or power, includes having the qualifications, experience or standing appropriate for the function or power.

Example of standing for an officer or employee of a department—

the officer or employee's classification level in the department

approved form means a form approved by MEDQ under section 175.

assessment benchmarks see the Planning Act, section 43(1)(c).

authorising instrument, for an infrastructure expenses recoupment charge, see section 116B(2).

board means the Economic Development Board established under section 130.

board member see section 132(1).

boundary change regulation see section 40F(1).

by-laws means by-laws made by MEDQ under section 54.

building work means building work under the Planning Act.

business day does not include a day between 26 December of a year and 1 January of the following year.

caretaker period means the election period for a general election under the *Electoral Act 1992*.

charge area, for chapter 3, part 6, division 2, see section 116A.

charge notice, for chapter 3, part 6, division 3, see section 116G(1).

charging entity, for chapter 3, part 6, division 3, see section 116F.

close relative, of a board member, means the member's—

- (a) spouse; or
- (b) parent or grandparent; or
- (c) brother or sister; or
- (d) child or grandchild.

committee member means a member of a local representative committee.

communication, for chapter 5, part 3A, see section 171B(1) and (2)(b).

compliance statement, in relation to a PDA development application, means a statement of the actions taken to comply with section 84 for the application.

conviction includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

deal, in land or other property, includes—

- (a) acquire, develop, dispose of, hold, lease, license the use or occupation of, manage, sublease and otherwise deal in or with the land or other property, or interests in the land or other property; and
- (b) if the land or other property is contaminated by a hazardous contaminant—remediate the land or other property.

decision notice, for a PDA development application, see section 89(1).

declaration regulation—

- (a) for chapter 3, part 2, division 1—see section 34(1); or
- (b) for chapter 3, part 2, division 2—see section 37(1).

development, for chapter 3, see section 33(2).

development scheme, for a priority development area, other than a provisional priority development area, means a development scheme for the area, or part of the area, that takes effect under section 64, as amended from time to time.

distributor-retailer means a distributor-retailer established under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009.

draft provisional land use plan, for a provisional priority development area, means the draft provisional land use plan for the area that takes effect under section 36(a).

drainage work see the *Plumbing and Drainage Act 2002*, schedule.

enforcement order means an order made under chapter 3, part 5, division 1.

excluded land, for chapter 3, part 2, division 2B, see section 40G(2)(b).

former entity, for chapter 6, see section 177.

former PDA-associated development—

- (a) for chapter 3, part 2, division 4, subdivisions 2 and 3—see section 48(b); or
- (b) for chapter 3, part 2, division 4A—see section 51AR(a)(ii).

former PDA land—

- (a) for chapter 3, part 2, division 4, subdivisions 2 and 3—see section 48(a); or
- (b) for chapter 3, part 2, division 4A—see section 51AR(a)(i).

former ULDA, for chapter 6, see section 177.

freehold land see the *Land Act 1994*, schedule 6.

Fund see section 25(1).

government entity means an entity, other than a GOC, as defined under the *Public Service Act 2008*, section 24.

hazardous contaminant see the *Environmental Protection Act 1994*, schedule 4.

information request see section 83(1).

infrastructure includes land, roads, railways, facilities, services and works used for supporting economic development or development for community purposes.

infrastructure agreement means—

- (a) an infrastructure agreement under the *Planning Act*; or
- (b) a water infrastructure agreement.

infrastructure expenses recoupment charge see section 116B(2).

interim land use plan, for a priority development area, other than a provisional priority development area, means an interim land use plan for the area, or part of the area, that takes effect under section 39 or 40AC.

lawful use, of premises, includes—

- (a) a use that is generally in accordance with a current rezoning approval given under—
 - (i) the repealed *Local Government Act 1936*, section 33(5)(k), to which section 33(5)(m) of that Act also applied; or
 - (ii) the repealed *Local Government (Planning and Environment) Act 1990*, section 4.5(6), 4.8(6), 4.10(6) or 8.10(9A); and
- (b) a use that is a natural and ordinary consequence of making a material change of use of the premises if the change was lawfully made under this Act, the *Planning Act*, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997*.

local representative committee means a committee established under section 158.

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

MEDQ see section 8(1).

