



State Development and Public Works Organisation Act 1971

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 State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026. This indicative reprint has been prepared for information only—***it is not an authorised reprint of the Act.***

The point-in-time date for this indicative reprint is the introduction date for the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026—2 June 2026.

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Queensland

State Development and Public Works Organisation Act 1971

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Not authorised—indicative only

State Development and Public Works Organisation Act 1971

An Act to provide for State planning and development through a coordinated system of public works organisation, for environmental coordination, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *State Development and Public Works Organisation Act 1971*.

2 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Part 2 Administration

Division 1 Coordinator-General and Deputy Coordinator-General

3 Administration of Act

This Act shall be administered by the Minister and, subject to the Minister, by the Coordinator-General.

4 Appointment of Coordinator-General

- (1) The Governor in Council, may, by commission under his or her hand and the Public Seal, appoint a person to hold the office of Coordinator-General.
- (2) The appointee shall be paid, during his or her tenure of office, a salary at such rate as the Governor in Council determines from time to time.

5 Appointment of Deputy Coordinator-General

- (1) The Governor in Council may, by commission under his or her hand and the Public Seal, appoint a person or persons to hold the office of Deputy Coordinator-General.
- (2) An appointee shall be paid, during his or her tenure of office, a salary at such rate as the Governor in Council determines from time to time.

6 Tenure of appointment under ss 4 and 5

Subject to this section, an appointee to an office referred to in section 4 or 5 shall hold office for the period fixed by the Governor in Council and specified in the instrument whereby the appointee is appointed but shall be eligible for reappointment thereto unless the appointee has become debarred under any Act from holding or continuing in such office.

7 Termination of appointment under ss 4 and 5

- (1) A person appointed to an office referred to in section 4 or 5 shall be deemed to have vacated his or her office in the following circumstances—
 - (a) if the person engages in remunerative employment outside the duties of the office to which the person is appointed;

- (b) if the person engages in any trade or business save as a member of a body corporate that consists of more than 20 persons;
 - (c) if the person becomes bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
 - (d) if the person absents himself or herself from duty for 14 consecutive working days or for a total of 28 days in any calendar year save on account of illness or pursuant to leave approved by the Minister who is hereby empowered so to do;
 - (e) if the person is convicted in the State of an indictable offence for which the person is liable to be imprisoned for 12 months at the least or is convicted elsewhere of an offence that, if committed by the person in the State would constitute an indictable offence upon conviction whereof the person would be so liable;
 - (f) if the person dies;
 - (g) if the person is concerned in any agreement made for the purposes of this Act save in the person's capacity as Coordinator-General or, as the case may be, Deputy Coordinator-General or, save as aforesaid, if the person participates in or claims to be entitled to participate in the profits arising from such an agreement;
 - (h) if the person resigns by signed written notice addressed to the Governor in Council and furnished to the Minister.
- (2) However, subsection (1)(a) does not apply to a person if the person's remunerative employment is—
- (a) under another office and because of the person's appointment to the office mentioned in section 4 or 5; or
 - (b) as the chief executive.
- (3) A person appointed to an office referred to in section 4 or 5 may be removed from office by the Governor in Council on

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account of misbehaviour, incapacity, or being unfit, in the opinion of the Governor in Council, to hold the office.

7A Appointment of acting Deputy Coordinator-General

- (1) This section applies if a Deputy Coordinator-General—
 - (a) vacates his or her office; or
 - (b) can not perform the functions of the office of Deputy Coordinator-General because of absence or another reason.
- (2) The Minister may appoint a person to act as the Deputy Coordinator-General in place of the person mentioned in subsection (1).
- (3) The person appointed under subsection (2) holds office for the term, and on any conditions stated in—
 - (a) the person's instrument of appointment; or
 - (b) a notice signed by the Minister and given to the person.
- (4) The term of the appointment—
 - (a) must be no more than 3 months; and
 - (b) can not be extended.
- (5) In appointing a person to act under this section, the Minister must consult with—
 - (a) the Coordinator-General; and
 - (b) Public Sector Commissioner under the *Public Sector Act 2022*.

Division 2 Incorporation of Coordinator-General and functions

8 Incorporation of Coordinator-General

- (1) The corporation sole constituted under section 8A of the *State Development and Public Works Organisation Act 1938* is

hereby preserved, continued in existence and constituted under this Act under the name and style The Coordinator-General.

- (2) The corporation sole is constituted by the person who at the material time is the Coordinator-General.
- (3) The corporation sole under the name and style assigned to it by this section shall have perpetual succession and an official seal and shall be capable in law of suing and being sued and, subject to this Act, may take, acquire by grant, purchase, take on lease, sell, exchange, lease, assign, transfer, surrender to the Crown and hold property real and personal and may do and suffer all such acts and things as are necessary for the proper exercise and performance of the powers and functions of the Coordinator-General to the same extent as a natural person might do or suffer.
- (4) All courts, judges, justices and persons acting in a judicial capacity shall take judicial notice of the appointment of the Coordinator-General and of a Deputy Coordinator-General and of their respective signatures and of the official seal of the Coordinator-General affixed to any document, and, in the absence of proof to the contrary, shall presume that such signature or seal was duly affixed.

9 Coordinator-General represents Crown

For the purposes of this Act the Coordinator-General represents the Crown and has and may exercise all the powers, privileges, rights and remedies of the Crown.

10 Functions of Coordinator-General

- (1) The Coordinator-General shall have such functions as are assigned to the Coordinator-General by this Act or by regulation made under this Act or by or under any other Act.
- (2) The Coordinator-General shall, of his or her own motion or at the direction of the Minister, undertake and commission such investigations, prepare such plans, devise such ways and

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means, give such directions, and take such steps and measures, as the Coordinator-General thinks necessary or desirable to—

- (a) secure the proper planning, preparation, execution, coordination, control and enforcement of a program of works, planned developments, and environmental coordination for the State and for areas over which the State claims jurisdiction; or
 - (b) perform any other function of the Coordinator-General.
- (3) The Coordinator-General shall furnish to the Minister such recommendations as the Coordinator-General thinks fit to make concerning any matter that arises out of or is connected with the performance by the Coordinator-General of his or her functions assigned to the Coordinator-General by or under this Act or that may assist in the proper administration of this Act.

11 Power of delegation

- (1) Subject to section 111, the Coordinator-General, with the approval of the Minister, may either generally or otherwise as provided by the instrument of delegation, by writing under the Coordinator-General's seal, delegate to any person or body of persons all or any of the Coordinator-General's powers and functions except this power of delegation.
- (2) A power or function so delegated, if exercised or performed by the delegate, shall be exercised or performed by the delegate in accordance with the instrument of delegation.
- (3) A delegation may be limited to any part or parts of the State and may be made subject to such terms as the Coordinator-General thinks fit including a requirement that the delegate shall report to the Coordinator-General upon the delegate's exercise or performance of the delegated power or function.
- (4) Where pursuant to this Act or to any other Act the exercise or performance of any power or function, the subject of a delegation, is made to depend upon the opinion or belief of the

Coordinator-General in relation to any matter, that power or function may be exercised or performed upon the opinion or belief of the delegate who is considering the exercise or performance of that power or function.

- (5) The Coordinator-General may make such and so many delegations of the same power or function and to such number of persons or bodies of persons as the Coordinator-General considers necessary or desirable.
- (6) A delegation is revocable at the will of the Coordinator-General and does not prevent the exercise of a power or the performance of a function by the Coordinator-General.

12 Power to hold inquiry

- (1) The Coordinator-General may, of his or her own motion, and shall, at the direction of the Minister, institute and conduct an inquiry into any matter that, in the opinion of the Coordinator-General or of the Minister, is one with which the Coordinator-General should be concerned in the proper performance of the Coordinator-General's functions under any Act or that would further the purposes of this Act.
- (2) The Governor in Council may, in relation to a particular inquiry to be conducted under this Act, upon the recommendation of the Minister, declare by regulation that the inquiry therein specified shall be conducted as a commission of inquiry under the *Commissions of Inquiry Act 1950* whereupon the Coordinator-General or, as the case may be, the Coordinator-General's delegate who conducts the inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under that Act and of a chairperson of such a commission except such as are by that Act confined to a chairperson who is a judge of the Supreme Court and the provisions of that Act shall apply accordingly.

13 Cooperation with Coordinator-General

- (1) Subject to this section, it is the duty of—
- (a) a local body and, where it is a corporation, of every person who comprises it; and
 - (b) the chief executive of a department of the Government; and
 - (c) a corporation constituted for the purposes of any Act or that, being incorporated by the law of the State, is an instrumentality or agency of the Crown, and of every person who comprises it; and
 - (d) the holder of any office provided for by any Act; and
 - (e) a person in the employ of a local body, or in the employ of such corporation or holder for the purposes of the material Act, or employed in such a department;

to cooperate with the Coordinator-General in the performance by him or her of the functions of the Coordinator-General.

- (2) Without limit to the duty imposed by subsection (1) a person subject thereto—
- (a) shall consult with and make his or her services available to the Coordinator-General in connection with works, whether constructed, in course of construction, or to be constructed and in connection with any other matter that concerns the Coordinator-General; and
 - (b) shall confer, as requested by the Coordinator-General, on any matter that concerns development, planning, or environmental effects within the State or within any area over which the State claims jurisdiction and on any other matter that concerns the Coordinator-General; and
 - (c) shall, as required by the Coordinator-General, furnish to the Coordinator-General accurate information in the possession of or available to that person in the capacity whereby he or she is subject to this section concerning such matters as in the Coordinator-General's opinion would assist the Coordinator-General in the discharge of his or her functions.

- (3) This section shall be construed to apply—
 - (a) save where the Minister directs to the contrary in a particular case, proof whereof shall lie upon the person who alleges it; and
 - (b) in relation to the furnishing of information, subject to the provisions of any Act that expressly require a person employed under that Act to preserve and aid in preserving secrecy with regard to all matters that may come to the person's knowledge in the person's official capacity.

14 Appointment of persons to help Coordinator-General

- (1) The Coordinator-General may appoint any person to help the Coordinator-General in the performance or exercise of his or her functions or powers.
- (2) The person holds office on the conditions stated in—
 - (a) the person's instrument of appointment; or
 - (b) a notice signed by the Coordinator-General and given to the person.
- (3) In appointing a person under this section, the Coordinator-General must consult with the Public Sector Commissioner under the *Public Sector Act 2022*.
- (4) A person appointed under this section is appointed under this Act, and not under the *Public Sector Act 2022*.

Division 3 Officers and workers of Coordinator-General

15 Appointment of workers

- (1) The Coordinator-General may employ such workers as the Coordinator-General considers necessary for the proper performance by the Coordinator-General of his or her

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functions and the proper exercise by the Coordinator-General of his or her powers.

- (2) The wages payable to a worker so employed and the conditions of his or her employment shall comply with the requirements of any material award of an industrial tribunal or other industrial instrument and, subject to the award or if no award exists, shall be as determined from time to time by the Coordinator-General.

16 Services of technical advisers

- (1) The Coordinator-General may obtain or retain the advice or services of such technical advisers as the Coordinator-General considers necessary for the proper performance by the Coordinator-General of his or her functions and the proper exercise by the Coordinator-General of his or her powers.
- (2) Remuneration in respect of such advice or services shall be such as is approved by the Minister.

Part 3 Program of works

17 Program of works

- (1) The Coordinator-General may, of his or her own motion, and shall, at the direction of the Minister, plan in respect of a particular period—
 - (a) a program of works for the State or for any part of the State or for any area over which the State claims jurisdiction; and
 - (b) the orderly carrying out over that period or during any portion or portions of that period of the whole or any part of the works included in the program.
- (2) For the purpose of planning a program of works the Coordinator-General may require any person who is required by this Act to cooperate with the Coordinator-General to furnish to him or her—

- (a) particulars of all works proposed to be carried out by or under the authority or supervision of that person during the period in question; and
 - (b) such information as the Coordinator-General considers necessary to enable the Coordinator-General to have proper regard to the matters prescribed by section 23 as matters to be regarded in relation to a program of works.
- (3) Particulars and information furnished to the Coordinator-General pursuant to the Coordinator-General's requisition shall be verified in manner directed by the Coordinator-General, including (should the Coordinator-General so direct) by way of statutory declaration.