***MEDQ agent**, for chapter 3, part 8, see section 122A.*

***MEDQ employee**, for chapter 3, part 8, see section 122A.*

***minor administrative amendment**, of a provisional land use plan or development scheme, means—*

- (a) *an amendment of the plan or scheme if MEDQ is satisfied—*
 - (i) *the amendment is made merely to reflect a part of a planning instrument or a part of an instrument made under an Act other than the Planning Act; and*
 - (ii) *adequate public consultation was carried out in relation to the making of the part; or*
- (b) *an amendment of the plan or scheme if MEDQ is satisfied the amendment is made merely to reflect a PDA development approval; or*
- (c) *an amendment correcting or changing—*
 - (i) *an explanatory matter about the plan or scheme; or*
 - (ii) *the format or presentation of the plan or scheme; or*
 - (iii) *a spelling, typographical, grammatical or mapping error in the plan or scheme; or*
 - (iv) *a factual matter incorrectly stated in the plan or scheme, including, for example, the categorisation of development that has changed under a regulation; or*
 - (v) *a redundant or outdated term in the plan or scheme; or*
 - (vi) *inconsistent numbering of provisions in the plan or scheme; or*
 - (vii) *a cross-reference in the plan or scheme; or*
- (d) *another amendment of a minor nature prescribed by regulation.*

minor boundary change see section 40F(1).

nominated assessing authority means—

- (a) for a PDA development condition—the entity so nominated under section 88(a); or
- (b) for a provision about a PDA development approval—a nominated assessing authority for a PDA development condition of the approval.

Northshore Hamilton urban development area means the urban development area under the repealed ULDA Act of that name that, under section 190, is taken to be a priority development area under this Act.

notice means a notice in writing.

notification requirements, for chapter 3, part 2, division 3, subdivision 2, means sections 42E, 42G, 42H and 42I.

operational work see the Planning Act, schedule 2.

owner, of land, means the person for the time being entitled to receive the rent for the land or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

PDA accepted development see section 33(4).

PDA assessable development see section 33(3).

PDA-associated development, for a priority development area, means development that is—

- (a) declared to be PDA-associated development for the area under section 40C(1); or
- (b) identified as PDA-associated development for the area in the relevant development instrument for the area.

PDA-associated land, for a priority development area, means land—

- (a) on which PDA-associated development for the area is located or proposed to be located; and
- (b) as described in the declaration, or identified in the relevant development instrument, for the PDA-associated development.

PDA change see section 42(1).

PDA development application means an application for a PDA development approval.

PDA development approval means a decision notice that—

- (a) approves, wholly or partly, development applied for in a PDA development application (whether or not the approval has conditions attached to it); and
- (b) is in the form of a PDA preliminary approval, a PDA development permit or a combination of both a PDA preliminary approval and a PDA development permit.

PDA development condition see section 85(4)(b).

PDA development offence means an offence against chapter 3, part 4, division 1.

PDA development permit see section 94(2).

PDA exemption certificate means a PDA exemption certificate given under section 71A.

PDA instrument change see section 40G(2)(a)(i).

PDA preliminary approval see section 94(1).

Planning Act means the *Planning Act 2016*.

Planning Act approval see section 51AH.

planning instrument means a planning instrument under the Planning Act.

planning instrument change—

- (a) for chapter 3, part 2, division 2B—see section 40G(2)(b); or
- (b) for chapter 3, part 2, division 3, subdivision 1—see section 41(2)(a) or (b); or
- (c) for chapter 3, part 2, division 3, subdivision 2—see section 42(2); or
- (d) for another provision—see section 40G(2)(b), 41(2)(a) or (b) or 42(2).

plumbing work see the *Plumbing and Drainage Act 2002*, schedule.

premises means—

- (a) a building or other structure; or
- (b) land, whether or not a building or other structure is situated on the land.

prescribed assessment manager, for a development application under the *Planning Act*, see schedule 2 of that Act.

priority development area means either of the following areas, as amended from time to time—

- (a) an area declared under section 34 as a provisional priority development area;
- (b) an area declared under section 37 as a priority development area.

properly made application see section 82(3).

properly made date, for a PDA development application, see section 82A(2).

proposer, of a planning instrument change—

- (a) for chapter 3, part 2, division 2B—see section 40I(2); or
- (b) for chapter 3, part 2, division 3, subdivision 2—see section 42A(2).