18 Selection of works for program of works and their performance

- (1) Works to be included in a program of works shall be at the discretion of the Coordinator-General.
- (2) A program of works may include works that have been submitted to the Coordinator-General by a local body or other person for inclusion in a program of works or that are included therein on the initiative of the Coordinator-General in addition to or in lieu of works so submitted.
- (3) The Coordinator-General may plan that works included in a program of works shall be undertaken by the Coordinator-General or by his or her agent, or by any local body or person who is required or permitted under or pursuant to any Act so to do.

19 Submission of program of works to Governor in Council

- (1) The Coordinator-General shall furnish his or her plan for a program of works to the Minister who, if the Minister approves of it, shall submit the same to the Governor in Council for approval.

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- (2) If the Governor in Council approves of the program submitted the Governor in Council may, having regard to the need for Parliamentary appropriation to the material purposes, publish a notice in the gazette that evidences the Governor in Council's approval and authorises the program to be implemented.
- (3) Upon publication of the notice the program (as altered from time to time by the Coordinator-General in accordance with this Act) shall be the program of works for the State and shall be binding on the Coordinator-General and on all other persons concerned in that program.
- (4) If the Governor in Council does not approve of the program submitted, the Governor in Council shall cause the Minister to return the program together with the Governor in Council's objections thereto and comments thereon to the Coordinator-General who, upon consideration thereof, shall make to the program such alterations as the Coordinator-General considers warranted in the circumstances.
- (5) The program as so altered shall be again furnished to the Minister and submitted to the Governor in Council as prescribed by subsection (1).

20 Alterations to approved program of works

- (1) The Coordinator-General may make such alterations to a program of works approved by the Governor in Council as the Coordinator-General considers warranted in the circumstances.
- (2) The Coordinator-General shall not exercise the power conferred on him or her by this section except with the consent of the Minister first had and obtained save where the alteration will not result in additional expenditure in a sum exceeding \$50,000 or such other amount as is prescribed under a regulation.

21 Implementation of program of works as approved

In giving effect to a program of works approved by the Governor in Council no modification or addition shall be made to any of the works included therein save with the consent of the Coordinator-General first had and obtained.

22 Local body's application for assistance examined by Coordinator-General

- (1) Every application that moneys be paid from the Treasury in respect of works or proposed works of a local body or that the Treasurer, on behalf of the Government, guarantee the amount or any part of the amount of a loan made or to be made in respect of works or proposed works of a local body shall be submitted to the Coordinator-General together with such particulars relevant thereto as the Coordinator-General considers necessary.
- (2) The Coordinator-General, having regard to the importance and merit of the works for which the moneys or guarantee is sought relative to any program of works planned or being planned by the Coordinator-General at the time of the submission of the application to the Coordinator-General, shall make to the Treasurer such recommendations with respect thereto as the Coordinator-General thinks fit.
- (3) In determining how an application referred to in subsection (1) should be disposed of due weight shall be given to the recommendations made by the Coordinator-General with respect to the application.

23 Objectives of comprehensive program of works

With a view to the coordination, regulation and control of a comprehensive program of works for the development of the State regard shall be had by the Coordinator-General and all other persons concerned to the following considerations—

- (a) the orderly arrangement and revision of a general program of works for the State;

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- (b) the creation of additional means and methods of development and of employment;
- (c) the maintaining of continuity of work in the various parts of the State on a basis of reasonable uniformity;
- (d) the provision of ways and means whereby finance in respect of works and the creation of works may be spread over the State in equitable proportions;
- (e) the allocation, on terms advantageous to the welfare of the State generally, of finance by way of loans and otherwise amongst the departments of the Government and local bodies;
- (f) the examination and review of larger developmental works generally with a view to a selection by the Governor in Council of works that, while conferring a greater amount of aid to the general employment position of the State, also offer greater possibilities as productive works;
- (g) the establishment of a policy of coordinated relationship among departments of the Government and local bodies with a view to—
 - (i) securing coordination and cooperation in activities connected with works and construction; and
 - (ii) evolving schemes for providing employment and for improving the general economic development and the public amenity of the State; and
 - (iii) avoiding or minimising duplication and overlapping in the services and activities of departments of the Government and of local bodies generally;
- (h) the securing of cooperation and assistance of persons engaged in industry otherwise than within departments of the Government or within local bodies with a view to aiding the general employment position in the State.

Part 4 Environmental coordination

Division 1 Preliminary

24 Definitions for pt 4

In this part—

approval includes authority, lease, licence, permit or other approval.

Coordinator-General's change report see section 35I(1).

Coordinator-General's report means—

- (a) for an EIS—the report the Coordinator-General must prepare under section 34D(2); or
- (b) for an IAR—the report the Coordinator-General must prepare under section 34L(2).

environmental authority means an environmental authority under the Environmental Protection Act.

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

EPA Minister means the Minister for the time being administering the Environmental Protection Act.

imposed condition, for the undertaking of a project, see section 54B(2).

Mineral Resources Act means the *Mineral Resources Act 1989*.

MRA Minister means the Minister for the time being administering the Mineral Resources Act.

nominated entity, for an imposed condition for the undertaking of a project, means an entity nominated for the condition, under section 54B(3).

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relevant local government, for a project, means the local government for the local government area in which the project is, or is to be, undertaken.

24A References to project in part

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

25 Supervision of environment

The Coordinator-General shall, of the Coordinator-General's own motion or at the direction of the Minister, coordinate departments of the Government and local bodies throughout the State in activities directed towards ensuring that in any development proper account is taken of the environmental effects.

Division 1A Coordinator-General's costs of environmental coordination process

25A Fees for pt 4

- (1) An application under this part must be accompanied by the application fee prescribed by regulation for the application.
- (2) The Coordinator-General must refuse to receive the application unless the fee has been paid.
- (3) The proponent of a coordinated project must pay the Coordinator-General the fees prescribed by regulation at the times provided for under the regulation.
- (4) If a fee becomes payable under subsection (3), the Coordinator-General's obligations under this part for the coordinated project are suspended until the fee has been paid.
- (5) Subsection (4) applies despite divisions 2 to 3A.

25AA Coordinator-General may waive or reduce fee

- (1) Despite section 25A, if a fee is prescribed as mentioned in that section for an application or coordinated project, the Coordinator-General may waive or reduce the fee.
- (2) Subsection (3) applies if a fee is prescribed as mentioned in section 25A for an application under section 35C for a proposed change to a coordinated project or a condition of the project.
- (3) In deciding whether to waive or reduce the fee for the application, the Coordinator-General may have regard to—
 - (a) the complexity of the proposed change; and
 - (b) the extent of public consultation required in relation to the proposed change.

25B Recovering the cost of advice or services for environmental coordination

- (1) This section applies if the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to—
 - (a) decide an application under this part by a proponent of a project; or
 - (b) take action under this part relating to a coordinated project.
- (2) The Coordinator-General may recover from the proponent as a debt the reasonable cost of obtaining the advice or services.

Division 2 Coordinated project

Subdivision 1 Power to declare coordinated project

26 Declaration of coordinated project

- (1) The Coordinator-General may—
 - (a) declare a project to be a coordinated project for which an EIS is required; or
 - (b) declare a project to be a coordinated project for which an IAR is required.
- (2) However, the Coordinator-General may make a declaration under subsection (1)(b) only if satisfied the environmental effects of the project do not, having regard to their scale and extent, require assessment through the EIS process under division 3, subdivision 1.
- (3) The declaration must be made by gazette notice.
- (4) If the project involves development that requires a development approval, the Coordinator-General must give a copy of the gazette notice to the person who is, or is to be, the assessment manager for a development application for the approval.
- (5) If the project involves a proposed environmental authority for a mining activity relating to a mining lease, the Coordinator-General must give a copy of the gazette notice to the EPA and MRA Ministers.
- (6) If the project involves a proposed geothermal production lease under the *Geothermal Energy Act 2010*, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering that Act.
- (7) If the project involves a lease or licence under a petroleum Act, the Coordinator-General must also give a copy of the

gazette notice to the Minister for the time being administering the Act.

- (8) If the project involves a proposed GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering that Act.
- (9) If the project involves the carrying out of an activity requiring a regional interests development approval, the Coordinator-General must also give a copy of the gazette notice to the chief executive of the department in which the *Regional Planning Interests Act 2014*, part 3 is administered.
- (10) If the project involves an approval or decision under the *Transport Infrastructure Act 1994* mentioned in section 49N(b)(i) to (iv), the Coordinator-General must also give a copy of the gazette notice to the chief executive of the department in which that Act is administered.
- (11) If the project involves an approval or decision under the *Transport Infrastructure Act 1994* mentioned in section 49N(b)(iv), the Coordinator-General must also give a copy of the gazette notice to the railway manager under that Act.
- (12) In this section—

petroleum Act means—

- (a) the *Petroleum Act 1923*; or
- (b) the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (c) the *Petroleum (Submerged Lands) Act 1982*.

27 Matters Coordinator-General considers before making declaration

- (1) In considering whether to declare a project to be a coordinated project, the Coordinator-General must have regard, and may give the weight the Coordinator-General considers appropriate, to the following—

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- (a) detailed information about the project given by the proponent in an initial advice statement;
 - (b) relevant planning schemes or policy frameworks of a local government, the State or the Commonwealth;
 - (c) relevant State policies and Government priorities;
 - (d) a pre-feasibility assessment of the project, including how it satisfies an identified need or demand;
 - (e) the capacity of the proponent to undertake and complete the EIS or IAR for the project;
 - (f) any other matter the Coordinator-General considers relevant.
- (2) However, the Coordinator-General need not consider an application for a declaration under section 26(1) unless the Coordinator-General is satisfied that—
 - (a) section 27AB has been complied with for the project; and
 - (b) the project has at least 1 of the following—
 - (i) complex approval requirements imposed by a local government, the State or the Commonwealth;
 - (ii) strategic significance to a locality, region or the State, including for the infrastructure, economic and social benefits, capital investment or employment opportunities it may provide;
 - (iii) significant environmental effects;
 - (iv) significant infrastructure requirements.

Subdivision 2 **Applying for and obtaining coordinated project declaration**

27AA Who may apply

- (1) The proponent of the project may apply to the Coordinator-General for a declaration under section 26(1) about the project.
- (2) To remove any doubt, it is declared that this subdivision does not prevent the Coordinator-General from making a declaration under section 26(1) on the Coordinator-General's own initiative.

27AB Requirements for application

The application must be written and include—

- (a) an initial advice statement mentioned in section 27(1)(a); and
- (b) enough information about the project to allow the Coordinator-General to consider the matters mentioned in section 27(1)(b) to (f) and (2) for the project; and
- (c) a separate statement detailing the proponent's financial and technical capability to—
 - (i) complete an EIS or IAR for the project; and
 - (ii) give any additional information that may be requested by the Coordinator-General under section 34B(2)(b) or 34J(2)(b); and
- (d) a separate statement (*pre-feasibility assessment*) assessing the technical and commercial feasibility of the project.

27ABA Coordinator-General may refuse to receive or process application for declaration

- (1) This section applies if the Coordinator-General is not satisfied that an application for a declaration under section 26(1) for a

[s 27AC]

coordinated project includes enough information about the project to allow the Coordinator-General to consider the matters mentioned in section 27(1)(b) to (f) or (2) for the project.

- (2) The Coordinator-General may—
 - (a) refuse to receive or process the application; or
 - (b) give the proponent a reasonable opportunity to give the information to the Coordinator-General before refusing to receive or process the application.
- (3) If the Coordinator-General decides to refuse to receive or process the application, the Coordinator-General must—
 - (a) give the proponent written notice of the decision and the reasons for it; and
 - (b) refund the application fee to the proponent.

27AC Deciding application

- (1) The Coordinator-General must decide whether or not to make the declaration.
- (2) Sections 26(2) and 27 apply for the making of the decision.
- (3) If the Coordinator-General decides not to make the declaration, the Coordinator-General must give the applicant written notice of the decision and the reasons for it.
- (4) The Coordinator-General may decide to declare, or not to declare, a project to be a coordinated project on the basis of 1 or more of the matters mentioned in section 27.
- (5) The Coordinator-General is not bound to declare a project to be a coordinated project merely because the project satisfies 1 or more of the matters mentioned in section 27.

Subdivision 3 Miscellaneous provisions

27AD Application of Judicial Review Act 1991

The *Judicial Review Act 1991*, parts 3 and 5, other than section 41(1), do not apply to a decision, action or conduct of the Coordinator-General under this part relating to the project.

27AE Notice of change of proponent, contact details or registered office

- (1) The proponent of a coordinated project must give the Coordinator-General written notice of the following—
 - (a) a change of proponent for the project;
 - (b) a change in the proponent's contact details;
 - (c) if the proponent is a corporation, a change in the proponent's registered office.
- (2) The notice must be given—
 - (a) within 21 days after the change; or
 - (b) by any later time allowed by the Coordinator-General in writing.

27AF Cancellation of declaration

- (1) The Coordinator-General may cancel a declaration made under section 26(1) for a coordinated project before completing a Coordinator-General's report for the project if—
 - (a) the proponent of the project makes a written request to the Coordinator-General to cancel the declaration; or
 - (b) the Coordinator-General considers that the proponent no longer has the capability to undertake and complete the EIS or IAR for the project; or
 - (c) the Coordinator-General considers it is in the public interest to cancel the declaration; or

[s 27A]

- (d) the proponent for the project changes; or
 - (e) the proponent substantially changes the project from that described in the initial advice statement mentioned in section 27(1)(a); or
 - (f) the proponent fails to comply with section 27AE in relation to the project.
- (2) If the Coordinator-General decides to cancel a declaration under subsection (1), the Coordinator-General must, within 14 days after the decision, give the proponent written notice of the decision and the reasons for it.
- (3) A decision to cancel the declaration takes effect on the later of—
 - (a) the day the written notice is given to the proponent; or
 - (b) the day of effect stated in the written notice.

27A Lapsing of declaration if EIS required

- (1) This section applies to a coordinated project if an EIS is required for the project.
- (2) The declaration for the project lapses if, within 18 months of the terms of reference being finalised, the Coordinator-General has not, under section 34A(1)(b), accepted a draft EIS for the project as the final EIS.
- (3) Despite subsection (2), if before the declaration lapses, the Coordinator-General gives written notice to the proponent stating a later time for the declaration to lapse, the declaration does not lapse until the later time.

27B Lapsing of declaration if IAR required

- (1) This section applies to a coordinated project if an IAR is required for the project.
- (2) The declaration for the project lapses if, within 18 months of the declaration being made, the Coordinator-General has not,

under section 34I(1)(b), accepted a draft IAR as the final IAR for the project.

- (3) However, if before the lapsing of the declaration under subsection (2), the Coordinator-General gives written notice to the proponent stating a later time for the declaration to lapse, the declaration does not lapse until the later time.

28 Application of divs 3–8

Divisions 3 to 8 apply only if the project is declared, under section 26, to be a coordinated project.

Division 3 Assessment process

Subdivision 1 EIS process

29A Application of sdiv 1

This subdivision applies to a coordinated project for which an EIS is required.

29 Notice of requirement for EIS and of draft terms of reference

- (1) The Coordinator-General—
- (a) must advise the proponent that an EIS is required for the project; and
 - (b) may publicly notify—
 - (i) that an EIS is required for the project; and
 - (ii) where copies of the draft terms of reference may be obtained; and
 - (iii) that comments on the draft terms of reference are invited.

[s 30]

- (2) The public notification must state a period within which the comments must be made under subsection (1)(b).

30 Finalising terms of reference

- (1) If, under section 29, the Coordinator-General publicly notifies that comments on the draft terms of reference are invited—
 - (a) the Coordinator-General must, as soon as practicable after the comment period ends, finalise the terms of reference for the EIS and give the proponent a copy; and
 - (b) in finalising the terms of reference, the Coordinator-General must have regard to any comments on the draft terms of reference received by the Coordinator-General within the comment period.
- (2) Subsection (3) applies if the Coordinator-General has not, under section 29, publicly notified that comments on the draft terms of reference are invited.
- (3) The Coordinator-General must, as soon as practicable after the Coordinator-General advises the proponent that an EIS is required for the project under section 29(1)(a), finalise the terms of reference for the EIS and give the proponent a copy.
- (4) In this section—
comment period means the period stated under section 29(2).

31 Coordinator-General may seek information to assist preparation of EIS

- (1) The Coordinator-General may refer details of the project, the initial advice statement and the terms of reference, to any entity the Coordinator-General considers may be able to give the Coordinator-General comment and information that will help in preparing the EIS.
- (2) If the entity wants the proponent to consider its response when preparing the EIS, the entity must give its response to the Coordinator-General within the reasonable time stated by the

Coordinator-General for giving the response (the *response time*).

- (3) If the entity does not give its response within the response time, the proponent may prepare the EIS as if the entity had no comment on the project.

32 Preparation of draft EIS

- (1) The proponent of the project must prepare a draft EIS for the project.
- (2) The draft EIS prepared by the proponent must address, for the whole project, the terms of reference to the satisfaction of the Coordinator-General.

33 Public notification of draft EIS

- (1) After the proponent has prepared a draft EIS to the satisfaction of the Coordinator-General, the proponent must publicly notify the following—
 - (a) where a copy of the draft EIS is available for inspection;
 - (b) where a copy of the draft EIS may be obtained at a stated reasonable cost;
 - (c) that submissions may be made to the Coordinator-General about the draft EIS;
 - (d) the period (the *submission period*), set by the Coordinator-General, during which a submission may be made.
- (2) For subsection (1)(b), the stated reasonable cost must not be more than the actual cost of producing the copy.

34 Making submissions on draft EIS

- (1) During the submission period for a draft EIS, any person may make a submission to the Coordinator-General about the draft EIS.

[s 34A]

- (2) The Coordinator-General must accept properly made submissions.
- (3) However, the Coordinator-General may accept a written submission even if the submission is not a properly made submission.
- (4) If the Coordinator-General has accepted a submission, the person who made the submission may, by written notice given to the Coordinator-General—
 - (a) during the submission period—amend the submission; or
 - (b) at any time before a decision about the draft EIS is made—withdraw the submission.

34A Coordinator-General decides whether to accept draft EIS as final EIS

- (1) After the end of the submission period for a draft EIS, the Coordinator-General must—
 - (a) consider the following—
 - (i) the draft EIS;
 - (ii) any properly made submissions for the draft EIS;
 - (iii) any other material the Coordinator-General considers is relevant to the project; and
 - (b) decide whether or not to accept the draft EIS as the final EIS for the project.
- (2) The Coordinator-General may decide not to accept the draft EIS as the final EIS if satisfied additional information is needed about—
 - (a) an environmental effect of the project; or
 - (b) any other matter the Coordinator-General considers is relevant to the project.

34B Giving notice of decision

- (1) The Coordinator-General must give the proponent written notice of the Coordinator-General's decision under section 34A.
- (2) If the decision is not to accept the draft EIS as the final EIS, the notice must state the following—
 - (a) the decision;
 - (b) the additional information required by the Coordinator-General;
 - (c) whether or not public notification of the additional information is required;
 - (d) the period within which a draft EIS that includes or attaches the additional information (a *revised draft EIS*) must be given to the Coordinator-General.

34C Requirement to give additional information

- (1) This section applies if the Coordinator-General decides under section 34A(1)(b) not to accept the draft EIS as the final EIS.
- (2) If the notice given under section 34B states that public notification of the additional information is not required, the proponent must, within the period stated in the notice, give the Coordinator-General a revised draft EIS.
- (3) If the notice given under section 34B states that public notification of the additional information is required, the proponent must, within the period stated in the notice—
 - (a) comply with section 33 as if a reference in that section to a draft EIS were a reference to the additional information stated in the notice; and
 - (b) give the Coordinator-General a revised draft EIS.
- (4) Submissions about the additional information may be made under section 34 as if the information were a draft EIS.

[s 34D]

- (5) If the Coordinator-General receives a revised draft EIS under subsection (2) or (3), sections 34A and 34B apply to the revised draft EIS—
 - (a) as if a reference in section 34A(1) to the end of the submission period for the draft EIS were a reference to the day the Coordinator-General receives the revised draft EIS; and
 - (b) as if a reference in section 34A(1)(a)(ii) to a properly made submission for the draft EIS were a reference to a properly made submission for the additional information; and
 - (c) with any other necessary changes.

34D Report evaluating EIS

- (1) This section applies if the Coordinator-General decides under section 34A(1)(b) to accept the draft EIS as the final EIS.
- (2) The Coordinator-General must prepare a report evaluating the EIS.
- (3) In evaluating the EIS, the Coordinator-General may—
 - (a) evaluate the environmental effects of the project and any other related matters; and
 - (b) state conditions under section 39, 45, 47C, 49B, 49E, 49G, 49L or 49O; and
 - (c) make recommendations under section 43 or 52; and
 - (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.
- (4) After completing the report, the Coordinator-General must—
 - (a) give a copy of the report to the proponent; and
 - (b) publicly notify the report.

Subdivision 2 IAR process

34E Application of sdiv 2

This subdivision applies to a coordinated project for which an IAR is required.

34F Notice of requirement for IAR

The Coordinator-General must, as soon as practicable after making a declaration under section 26(1)(b), give the proponent written notice that an IAR is required for the project.

34G Preparation of draft IAR

- (1) The proponent of the project must prepare a draft IAR for the project.
- (2) The draft IAR must include—
 - (a) details of the project; and
 - (b) information about the likely environmental effects of the project; and
 - (c) a statement about whether or not any of the following approvals (each of which is a *notifiable approval*) is required for the project—
 - (i) a development approval if the development application for the approval would, under the Planning Act, require impact assessment;
 - (ii) an environmental authority if the application for the authority would, under the Environmental Protection Act, chapter 5, part 4, require public notification;
 - (iii) a regional interests development approval if the application for the approval would, under the *Regional Planning Interests Act 2014*, be notifiable;

- (iv) another approval under an Act if—
 - (A) the application for the approval requires, other than under the Planning Act, the Environmental Protection Act, chapter 5 or the *Regional Planning Interests Act 2014*, part 3, an EIS or a similar statement to address the environmental effects of the approval; and
 - (B) the application for, or the granting of, the approval requires public notification under the relevant Act.

34H Public notification of draft IAR

- (1) This section applies if—
 - (a) a notifiable approval is required for the project; or
 - (b) the Coordinator-General gives the proponent a written notice stating that the draft IAR for the project must be publicly notified under this section.
- (2) After the proponent prepares a draft IAR to the satisfaction of the Coordinator-General, the proponent must comply with section 33 as if a reference in that section to a draft EIS were a reference to the draft IAR.
- (3) Submissions about the draft IAR may be made under section 34 as if the draft IAR were a draft EIS.
- (4) In deciding whether the draft IAR may be publicly notified, the Coordinator-General may ask any person for information, advice or comment about the draft IAR.

34I Coordinator-General decides whether to accept draft IAR as final IAR

- (1) The Coordinator-General must—
 - (a) consider the following—
 - (i) the draft IAR;

- (ii) any properly made submissions for the draft IAR;
 - (iii) any other material the Coordinator-General considers is relevant to the project; and
- (b) decide whether or not to accept the draft IAR as the final IAR.
- (2) However, subsection (1) does not apply until after—
 - (a) if the draft IAR required public notification under section 34H—the submission period for the draft IAR ends; or
 - (b) otherwise—the Coordinator-General receives the draft IAR.
- (3) The Coordinator-General may decide not to accept the draft IAR as the final IAR if satisfied additional information is needed about—
 - (a) an environmental effect of the project; or
 - (b) any other matter the Coordinator-General considers relevant to the project.
- (4) In making a decision under subsection (1)(b), the Coordinator-General may ask any person for information, advice or comment about the draft IAR.

34J Giving notice of decision

- (1) The Coordinator-General must give the proponent written notice of the Coordinator-General's decision under section 34I.
- (2) If the Coordinator-General decides not to accept the draft IAR as the final IAR, the notice must state the following—
 - (a) the decision;
 - (b) the additional information required;
 - (c) whether or not public notification of the draft IAR as amended to include or attach the additional information (the *revised draft IAR*) is required;

[s 34K]

- (d) the period within which the revised draft IAR must be given to the Coordinator-General.

34K Requirement to provide additional information

- (1) This section applies if the Coordinator-General decides under section 34I(1)(b) not to accept the draft IAR as the final IAR.
- (2) If the notice given under section 34J states that public notification of the revised draft IAR is not required, the proponent must, within the period stated in the notice, give the Coordinator-General the revised draft IAR.
- (3) If the notice given under section 34J states that public notification of the revised draft IAR is required, the proponent must, within the period stated in the notice—
 - (a) comply with section 33 as if a reference in that section to a draft EIS were a reference to the revised draft IAR; and
 - (b) give the Coordinator-General the revised draft IAR.
- (4) Submissions about the revised draft IAR may be made under section 34 as if the revised draft IAR were a draft EIS.
- (5) If the Coordinator-General receives a revised draft IAR under subsection (2) or (3), sections 34I and 34J apply to the revised draft IAR.