proposer's website means—

- (a) for a proposed instrument for a planning instrument change prepared by MEDQ—the department's website; or
- (b) for a proposed instrument for a planning instrument change prepared by a relevant local government—the local government's website.

provision, of infrastructure, for chapter 3, part 6, division 2, see section 116A.

provisional land use plan, for a provisional priority development area, means the provisional land use plan for the

area that takes effect under section 36F, as amended from time to time under chapter 3, part 2, division 1, subdivision 2.

provisional priority development area means an area declared under section 34 to be a provisional priority development area, as the area is amended from time to time.

public response report, for chapter 3, part 2, division 3, subdivision 2, section 42I(2)(a).

public sector entity means any of the following—

- (a) a department or part of a department;
- (b) a local government;
- (c) a government owned corporation;
- (d) a rail government entity under the *Transport Infrastructure Act 1994*;
- (e) another agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose;
- (f) *a distributor-retailer.*

rateable land means rateable land under the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

receiver, for chapter 5, part 3A, see section 171A.

reconfiguring a lot see the Planning Act, schedule 2.

register means the register MEDQ keeps under section 172.

relevant charge, for chapter 3, part 6, division 3, see section 116F.

relevant development, for a provision of this Act about a PDA development application, development approval under the Planning Act or PDA development approval, means the development, or proposed development, the subject of the application or approval.

relevant development instrument means—

- (a) *for a provisional priority development area—*
 - (i) *the draft provisional land use plan for the area; or*

- (ii) *the provisional land use plan for the area; or*
- (b) for another priority development area—
 - (i) an interim land use plan for the area; or
 - (ii) *a development scheme for the area.*

relevant document, for chapter 5, part 3A, see section 171A.

relevant land means—

- (a) for a PDA development application—the land the subject of the application; or
- (b) for a PDA development approval or a development approval under the Planning Act—the land the subject of the approval.

relevant local government, for a priority development area, land or a PDA development application, means each local government in whose area the priority development area, the land or the land the subject of the application is located.

relevant priority development area, for a provision of this Act about a relevant development instrument, PDA development application or PDA development approval, means the priority development area to which the instrument, application or approval relates.

remediate land or other property means—

- (a) rehabilitate the land or other property; or
- (b) restore the land or other property; or
- (c) take other action to prevent or minimise serious environmental harm being caused by the hazardous contaminant contaminating the land or other property.

repealed ID Act means the repealed *Industrial Development Act 1963*.

repealed ULDA Act means the repealed *Urban Land Development Authority Act 2007*.

road means—

- (a) an area of land dedicated to public use as a road; or

- (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or
- (c) a bridge, culvert, ferry, ford, tunnel or viaduct; or
- (d) a pedestrian or bicycle path; or
- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in any of paragraphs (a) to (d).

sending time, for chapter 5, part 3A, see section 171B(3)(a).

serious environmental harm see the *Environmental Protection Act 1994*, section 17.

special rate or charge means a special rate or charge levied under section 115.

State interest includes—

- (a) an interest relating to the main purpose of this Act; and
- (b) an interest that, in MEDQ's opinion, affects an economic, community or environmental interest of the State or a region.

structure means anything built or constructed, whether or not attached to land.

submission means a written submission.

submission period—

- (a) for a draft provisional land use plan—see section 36A(c)(ii); or
- (b) for a proposed amendment, other than a minor administrative amendment, of a provisional land use plan—see section 36I(2)(b)(ii); or
- (c) for a proposed instrument for a planning instrument change under chapter 3, part 2, division 3, subdivision 2—see section 42E(2)(b)(ii); or
- (d) for a proposed development scheme—see section 59(b)(ii); or

- (e) for a PDA development application—see section 84(4)(d).

superseding public sector entity, for infrastructure, means the public sector entity that will have responsibility for the infrastructure after the land in relation to which the infrastructure is provided ceases to be—

- (a) in a priority development area; or
(b) PDA-associated land for a priority development area.

transitioned UDA, for chapter 6, see section 177.

use, of premises, includes any ancillary use of the premises.

water approval means a water approval under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009.

water connection aspect see section 51AR(c).

water infrastructure agreement means a water infrastructure agreement under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009.

work, without reference to a specific type of work, means—

- (a) building work; or
(b) operational work; or
(c) plumbing work or drainage work.