34L Report evaluating IAR

- (1) This section applies if the Coordinator-General decides under section 34I(1)(b) to accept the draft IAR as the final IAR.
- (2) The Coordinator-General must prepare a report evaluating the IAR.
- (3) In evaluating the IAR, the Coordinator-General may—
 - (a) evaluate the environmental effects of the project and any other related matters; and
 - (b) state conditions under section 39, 45, 47C, 49B, 49E, 49G, 49L or 49O; and

- (c) make recommendations under section 43 or 52; and
 - (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.
- (4) After completing the report, the Coordinator-General must—
 - (a) give a copy of the report to the proponent; and
 - (b) publicly notify the report.

Subdivision 3 Amendment and lapsing of Coordinator-General's report

35AA Amendment of Coordinator-General's report

- (1) The Coordinator-General may amend the report for the EIS or IAR for the project if the amendment is to correct a clerical error.
- (2) The Coordinator-General must give written notice of the amendment to—
 - (a) the proponent; and
 - (b) if the project is the subject of an application for a development approval and the Coordinator-General is not the assessment manager for the application—the assessment manager for the application.
- (3) The Coordinator-General must publicly notify—
 - (a) the amendment; and
 - (b) the report as amended.
- (4) The amendment has effect when the proponent is given notice of the amendment under subsection (2).

35A Lapsing of Coordinator-General's report

- (1) The Coordinator-General's report for the EIS or IAR for a project lapses—

- (a) if the report for the EIS or IAR states or implies a time for the report to lapse—at the stated or implied time; or
 - (b) otherwise—3 years after the day the report is publicly notified under section 34D(4)(b) or 34L(4)(b).
- (2) Subsection (3) applies if—
 - (a) the project the subject of the Coordinator-General's report requires 1 or more relevant approvals; and
 - (b) the proponent applies for each relevant approval before the Coordinator-General's report would otherwise lapse under subsection (1).
- (3) Despite subsection (1), the Coordinator-General's report does not lapse, to the extent it relates to the relevant approval applied for, until—
 - (a) if the application for the relevant approval is refused—the application is decided and any appeal against the decision is finalised or withdrawn; or
 - (b) if the application for the relevant approval is approved—the approval takes effect.
- (4) Subsection (5) applies if, before the report would otherwise lapse under subsection (1) or (3), the Coordinator-General gives the proponent written notice stating a later time for the report to lapse.
- (5) Despite subsections (1) and (3), the Coordinator-General's report does not lapse until the later time stated in the notice.
- (6) Subsection (7) applies if—
 - (a) division 8 applies to the project; and
 - (b) the undertaking of the project substantially starts before the Coordinator-General's report would otherwise lapse under subsection (1), (3) or (5).
- (7) Despite subsections (1), (3) and (5), the Coordinator-General's report does not lapse and continues to have effect to the extent it imposes conditions for the undertaking of the project.

(8) In this section—

relevant approval means—

- (a) a development approval; or
- (b) a mining lease under the Mineral Resources Act; or
- (c) an environmental authority; or
- (d) a petroleum lease, pipeline licence or petroleum facility licence under the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (e) a GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*; or
- (f) a geothermal production lease under the *Geothermal Energy Act 2010*; or
- (g) a regional interests development approval; or
- (h) an approval or decision under the *Transport Infrastructure Act 1994* mentioned in section 49N(b)(i) to (iv); or
- (i) another approval under an Act if the application for the approval requires, other than under the Planning Act or the Environmental Protection Act, chapter 5, an EIS or a similar statement to address the environmental effects of the approval.

Division 3A Changes to project

Subdivision 1 Assessment of changes to project or conditions of project on proponent's application

35B Application of sdiv 1

This subdivision applies if, after the Coordinator-General complies with section 34D(4) or 34L(4), the proponent wishes

[s 35C]

the Coordinator-General to assess a proposed change to the project or a condition of the project.

35C Application for evaluation of environmental effects of proposed change

The proponent may apply to the Coordinator-General to evaluate, under this subdivision, the environmental effects of the proposed change, its effects on the project and any other related matters.

35E Requirements for application

The application must be written and—

- (a) describe the proposed change and its effects on the project; and
- (b) state reasons for the proposed change; and
- (c) include enough information about the proposed change and its effects on the project to allow the Coordinator-General to make the evaluation.

35F Coordinator-General may seek comments or information

- (1) After receiving the application, the Coordinator-General may—
 - (a) refer details of the proposed change, its effects on the project or any other related matter to anyone the Coordinator-General considers may be able to give comments or information to help the making of the evaluation; and
 - (b) ask the proponent for further information about the proposed change, its effects on the project or any other related matter.
- (2) If the proponent does not comply with a request under subsection (1)(b) within a reasonable period after it is made,

the Coordinator-General may make the evaluation without the further information.

35G Public notice

- (1) The Coordinator-General must decide whether or not to require the proponent to publicly notify the proposed change and its effects on the project, in a way decided by the Coordinator-General.
- (2) The Coordinator-General must give the proponent a written notice (the ***decision notice***) stating the decision, and if the decision was to make a requirement under subsection (1), the decided way of public notification.
- (3) If the decision is to require public notification, the decision notice must be given before the evaluation is made.
- (4) Sections 33 and 34 apply to the public notification, and for submissions about the proposed change and its effect on the project, as if a reference in those sections to a draft EIS were a reference to the proposed change or the effects.
- (5) Subsections (6) to (8) apply if the decision is not to require public notification.
- (6) If the Coordinator-General is of the opinion that the proposed change might be approved unconditionally, the Coordinator-General may defer giving the decision notice.
- (7) If the Coordinator-General's opinion under subsection (6) changes or if the Coordinator-General is not of that opinion, the Coordinator-General must immediately give the decision notice.
- (8) If the proposed change is approved unconditionally, the decision notice must accompany the Coordinator-General's change report when it is given to the proponent under section 35J.
- (9) In this section—

approved unconditionally, for the proposed change, means that the evaluation allows the change without the

[s 35H]

Coordinator-General doing anything mentioned in section 35I(2).

35H Criteria for evaluating proposed change

In making the evaluation, the Coordinator-General must consider each of the following—

- (a) the nature of the proposed change and its effects on the project;
- (b) the project as currently evaluated under the Coordinator-General's report for the EIS or IAR for the project;
- (c) the environmental effects of the proposed change and its effects on the project;
- (d) if, under section 35G, public notification was required—all properly made submissions about the proposed change and its effects on the project;
- (e) if the change relates to a project for which an EIS was required—the material mentioned in section 34A(1)(a) to the extent the Coordinator-General considers it is relevant to the proposed change and its effects on the project;
- (f) if the change relates to a project for which an IAR was required—the material mentioned in section 34I(1)(a) to the extent the Coordinator-General considers it is relevant to the proposed change and its effects on the project.

35I Coordinator-General's change report

- (1) The Coordinator-General must prepare a report (a *Coordinator-General's change report*) that makes the evaluation.
- (2) In making the evaluation, the Coordinator-General may—
 - (a) state conditions of a type mentioned in section 39, 45, 47C, 49B, 49E, 49G, 49L or 49O that are relevant to the

- proposed change, its effects on the project or any other related matter; and
- (b) make recommendations of a type mentioned in section 43 or 52 that are relevant to the proposed change, its effects on the project or any other related matter; and
 - (c) amend any conditions or recommendations for the project stated or made under section 34D(3) or 34L(3); and
 - (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.
- (3) The evaluation may refuse to allow the proposed change.
- (4) If the evaluation refuses to allow the proposed change, it must state reasons for the refusal.

35J Distribution of Coordinator-General's change report

After completing the Coordinator-General's change report, the Coordinator-General must—

- (a) give a copy of it to the proponent; and
- (b) publicly notify the report.

35K Relationship with Coordinator-General's report

- (1) The Coordinator-General's report for the EIS or IAR for the project and the Coordinator-General's change report both have effect for the project.
- (2) However, if the reports conflict, the Coordinator-General's change report prevails to the extent of the inconsistency.

35KA Amendment of Coordinator-General's change report

- (1) The Coordinator-General may amend a change report if the amendment is to correct a clerical error.

[s 35L]

- (2) The Coordinator-General must give written notice of the amendment to—
 - (a) the proponent; and
 - (b) if the project is the subject of an application for a development approval and the Coordinator-General is not the assessment manager for the application—the assessment manager for the application.
- (3) The Coordinator-General must publicly notify—
 - (a) the amendment; and
 - (b) the change report as amended.
- (4) The amendment has effect when the proponent is given notice of the amendment under subsection (2).

35L Lapsing of Coordinator-General's change report

- (1) The Coordinator-General's change report for a project lapses—
 - (a) generally—at the same time as the Coordinator-General's report for the EIS or IAR for the project lapses under section 35A; or
 - (b) if the change report states a different day—on the day stated in the change report.
- (2) Subsection (3) applies if—
 - (a) division 8 applies to the project; and
 - (b) the Coordinator-General's report for the EIS or IAR for the project continues to have effect but only to the extent it imposes conditions for the undertaking of the project.
- (3) Despite subsection (1), the Coordinator-General's change report for the project does not lapse until the day stated in the change report.

Subdivision 2 Assessment of changes to project on Coordinator-General's own initiative

35M Application of sdiv 2

This subdivision applies if, after the Coordinator-General complies with section 34D(4) or 34L(4) for a coordinated project, the Coordinator-General wishes to assess a proposed change to the project on his or her own initiative.

35N Procedure for making assessment

- (1) The Coordinator-General may assess the proposed change under this section.
- (2) The Coordinator-General must give the proponent of the coordinated project written notice stating—
 - (a) that the Coordinator-General proposes to assess a stated proposed change to the project; and
 - (b) the reasons for the proposed assessment; and
 - (c) that the proponent may, within 5 business days after receiving the notice, give the Coordinator-General the proponent's written views about whether the proposed assessment should be made.
- (3) The Coordinator-General may, whether or not the 5 business days has elapsed, extend the time allowed under subsection (2)(c) for the proponent to give the written views.
- (4) If, after considering any written views given to the Coordinator-General under subsection (2)(c), the Coordinator-General decides to make the assessment, the Coordinator-General must give the proponent a written notice stating—
 - (a) the decision and the reasons for it; and
 - (b) that within 20 business days after receiving the notice the proponent must apply to the Coordinator-General to

[s 36]

evaluate under subdivision 1 the environmental effects of the proposed change, its effects on the project and any other related matters.

- (5) Subdivision 1, other than sections 35B and 35C, applies in relation to the application as if it were an application made under the subdivision.

Example—

The application must comply with section 35E as if the application were an application made under the subdivision.

- (6) The Coordinator-General may, if asked in writing by the proponent, extend the time under subsection (4)(b) before the end of the 20 business days.
- (7) The proponent must comply with a requirement under subsection (4)(b).

Maximum penalty—1,665 penalty units.

Division 4 Relationship with Planning Act

Subdivision 1 Development approvals

36 Application of sdiv 1

This subdivision applies if—

- (a) the project involves development requiring a development approval; and
- (b) any or all of the following applications (each a ***relevant application***) is made—
- (i) a development application for the development approval;
- (ii) a change application, other than a minor change application, to change a development approval that approves part of the development;

- (iii) a change application, other than a minor change application, to change a development approval to approve part of the development; and
- (c) the Coordinator-General's report for the EIS or IAR for the project has not lapsed under section 35A.

37 Applications for material change of use or requiring impact assessment

- (1) To the extent the relevant application relates to a material change of use of premises, or requires impact assessment, under the Planning Act—
 - (a) the application does not require public notification under the Planning Act, section 53; and
 - (b) there are no referral agencies under the Planning Act for the application; and
 - (c) a properly made submission about either of the following is taken to be a properly made submission about the application for the Planning Act, chapter 3—
 - (i) a draft EIS or draft IAR for the project;
 - (ii) any additional information, required by the Coordinator-General for the project, that was publicly notified under section 34C(3) or 34K(3); and
 - (d) despite paragraph (b), until any development approval for the application has effect—
 - (i) the Coordinator-General's report for the EIS or IAR for the project is taken to be a referral agency's response for the application for the Planning Act, chapter 3; and
 - (ii) the Coordinator-General may exercise any power of an entity as a referral agency that, other than for paragraph (b), would have been a referral agency for the application.

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- (2) Subsection (1)(c) does not apply if the application involves only a material change of use requiring code assessment under the Planning Act.
- (3) In this section—
material change of use see the Planning Act, schedule 2.

38 When decision-making period for relevant application starts

- (1) If the relevant application is a development application, the decision-making period for the application does not start until—
 - (a) if the Coordinator-General is not the assessment manager for the application—the Coordinator-General gives the assessment manager a copy of the relevant Coordinator-General's report for the project; or
 - (b) if the Coordinator-General is the assessment manager for the application—the Coordinator-General gives the proponent a copy of the relevant Coordinator-General's report for the project.
- (2) If the relevant application is a change application for a development approval, the decision-making period for the application does not start until—
 - (a) if the Coordinator-General is not the responsible entity for the application—the Coordinator-General gives the responsible entity a copy of the relevant Coordinator-General's report for the project; or
 - (b) if the Coordinator-General is the responsible entity for the application—the Coordinator-General gives the proponent a copy of the relevant Coordinator-General's report for the project.
- (3) In this section—
relevant Coordinator-General's report, for a project, means—

- (a) if the project requires an EIS—the Coordinator-General’s report for the EIS; or
- (b) if the project requires an IAR—the Coordinator-General’s report for the IAR.

39 Application of Coordinator-General’s report to assessment of relevant application under Planning Act

- (1) The Coordinator-General’s report for the EIS or IAR for the project may state any of the following for development relating to the project—
 - (a) that any development approval given for the development must be subject to stated conditions;
 - (b) that any development approval given must be only for a stated part of the development;
 - (c) that any development approval given must be a preliminary approval only.
- (2) Alternatively, the report may state that—
 - (a) the Coordinator-General has no conditions or requirements for the development; or
 - (b) a development approval for the development must not be given.
- (3) The decision maker for the relevant application must comply with a matter stated in the report under subsection (1) or (2).
- (4) To remove any doubt, it is declared that subsection (1)(a) does not limit the power of the decision maker for the application to—
 - (a) assess the application; and
 - (b) impose conditions on any development approval given, if the conditions are not inconsistent with conditions stated under subsection (1)(a).
- (5) The report may state that a development approval must not be given for the development only if the Coordinator-General is

[s 40]

satisfied there are environmental effects in relation to the development that can not be addressed adequately.

- (6) The report must give reasons for the statement mentioned in subsection (2)(b).
- (7) If the Coordinator-General's report provides for a condition that must be attached to any development approval—
 - (a) the report may state the entity that is to have jurisdiction for the condition after the development approval starts to have effect under the Planning Act, section 71; and
 - (b) the condition is taken to be a condition that a referral agency requires be imposed on any development approval under the Planning Act.
- (8) If there is any inconsistency between a condition mentioned in subsection (1)(a) for a development approval and a condition a referral agency has required be imposed on the approval under the Planning Act, the condition mentioned in subsection (1)(a) prevails to the extent of the inconsistency.

40 Decision maker to be given copy of Coordinator-General's report

If the Coordinator-General is not the decision maker for a relevant application, the Coordinator-General must give a copy of the Coordinator-General's report for the EIS or IAR for the project to the decision maker for the relevant application.

41 Referral agencies for conditions of development approvals

- (1) Subsection (2) applies if, in the Coordinator-General's report for the EIS or IAR for the project, the Coordinator-General nominates an entity as a referral agency for a development approval, including a condition of the approval, given in relation to the report.
- (2) The entity is, from the day the approval takes effect, taken to be a referral agency for the development application that

resulted in the approval, including the condition of the approval.

- (3) This section applies despite section 37(1)(b).

42A Application of Coordinator-General's change report to assessment of relevant application under Planning Act

- (1) This section applies if, under section 35J(a), the proponent is given a Coordinator-General's change report.
- (2) The Coordinator-General must give a copy of the change report to the decision maker for the relevant application.
- (3) The change report is taken to be a referral agency's response for the Planning Act for the application.
- (4) The referral agency's response mentioned in section 37(1)(d)(i) ceases to have effect for the application.
- (5) Subsection (6) applies if the change report was given to the proponent—
 - (a) after the decision-making period for the application started; but
 - (b) before the decision maker has decided the application.
- (6) Despite the Planning Act, the decision-making period for the application—
 - (a) ends on the day the Coordinator-General gives the proponent a copy of the change report; and
 - (b) starts again from its beginning on the day after the decision maker receives a copy of the change report.
- (7) Subsection (8) applies if—
 - (a) the change report was given to the proponent after the decision maker decided the application (the *original application*); and
 - (b) the proposed change the subject of the change report involves—

[s 43]

- (i) assessable development that is not approved by a development approval; or
 - (ii) changes to assessable development approved by a development approval; and
- (c) the proponent proposes to carry out the assessable development or assessable development as changed.
- (8) The proponent must take, or cause to be taken, the required steps under the Planning Act to obtain approval of the assessable development or changes to the assessable development.
- (9) Sections 37 to 41 apply to the obtaining of the approval as if—
 - (a) a reference to the Coordinator-General's report for the EIS or IAR for the project were a reference to the change report; and
 - (b) a reference to a properly made submission about the draft EIS or draft IAR were a reference to a properly made submission about the proposed change.
- (10) Subsection (8) applies in relation to the changes to the assessable development even if there is an undecided appeal against the decision on the original application.

Subdivision 2 Designation of premises under Planning Act for development of infrastructure

43 Application of Coordinator-General's report to designation

- (1) This section applies if the project involves premises for which a designation under the Planning Act, chapter 2, part 5 may be made.
- (2) The Coordinator-General's report for the EIS or IAR for the project may recommend requirements for inclusion in the designation under the Planning Act, section 35(2)(a) or (b).

- (3) In making the designation, the designator may have regard to the recommendation.

Division 5 Relationship with Mineral Resources Act

44 Application of div 5

This division applies if the project involves a proposed mining lease under the Mineral Resources Act.

45 Application of Coordinator-General's report to proposed mining lease

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions (*Coordinator-General's conditions*) for the proposed mining lease.
- (2) If Coordinator-General's conditions are included in the report—
 - (a) the Coordinator-General must give the MRA Minister a copy of the report; and
 - (b) the conditions of the proposed mining lease are taken to include the Coordinator-General's conditions.

46 Coordinator-General's conditions override other conditions

- (1) This section applies if—
 - (a) the proposed mining lease is granted; and
 - (b) the conditions of the mining lease include a Coordinator-General's condition; and
 - (c) there is any inconsistency between the Coordinator-General's condition and another condition of the mining lease.

[s 47A]

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

(3) In this section—

Coordinator-General's condition means—

- (a) a Coordinator-General's condition that, under section 45, is taken to have been included in the proposed mining lease; or
- (b) a condition that is substantially the same as a condition mentioned in paragraph (a).

47A Paramountcy of conditions determined or declared under Native Title Act 1993 (Cwlth)

(1) This section applies if—

- (a) there is any inconsistency between a Coordinator-General's condition under section 45 or 46; and
- (b) a condition for the granting of the proposed mining lease determined or declared under the *Native Title Act 1993* (Cwlth) section 36A, 38 or 42.

(2) The Coordinator-General's condition does not apply to the extent of the inconsistency.

Division 6 Relationship with Environmental Protection Act

47B Application of div 6

This division applies if the project involves a proposed environmental authority under the Environmental Protection Act.

47C Application of Coordinator-General's report to environmental authority

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions for—
 - (a) the proposed environmental authority; and
 - (b) any proposed PRCP schedule relating to the environmental authority under the Environmental Protection Act.
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the EPA Minister a copy of the report.

Division 6A Relationship with Petroleum and Gas (Production and Safety) Act 2004

49A Application of div 6A

This division applies if the project involves a proposed petroleum lease, pipeline licence or petroleum facility licence under the *Petroleum and Gas (Production and Safety) Act 2004*.

49B Application of Coordinator-General's report to lease or licence

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions for the proposed lease or licence.
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the Minister for the time being administering the Act under which the lease or licence is proposed to be granted a copy of the report.

49C Paramourncy of conditions determined or declared under Native Title Act 1993 (Cwlth)

- (1) This section applies if—
 - (a) the project involves a proposed petroleum lease; and
 - (b) there is any inconsistency between—
 - (i) a Coordinator-General's condition stated under section 49B; and
 - (ii) a condition for the granting of the proposed petroleum lease determined or declared under the *Native Title Act 1993* (Cwlth) section 36A, 38 or 42.
- (2) The Coordinator-General's condition does not apply to the extent of the inconsistency.

Division 6B Relationship with Greenhouse Gas Storage Act 2009

49D Application of div 6B

This division applies if the project involves a proposed GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*.

49E Application of Coordinator-General's report to proposed lease

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions for the proposed lease.
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the Minister of the department in which the *Greenhouse Gas Storage Act 2009* is administered a copy of the report.

Division 6C Relationship with Geothermal Energy Act 2010

49F Application of div 6C

This division applies if the project involves a proposed geothermal production lease under the *Geothermal Energy Act 2010*.

49G Application of Coordinator-General's report to proposed lease

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions for the proposed lease.
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the Minister of the department in which the *Geothermal Energy Act 2010* is administered a copy of the report.

Division 6D Relationship with Regional Planning Interests Act 2014

49H Application of division

This division applies if—

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

49I Definitions for division

In this division—

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

[s 49J]

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

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

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

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

- (1) This section applies if the Coordinator-General gives the regional planning chief executive a copy of the Coordinator-General's report for the EIS or IAR for the project.
- (2) If the draft EIS or IAR for the project is accepted as the final EIS or IAR, the final EIS or IAR is taken to be the report mentioned in the *Regional Planning Interests Act 2014*, section 29(b) that must accompany the assessment application, but only to the extent the final EIS or IAR relates to the matters required for the report under section 29(b)(i) and (ii) of that Act.
- (3) If the draft EIS or IAR for the project is publicly notified under section 33 or 34H—
 - (a) the assessment application is not notifiable for the purposes of the *Regional Planning Interests Act 2014*, sections 30, 33 and 46; and
 - (b) the *Regional Planning Interests Act 2014*, part 3, division 4 does not apply to the assessment application.
- (4) Despite subsection (3)(b), the *Regional Planning Interests Act 2014*, section 38 applies—
 - (a) only to the extent that section permits the owner of the land the subject of the project to inspect the submission or obtain a copy of the submission; and

- (b) as if—
 - (i) a properly made submission under this Act about either of the following were a properly made submission about the assessment application under the *Regional Planning Interests Act 2014*—
 - (A) a draft EIS or draft IAR for the project;
 - (B) any additional information, required by the Coordinator-General for the project, that was publicly notified under section 34C(3) or 34K(3); and
 - (ii) the Coordinator-General were the assessor; and
 - (iii) a reference to the assessor's office were a reference to the Coordinator-General's office and any other place approved by the Coordinator-General.
- (5) The assessment application is not referable for the purposes of the *Regional Planning Interests Act 2014*, sections 26, 51 and 56.
- (6) The *Regional Planning Interests Act 2014*, part 3, division 5 does not apply to the assessment application.
- (7) A requirement notice given under the *Regional Planning Interests Act 2014*, section 44 in relation to the assessment application must not require the applicant to notify the application under part 3, division 4 of that Act.
- (8) For the *Regional Planning Interests Act 2014*, section 47, the prescribed time frame for a decision about the assessment application is, despite that section, taken to be—
 - (a) 20 business days after the day the Coordinator-General gives the regional planning chief executive the copy of the Coordinator-General's report for the EIS or IAR; or
 - (b) a longer period decided by the regional planning chief executive for which prior notice has been given to the applicant.

[s 49L]

- (9) The *Regional Planning Interests Act 2014*, section 49(1)(c) applies in relation to deciding the assessment application as if—
 - (a) the decision were for a notifiable assessment application; and
 - (b) the reference to properly made submissions were a reference to properly made submissions under this Act taken, under subsection (4)(b)(i), to be properly made submissions under the *Regional Planning Interests Act 2014*.
- (10) For the *Regional Planning Interests Act 2014*, section 49(1), in deciding the assessment application, the regional planning chief executive must also consider the Coordinator-General's report for the EIS or IAR.

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

- (1) The Coordinator-General's report for the EIS or IAR for the project may state any of the following for an activity relating to the project—
 - (a) that any regional interests development approval given for the activity must be subject to stated conditions;
 - (b) that any regional interests development approval given must be only for a stated activity or a stated part of an activity.
- (2) Alternatively, the report may state that—
 - (a) the Coordinator-General has no conditions or requirements for the activity; or
 - (b) a regional interests development approval for the activity must not be given.
- (3) A condition mentioned in subsection (1)(a) must be consistent with the requirements for a regional interests condition under the *Regional Planning Interests Act 2014*, section 50.

- (4) The regional planning chief executive must comply with a matter stated in the report under subsection (1) or (2).
- (5) To remove any doubt, it is declared that subsections (1)(a) and (2)(a) do not limit the power of the regional planning chief executive to—
 - (a) consider and decide the assessment application; and
 - (b) impose conditions on any regional interests development approval given, if the conditions are not inconsistent with conditions stated under subsection (1)(a).
- (6) The report may state that a regional interests development approval must not be given for the activity only if the Coordinator-General is satisfied there are environmental effects in relation to the development that can not be addressed adequately.
- (7) The report must give reasons for the statement mentioned in subsection (2)(b).
- (8) If there is any inconsistency between a condition mentioned in subsection (1)(a) for a regional interests development approval and a condition imposed by the regional planning chief executive on the approval under the *Regional Planning Interests Act 2014*, section 48(2), the condition mentioned in subsection (1)(a) prevails to the extent of the inconsistency.

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

- (1) This section applies if, under section 35J(a), the proponent is given a copy of a Coordinator-General's change report.
- (2) The Coordinator-General must give a copy of the change report to the regional planning chief executive.
- (3) If the proponent has not made a requested amendment application in relation to the proposed change the subject of the change report, the proponent must make the application.

- (4) For the purposes of deciding a requested amendment application under the *Regional Planning Interests Act 2014*, section 55(5)—
 - (a) section 49(1)(c) of that Act applies in relation to deciding the requested amendment application as if—
 - (i) the decision were for a notifiable assessment application; and
 - (ii) the reference to properly made submissions were a reference to properly made submissions under this Act about the proposed change; and
 - (b) for section 49(1) of that Act, in deciding the requested amendment application, the regional planning chief executive must also consider the change report.
- (5) Subsection (6) applies if—
 - (a) the change report was given to the proponent after the regional planning chief executive decided a requested amendment application in relation to the proposed change the subject of the change report; and
 - (b) the proposed change involves the carrying out of an activity requiring a regional interests development approval; and
 - (c) the proponent proposes to carry out the activity.
- (6) The proponent must take, or cause to be taken, the required steps under the *Regional Planning Interests Act 2014* to obtain approval of the carrying out of the activity.
- (7) Sections 49J to 49L apply to the obtaining of the approval mentioned in subsection (6) as if—
 - (a) a reference to the Coordinator-General's report for the EIS or IAR for the project were a reference to the change report; and
 - (b) a reference to a properly made submission under this Act about the draft EIS or draft IAR were a reference to a properly made submission about the proposed change.

- (8) Subsection (6) applies in relation to the changes to the carrying out of an activity even if there is an undecided appeal against the decision on the requested amendment application mentioned in subsection (5)(a).

- (9) In this section—

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

Division 6E Relationship with Transport Infrastructure Act 1994

49N Application of division

This division applies if—

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

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

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions (*Coordinator-General's*

[s 49P]

conditions) for the approval or decision mentioned in section 49N(b)(i) to (iv).

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

49P Coordinator-General's conditions override other conditions

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

Coordinator-General's condition means—

 - (a) a Coordinator-General's condition that, under section 49O, is taken to have been included in an approval or decision; or
 - (b) a condition that is substantially the same as a condition mentioned in paragraph (a).

Division 7 Relationship with other legislation

50 Application of div 7

This division applies if an Act other than the Planning Act or the Environmental Protection Act, chapter 5, requires the preparation of an EIS, or a similar statement to address environmental effects, for the project.

51 EIS under this part is EIS for other Act

The EIS prepared under this part for the project is taken to be a statement that satisfies the requirement of the other Act.

52 Application of Coordinator-General's report to other approval process

- (1) The Coordinator-General's report for the EIS or IAR for the project may recommend to the person who may give an approval required for the project that—
 - (a) the approval be refused; or
 - (b) stated conditions be imposed on the approval.
- (2) Alternatively, the report must recommend that there are no conditions to be attached to any approval given under the other Act.
- (3) If the recommendation is to refuse the approval, the report must give reasons for the recommendation.

53 Person approving project to be given copy of Coordinator-General's report

The Coordinator-General must give a copy of the Coordinator-General's report for the EIS or IAR for the project to the person required under the other Act to approve of the project.

[s 54]

54 Coordinator-General's report must be taken into consideration

The Coordinator-General's report for the EIS or IAR for the project must be taken into consideration by the person who may give an approval required for the project.

Division 8 Application of Coordinator-General's report if no relevant approval

54A Application of div 8

This division applies to the extent that—

- (a) the project does not involve a material change of use under the Planning Act requiring impact assessment under that Act; and
- (b) division 4, subdivision 2 and divisions 5 to 7 do not apply to the project.

54B Report may impose conditions

- (1) Subject to section 54C, the Coordinator-General's report for the EIS or IAR for the project may impose conditions for the undertaking of the project, and state when they take effect.
- (2) A condition imposed in the report is an *imposed condition* for the undertaking of the project.
- (3) If there are imposed conditions for the undertaking of the project, the Coordinator-General may, for any imposed condition for the undertaking of the project, nominate an entity that is to have jurisdiction for the condition.
- (4) An entity may be nominated for 1 or more of the conditions.
- (5) A nomination under subsection (3) may be in the report or by public notification.
- (6) The public notification may be made at any time.

- (7) The Coordinator-General must give a copy of the report to each nominated entity for an imposed condition for the undertaking of the project.
- (8) Also, if a nomination under subsection (3) is by public notification, the Coordinator-General must give each of the following a copy of the notification—
 - (a) the nominated entity under the nomination;
 - (b) the proponent for the project;
 - (c) the department in which the Environmental Protection Act is administered;
 - (d) the relevant local government for the project.

54C Provision for what conditions may be imposed

The Planning Act, section 65 applies for imposed conditions for the undertaking of the project as if the conditions were, under that Act, conditions of a development approval being decided by an assessment manager for a development application.

54D Effect of imposed conditions

- (1) This section applies if there are imposed conditions for the undertaking of the project.
- (2) The Planning Act, section 164 applies to the undertaking of the project as if—
 - (a) the project were development under that Act; and
 - (b) the imposed conditions were a development approval for the development.
- (3) The Environmental Protection Act, sections 437 to 440 and 493A apply to the undertaking of the project as if the imposed conditions were development conditions under that Act for a development approval for the project.

[s 54E]

- (4) To remove any doubt, it is declared that the provisions mentioned in subsections (2) and (3) apply to anyone who undertakes the project, including, for example—
 - (a) the proponent; and
 - (b) any of the following who undertake the project—
 - (i) an agent, contractor or subcontractor or licensee of the proponent;
 - (ii) an agent, contractor or subcontractor or licensee of a person mentioned in subparagraph (i).
- (5) Also, it is declared that—
 - (a) the Planning Act, section 227 applies in relation to an offence against section 164 of that Act; and
 - (b) the Environmental Protection Act, section 493 applies in relation to an offence against sections 437 to 440 and 493A of that Act.

54E Imposed conditions override conditions of other approvals

If an imposed condition for the undertaking of the project is inconsistent with a condition of an approval that applies to the undertaking of the project, the imposed condition prevails to the extent of the inconsistency.

54F Provision about enforcement orders under the Planning Act

- (1) This section applies if—
 - (a) a proceeding is proposed to be started in the Planning and Environment Court under—
 - (i) the Planning Act, chapter 5, part 5; or
 - (ii) the Environmental Protection Act, section 505; and
 - (b) the relief or remedy proposed to be sought in the proceeding relates to an offence, or threatened or

- anticipated offence, against a provision of those Acts as applied under section 54D; and
- (c) the offence or threatened or anticipated offence relates to the project.
- (2) Despite the provisions mentioned in subsection (1)(a), only the following persons may bring the proceeding—
- (a) the Coordinator-General;
 - (b) the nominated entity for a relevant imposed condition for the undertaking of the project;
 - (c) the relevant local government for the project;
 - (d) the proponent;
 - (e) someone else whose interests are significantly adversely affected by the subject matter of the proceeding.

54G Declaration-making powers

- (1) A proceeding mentioned in the *Planning and Environment Court Act 2016*, section 11 can not be started in relation to the project.
- (2) However, a person mentioned in section 54F(2) may bring a proceeding in the Planning and Environment Court for a declaration about whether there has been substantial compliance with an imposed condition for the undertaking of the project.
- (3) The court may also make an order about any declaration it makes under subsection (2).
- (4) The court may, in deciding what orders it is to make in the proceeding, have regard to 1 or more of the following—
 - (a) the laws and policies applying when the condition was imposed;
 - (b) the EIS or IAR for the project;
 - (c) the Coordinator-General's report for the EIS or IAR and any Coordinator-General's change report for the project;

- (d) the financial implications of—
 - (i) the imposed conditions for the undertaking of the project; or
 - (ii) any proposed orders;
- (e) the public interest;
- (f) any environmental management plan required under the condition;
- (g) any other matter the court considers relevant.

Part 4A Assessment and approval of particular coordinated projects under bilateral agreement

Division 1 Preliminary

54H Application and purpose of pt 4A

- (1) This part applies if—
 - (a) a bilateral agreement made under the Commonwealth Environment Act—
 - (i) is in force between the State and the Commonwealth; and
 - (ii) declares that actions in a class of actions specified in the agreement do not require approval under the Commonwealth Environment Act, part 9 for specified provisions because the actions have been approved under a bilaterally accredited authorisation process; and
 - (b) this part has been accredited by the Commonwealth Minister under the Commonwealth Environment Act, section 46(2A), as the authorisation process for the purposes of the bilateral agreement.

- (2) The purpose of this part is to provide for a process, to be accredited as mentioned in subsection (1)(b), for coordinated projects that are within the scope of the bilateral agreement to be—
 - (a) assessed in relation to their likely impact on particular environmental matters that are otherwise regulated under the Commonwealth Environment Act; and
 - (b) approved, either with or without conditions to protect, repair or mitigate damage to the environmental matters, or refused.
- (3) For this part, a coordinated project is *within the scope of the bilateral agreement* if the project—
 - (a) is an action within the class of actions specified in the agreement that the declaration mentioned in subsection (1)(a)(ii) applies to; and
 - (b) has had, will have or is likely to have an impact on an environmental matter protected by a specified provision.

54I Definitions for pt 4A

In this part—

accepted submissions, for a coordinated project or amendment application, means either or both of the following—

- (a) all of the properly made submissions received about the project or application;
- (b) any other submissions about the project or the application accepted by the Coordinator-General;

to the extent the submissions relate to an environmental matter protected by a specified provision or another provision of the Commonwealth Act, part 3.

action see the Commonwealth Environment Act, sections 523, 524 and 524A.

assessment report see section 54W(4).

bilateral agreement means the bilateral agreement mentioned in section 54H(1)(a) as in force from time to time.

bilaterally accredited authorisation process see the Commonwealth Environment Act, section 46(2A).

bilateral project declaration see section 54J(1).

coordinated project declaration means a declaration made by the Coordinator-General as mentioned under section 26(1)(a) or (b).

environmental approval means—

- (a) an approval issued under section 54Y that approves the undertaking of a coordinated project for each environmental matter protected by a specified provision stated in the approval; or
- (b) if that approval is amended as mentioned in section 54ZE—the amended approval issued under that section.

environmental law means a law of the Commonwealth or a State about the protection of the environment or the conservation and sustainable use of natural resources.

environmental matter protected means a matter protected by a provision of the Commonwealth Environment Act, part 3, as mentioned in section 34 of that Act.

environmental record, of a proponent or proposed new proponent of a coordinated project, means—

- (a) any proceedings under an environmental law to which the proponent has been a party; and
- (b) if the proponent is a corporation—the proponent's environmental policies and planning framework; and
- (c) if the proponent is a corporation that is the subsidiary of another corporation (the ***parent corporation***)—
 - (i) any proceedings under an environmental law to which the parent corporation has been a party; and

- (ii) the parent corporation's environmental policies and planning framework.

impact see the Commonwealth Environment Act, section 527E.

information requirement notice see section 54S(2).

protected matters report means a report about the likely impacts of a coordinated project on each environmental matter protected by a specified provision.

reinstatement request see section 54ZJA(2).

specified provision means a provision of the Commonwealth Environment Act specified in the bilateral agreement as a provision for which the agreement declares an action does not require approval under the Commonwealth Environment Act, part 9.

within the scope of the bilateral agreement, for a coordinated project, see section 54H(3).

Division 2 Coordinated projects to be assessed under this part

54J Declaration for coordinated project for this part

- (1) The Coordinator-General may declare (a **bilateral project declaration**) a coordinated project to be also a project to be assessed under this part for the purposes of the bilateral agreement.
- (2) The Coordinator-General may make a bilateral project declaration only if satisfied the coordinated project—
 - (a) is within the scope of the bilateral agreement; and
 - (b) is not likely to have a significant impact on an environmental matter protected by a provision of the Commonwealth Environment Act, part 3, that is not a specified provision.

- (3) However, the Coordinator-General must not make a declaration under subsection (1) about a coordinated project that is any of the following—
 - (a) an action that the Commonwealth Minister has decided, under the Commonwealth Environment Act, section 75, is not a controlled action;
 - (b) an action about which the Commonwealth Minister has made a decision, under the Commonwealth Environment Act, section 133, approving or refusing to approve the taking of the action;
 - (c) an action the Commonwealth Minister has decided the Commonwealth Environment Act, part 7, division 1A applies to because the action would have unacceptable impacts on an environmental matter protected.
- (4) A bilateral project declaration must be made by gazette notice.

54K Application for declaration

- (1) A person may apply to the Coordinator-General for a bilateral project declaration if the person is—
 - (a) the applicant for a coordinated project declaration for a project; or
 - (b) the proponent of a coordinated project.
- (2) The application must—
 - (a) be in writing; and
 - (b) briefly describe the impacts the project is likely to have on any environmental matter protected by a specified provision or another provision of the Commonwealth Environment Act, part 3; and
 - (c) include enough information about the project to allow the Coordinator-General to consider whether the project is a project mentioned in section 54J(2) or (3).

- (3) The application may be made at the same time an application for a coordinated project declaration for the project is made.

54L Deciding application

- (1) The Coordinator-General must consider and decide each application received under section 54K.
- (2) Section 54J(2) and (3) applies for making the decision.
- (3) Also, in making the decision, the Coordinator-General must consider the bilateral agreement.
- (4) If the Coordinator-General decides to refuse the application, the Coordinator-General must give the applicant written notice of the decision and the reasons for it.

54M Cancellation of declaration

- (1) The Coordinator-General may cancel a bilateral project declaration for a coordinated project before making a decision under section 54T if—
 - (a) the proponent of the project makes a written request to the Coordinator-General to cancel the declaration; or
 - (b) the coordinated project declaration for the project is cancelled under section 27AF; or
 - (c) the Coordinator-General is no longer satisfied about either or both of the matters mentioned in section 54J(2); or
 - (d) the Coordinator-General considers the project is a project mentioned in section 54J(3)(a) to (c).
- (2) If the Coordinator-General decides under subsection (1)(b) to (d) to cancel the declaration, the Coordinator-General must, within 14 days after the decision, give the proponent written notice of the decision and the reasons for it.
- (3) A decision to cancel the declaration takes effect on the later of—
 - (a) the day the written notice is given to the proponent; or

- (b) the day of effect stated in the written notice.

54N Lapsing of declaration

The bilateral project declaration for a coordinated project lapses if the coordinated project declaration for the project lapses.

Note—

See sections 27A and 27B.

Division 3 Assessment and approval process

54O Application of div 3

This division applies to a coordinated project if a bilateral project declaration has been made for the project.

54P Preparation of draft protected matters report

- (1) The proponent for the coordinated project must prepare a draft protected matters report and give it to the Coordinator-General.
- (2) The Coordinator-General may, by written notice, require the proponent to include information about a stated matter in the draft protected matters report.
- (3) The draft protected matters report must include the information required by—
 - (a) a regulation; and
 - (b) if the Coordinator-General gave the proponent a notice under subsection (2)—the notice.
- (4) The Coordinator-General may ask any person for information, advice or comment about the draft protected matters report.

54Q Public notification of draft protected matters report

- (1) This section applies after the proponent has prepared a draft protected matters report for the coordinated project to the satisfaction of the Coordinator-General.
- (2) The proponent must publicly notify the draft protected matters report.
- (3) However, the proponent must publicly notify the draft protected matters report under subsection (2) when complying with section 33 in relation to the coordinated project only if—
 - (a) the proponent is required to comply with section 33 in relation to the project; and
 - (b) the bilateral project declaration for the project was made before the proponent complied with section 33.
- (4) For publicly notifying the draft protected matters report as required by subsection (2)—
 - (a) section 33 applies as if a reference in that section to a draft EIS were to the report; and
 - (b) the proponent must comply with the requirements prescribed by regulation for the notification in a regulation; and
 - (c) submissions about the report may be made under section 34 as if the report were a draft EIS; and
 - (d) the submission period for the coordinated project set under section 33(1)(d) must be at least the minimum period prescribed by regulation.

54R Proponent must finalise protected matters report after public notification

- (1) After the end of the submission period for the coordinated project, the proponent must prepare a final protected matters report and give it to the Coordinator-General.
- (2) The final protected matters report must—
 - (a) summarise the accepted submissions; and

- (b) state how the submissions have been addressed.

54S Coordinator-General may seek further information or comments

- (1) This section applies if, after receiving the final protected matters report under section 54R, the Coordinator-General considers further information is reasonably necessary for the Coordinator-General to consider the matters mentioned in section 54W.
- (2) The Coordinator-General may, by written notice (a *information requirement notice*), require the proponent to give the Coordinator-General the stated further information within the stated period.
- (3) The proponent must comply with the information requirement notice.
- (4) The Coordinator-General may—
 - (a) extend the stated period for an information requirement notice; or
 - (b) give the proponent more than 1 information requirement notice.
- (5) If the proponent does not comply with an information requirement notice within the stated period, the Coordinator-General may—
 - (a) make a decision under section 54T without the further information; or
 - (b) refuse to make a decision until the notice is complied with to the Coordinator-General's satisfaction.
- (6) The Coordinator-General may ask any person for information, advice or comment about the final protected matters report or the coordinated project.

54T Decision about approving undertaking of coordinated project

- (1) This section applies after—
 - (a) the Coordinator-General has received the final protected matters report under section 54R; and
 - (b) the earlier of the following happens—
 - (i) the proponent complies with all information requirement notices relating to the final report;
 - (ii) each period stated in an information requirement notice relating to the final report has ended.
- (2) The Coordinator-General must decide—
 - (a) to approve the undertaking of all or part of the coordinated project in relation to each of the specified provisions; or
 - (b) to refuse to approve the project.
- (3) However, the Coordinator-General must not approve the undertaking of the coordinated project to the extent the project will impact an environmental matter protected by a specified provision in a way that, in the Coordinator-General's opinion, is unacceptable or unsustainable.
- (4) To remove any doubt, it is declared that if the Coordinator-General approves the undertaking of only part of a project, the balance of the project is refused.

54U Conditions

- (1) This section applies if the Coordinator-General decides to approve the undertaking of the coordinated project in relation to a specified provision.
- (2) The Coordinator-General may decide to impose a condition in relation to the specified provision if satisfied the condition is necessary or convenient to—

- (a) protect an environmental matter protected by the provision (whether or not the protection is from the impact of the coordinated project); or
 - (b) repair or mitigate damage to an environmental matter protected by the provision (whether or not the damage has been, will be or is likely to be caused by the coordinated project).
- (3) A condition may, for example, require 1 or more of the following—
 - (a) an environmental offset as mentioned in the bilateral agreement;
 - (b) a stated amount to be paid to a stated person for the purpose of activities related to protecting, or repairing or mitigating damage to, an environmental matter protected by the specified provision;
 - (c) an environmental audit of the coordinated project to be carried out periodically by a person who is independent of the project;
 - (d) the preparation and implementation of a plan to manage the impacts of the coordinated project on the environmental matters protected by the specified provision;
 - (e) stated environmental monitoring or testing to be carried out;
 - (f) compliance with a stated industry standard or code of practice.
- (4) However, the Coordinator-General may only impose a condition on an environmental approval for a coordinated project that is not reasonably related to the project if the proponent consents to the condition being imposed.
- (5) The proponent may not withdraw consent to the imposition of a condition under subsection (4) after the condition has been imposed on the environmental approval.

54V Jurisdiction for conditions

- (1) If the Coordinator-General imposes 1 or more conditions on an environmental approval for a coordinated project, the Coordinator-General may nominate an entity that is to have jurisdiction for the condition.
- (2) An entity may be nominated for 1 or more of the conditions.

54W Criteria for decision

- (1) This section applies to the Coordinator-General in deciding whether to issue an environmental approval for the coordinated project or impose conditions on the approval.
- (2) The Coordinator-General must—
 - (a) consider all of the following—
 - (i) the impacts the project has had, will have or is likely to have, on each environmental matter protected by a specified provision;
 - (ii) any criteria for the decision prescribed by regulation;
 - (iii) the protected matters report;
 - (iv) any further information provided under a notice under section 54S(2);
 - (v) any information, advice or comment given under section 54S(6);
 - (vi) all accepted submissions for the project; and
 - (b) ensure the approval and conditions are not inconsistent with the bilateral agreement.
- (3) Also, the Coordinator-General may consider—
 - (a) the proponent's environmental record; and
 - (b) any other matter the Coordinator-General considers relevant.
- (4) The Coordinator-General must prepare a report (an *assessment report*) that—

- (a) demonstrates the Coordinator-General's consideration of the matters mentioned in subsections (2) and (3); and
- (b) identifies the information and opinions, and the source of the information and opinions, on which the consideration is based.

54X Notice of decision

The Coordinator-General must give the proponent written notice of the Coordinator-General's decisions under sections 54T and 54U and a copy of the assessment report.

54Y Issuing environmental approval

- (1) If the Coordinator-General's decision under section 54T is to approve the undertaking of all or part of the coordinated project, the Coordinator-General must issue an environmental approval to the proponent.
- (2) The environmental approval must state each of the following—
 - (a) the proponent's name;
 - (b) the project, or part of the project, for which the approval is given;
 - (c) each specified provision for which the approval is given;
 - (d) the period for which the approval has effect;
 - (e) the conditions of the approval;
 - (f) for each condition—the nominated entity with jurisdiction for the condition.

Division 4 Amendment of environmental approval

54Z Application for amendment

- (1) A proponent may apply to the Coordinator-General to amend an environmental approval (an ***amendment application***) to—
 - (a) change the coordinated project for which the approval is given; or
 - (b) change a condition of the approval; or
 - (c) extend the period for which the approval has effect; or
 - (d) change the proponent of the coordinated project.
- (2) The amendment application must—
 - (a) be in writing; and
 - (b) describe the proposed amendment and the reasons for it; and
 - (c) briefly describe the impacts the proposed amendment is likely to have on any environmental matter protected by a specified provision or another provision of the Commonwealth Environment Act, part 3; and
 - (d) include enough information about the proposed amendment to allow the Coordinator-General to consider the matters mentioned in section 54ZC(3); and
 - (e) if the application is to change the proponent of the coordinated project—
 - (i) be accompanied by the written consent of the proposed new proponent; and
 - (ii) include information about the environmental record of the proposed new proponent.

54ZA Coordinator-General may seek further information or comments

- (1) After receiving an amendment application, the Coordinator-General may—
 - (a) by notice ask the proponent for further information about the proposed amendment, its effects on the coordinated project or another related matter; and
 - (b) ask any person for information, advice or comment about the application.
- (2) If the proponent does not comply with a notice under subsection (1)(a) within a reasonable period, the Coordinator-General may—
 - (a) decide the amendment application without the further information; or
 - (b) refuse to decide the application until the notice is complied with to the Coordinator-General's satisfaction.

54ZB Public notification of amendment application

- (1) The proponent must publicly notify the amendment application.
- (2) For publicly notifying the amendment application as required by subsection (1)—
 - (a) section 33 applies as if a reference in that section to a draft EIS were to the application; and
 - (b) the public notification must comply with the requirements prescribed by regulation for the notification; and
 - (c) submissions about the application may be made under section 34 as if the application were a draft EIS; and
 - (d) the submission period for the project set under section 33(1)(d) must be at least the minimum period prescribed by regulation.

- (3) This section does not apply to an amendment application to the extent the application is to—
 - (a) extend the period for which an environmental approval has effect; or
 - (b) change the proponent of the coordinated project.

54ZC Deciding amendment application

- (1) The Coordinator-General must decide whether to approve or refuse each amendment application.
- (2) If an amendment application is required to be notified under section 54ZB(1), the Coordinator-General must not decide the application until the submission period has ended.
- (3) In deciding an amendment application, the Coordinator-General must—
 - (a) consider all of the following—
 - (i) any impacts the proposed amendment is likely to have on each environmental matter protected by a specified provision;
 - (ii) any further information about the proposed amendment received under section 54ZA;
 - (iii) any criteria for the decision prescribed by regulation;
 - (iv) all accepted submissions for the application;
 - (v) the matters mentioned in section 54J(2); and
 - (b) ensure the amended environmental approval and conditions are not inconsistent with the bilateral agreement.
- (4) Also, the Coordinator-General may consider—
 - (a) the proponent's environmental record or, for an amendment application for a change of proponent, the proposed new proponent's environmental record; and

- (b) any other matter the Coordinator-General considers relevant.
- (5) If the Coordinator-General decides to approve an amendment application, the Coordinator-General may also decide to—
 - (a) amend or remove a condition of the environmental approval; or
 - (b) impose a further condition.
- (6) Section 54U applies for a decision under subsection (5).

54ZD Notice of decision

The Coordinator-General must give the proponent written notice of the Coordinator-General's decision under section 54ZC and the reasons for it.

54ZE Issuing amended environmental approval

If the Coordinator-General's decision under section 54ZC is to approve the amendment application, the Coordinator-General must—

- (a) amend the environmental approval to give effect to the amendment; and
- (b) issue the amended approval to the proponent or, if applicable, the new proponent.

Division 5 Cancelling or suspending environmental approval

54ZF Cancellation or suspension at proponent's request

- (1) This section applies if the proponent of a coordinated project makes a written request to the Coordinator-General to cancel or suspend the approval in relation to a specified provision.
- (2) The Coordinator-General may, by written notice to the proponent, cancel the environmental approval, or suspend it

for the period stated in the notice, in relation to the specified provision.

54ZG Cancellation or suspension for grounds including contravention or unforeseen significant impact

- (1) The Coordinator-General may cancel an environmental approval, or suspend it for a period, in relation to a specified provision if the Coordinator-General reasonably believes a ground for cancellation or suspension mentioned in subsection (2), (3) or (4) exists.
- (2) An environmental approval may be cancelled or suspended in relation to a specified provision if—
 - (a) the approval or a condition of the approval has been contravened; and
 - (b) either—
 - (i) the contravention has caused a significant impact on the environmental matter protected by the specified provision; or
 - (ii) because of the contravention, cancelling or suspending the approval is reasonably necessary to protect the environmental matter protected by the specified provision.
- (3) An environmental approval may be cancelled or suspended in relation to a specified provision if—
 - (a) the coordinated project has had, will have or is likely to have a significant impact on the environmental matter protected by the specified provision; and
 - (b) the impact was not identified during the assessment of the project; and
 - (c) the approval would not have been issued, or would have been issued with particular conditions, if information about the impact were available to the Coordinator-General during the assessment of the project.

- (4) An environmental approval may be cancelled or suspended in relation to a specified provision if—
 - (a) information provided to the Coordinator-General during the assessment of the project did not accurately identify the likely impacts of the coordinated project on the environmental matter protected by the specified provision; and
 - (b) the information was inaccurate because of the proponent's negligence or deliberate act or omission.

- (5) In this section—

assessment, of a coordinated project, means either or both of the following—

- (a) the Coordinator-General's assessment of the project under division 3 for the purpose of deciding whether to issue an environmental approval or impose a condition on the approval;
- (b) if the environmental approval for the project was amended under division 4—the Coordinator-General's consideration of an amendment application for the project under division 4 for the purpose of deciding whether to amend the approval or a condition of the approval.

54ZH Notice of proposed cancellation or suspension

- (1) Before cancelling or suspending an environmental approval in relation to a specified provision under section 54ZG(1), the Coordinator-General must give the proponent for the coordinated project a notice stating—
 - (a) that the Coordinator-General proposes to—
 - (i) cancel the approval; or
 - (ii) suspend the approval for the stated period; and
 - (b) the ground for the proposed cancellation or suspension; and

- (c) that the proponent may, within a stated time of at least 14 days, give the Coordinator-General a written response to the proposed cancellation or suspension.
- (2) The Coordinator-General must consider any response given by the proponent within the stated time.

54ZI Notice of cancellation or suspension decision

- (1) If the Coordinator-General decides under section 54ZG(1) to cancel or suspend an environmental approval in relation to a specified provision, the Coordinator-General must, within 14 days after the decision, give the proponent written notice of the decision and the reasons for it.
- (2) If the decision is to suspend the environmental approval in relation to a specified provision—
 - (a) the notice must state the period of the suspension (the *suspension period*); and
 - (b) during the suspension period, the specified provision applies to the coordinated project the subject of the environmental approval as if the approval had not been given.
- (3) A decision to cancel or suspend the environmental approval takes effect on the later of the following—
 - (a) the day the written notice is given to the proponent;
 - (b) the day of effect stated in the written notice.

54ZJ Issuing amended environmental approval

- (1) This section applies if an environmental approval remains in force for 1 or more specified provisions after a decision of the Coordinator-General under section 54ZG(1) to cancel the approval in relation to a specified provision takes effect.
- (2) The Coordinator-General must—
 - (a) amend the environmental approval to give effect to the partial cancellation of the approval; and

- (b) issue the amended environmental approval to the proponent.
- (3) However, if a reinstatement request in relation to the cancellation is approved under section 54ZJC—
 - (a) subsection (2) does not apply; and
 - (b) any amended environmental approval issued under subsection (2)(b) because of the cancellation, and before the reinstatement request is decided, ceases to have effect.

54ZJA Request to reinstate cancelled or suspended environmental approval

- (1) This section applies if a proponent for a coordinated project is given notice under section 54ZI(1) that an environmental approval for the project is cancelled or suspended in relation to a specified provision.
- (2) The proponent may, by written notice (a *reinstatement request*), ask the Coordinator-General to reinstate the environmental approval to the extent it is cancelled or suspended.
- (3) A reinstatement request must—
 - (a) be made no later than 2 months after the day the notice under section 54ZI(1) is given; and
 - (b) state the grounds on which the proponent seeks to have the environmental approval reinstated.

54ZJB Coordinator-General may request information about reinstatement request

- (1) This section applies if the Coordinator-General considers further information is reasonably necessary to decide a reinstatement request.
- (2) The Coordinator-General may, by written notice, require the proponent to provide the further information within the period stated in the notice.

- (3) If the further information is not provided within the stated period, the reinstatement request lapses.

54ZJC Deciding reinstatement request

- (1) The Coordinator-General must—
- (a) decide whether to approve or refuse the reinstatement request; and
 - (b) give the proponent written notice of the decision, including the grounds for the decision.
- (2) In deciding the request, the Coordinator-General must consider the matters mentioned in section 54ZG(2), (3) and (4).
- (3) A decision under subsection (1)(a) must be made within 20 business days after the later of the following—
- (a) the day the Coordinator-General receives the reinstatement request;
 - (b) the day the Coordinator-General receives any further information requested under section 54ZJB(2).
- (4) If a decision is not made within the period mentioned in subsection (3), the Coordinator-General is taken to have refused the reinstatement request the day after the period ends.
- (5) If the Coordinator-General approves the request, the cancellation or suspension ceases to have effect from the day notice of the decision is given under subsection (1)(b).

Division 6 Offences and compliance

54ZK Failure to comply with environmental approval or conditions

- (1) This section applies to a person who is the holder of, or is acting under, an environmental approval.

- (2) The person must not, without reasonable excuse, contravene the environmental approval.

Maximum penalty—

- (a) for an individual—1,665 penalty units; or
(b) for corporation—16,650 penalty units.
- (3) The person must not, without reasonable excuse, contravene a condition of the environmental approval.

Maximum penalty—

- (a) for an individual—1,665 penalty units; and
(b) for corporation—16,650 penalty units.

54ZL Compliance under Environmental Protection Act

- (1) The Environmental Protection Act, sections 437 to 440 and 493A apply to the undertaking of a coordinated project as if an environmental approval for the project were an environmental authority under that Act.
- (2) Also, the Environmental Protection Act, section 493 applies in relation to an offence against that Act, chapter 8, part 3 in relation to a coordinated project.
- (3) Subsection (4) applies if—
- (a) a proceeding is proposed to be started in the Planning and Environment Court under the Environmental Protection Act, section 505; and
- (b) the relief or remedy proposed to be sought in the proceeding relates to an offence, or threatened or anticipated offence, against a provision of the Environmental Protection Act because of section 493A of that Act as applied under subsection (1); and
- (c) the offence or threatened or anticipated offence relates to the coordinated project.
- (4) Despite the Environmental Protection Act, section 505, only the following persons may bring the proceeding—

- (a) the Coordinator-General;
- (b) an entity nominated under section 54V as having jurisdiction for a condition of the environmental approval for the coordinated project;
- (c) the local government for the local government area in which the coordinated project is, or is to be, undertaken;
- (d) the proponent;
- (e) another person whose interests are significantly adversely affected by the subject matter of the proceeding.

54ZM Declarations

- (1) A person mentioned in section 54ZL(4) may start a proceeding in the Planning and Environment Court for a declaration about the lawfulness, under this part, of undertaking a coordinated project.
- (2) The *Planning and Environment Court Act 2016*, section 11 applies to a proceeding started under this section as if it were a proceeding relating to the Planning Act.

Division 7 Miscellaneous

54ZN Fees for pt 4A

- (1) An application under this part must be accompanied by the fee prescribed by regulation for the application.
- (2) The Coordinator-General must refuse to receive the application unless the fee has been paid.
- (3) However, if a fee is prescribed for an application under section 54Z, the Coordinator-General may waive or reduce the fee.
- (4) In deciding to waive or reduce a fee under subsection (3), the Coordinator-General may have regard to the complexity of the

[s 54ZO]

proposed amendment and the extent of public consultation required in relation to the proposed change.

- (5) The proponent of a coordinated project must pay the Coordinator-General the fees prescribed by regulation at the times provided for under the regulation.
- (6) If a fee becomes payable under subsection (5), the Coordinator-General's obligations under this part for the coordinated project are suspended until the fee has been paid.
- (7) Subsection (6) applies despite any other provision of this part.

54ZO Recovering the cost of advice or services for assessment

- (1) This section applies if the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to decide an application, or take action, under this part in relation to a coordinated project.
- (2) The Coordinator-General may recover from the proponent as a debt the reasonable cost of obtaining the advice or services.

Part 5 Infrastructure coordination plans

Division 1 Preliminary

55 Main purposes of part

The main purposes of this part are as follows—

- (a) to promote and support development for, or associated with, extracting or otherwise dealing with minerals or energy resources of the State;
- (b) to facilitate a coordinated and efficient approach for the provision of infrastructure required by, or associated with, projects for development mentioned in paragraph (a);

- (c) to provide for particular planning applications to be decided efficiently, with certainty and in a way that achieves the purposes mentioned in paragraphs (a) and (b).

55A How main purposes are to be achieved

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

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

55B Definitions for part

In this part—

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

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

decision maker means—

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

development assessment process see the Planning Act, schedule 2.

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

Note—

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

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

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

minerals or energy resources, of the State—

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

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

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

planning application means—

- (a) a development application that is a properly made application under the Planning Act for—
 - (i) making a material change of use of premises; or
 - (ii) carrying out operational work; or
 - (iii) reconfiguring a lot; or
- (b) a change application—
 - (i) made under the Planning Act for a development application mentioned in paragraph (a); and

- (ii) accepted by the responsible entity for the application under section 79(4) of that Act; or
- (c) an extension application—
 - (i) made under the Planning Act for a development approval for development mentioned in paragraph (a)(i), (ii) or (iii); and
 - (ii) accepted by the assessment manager for the application under section 86(3) of that Act.

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

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

relevant planning application see section 55C.

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

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

55C Meaning of *relevant planning application*

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

(3) In this section—

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

Division 2 Development investigations

Subdivision 1 Direction to carry out development investigation

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

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

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

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

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

(2) Also, the Minister may direct the Coordinator-General to include in the investigation existing or proposed infrastructure if—

- (a) the Minister considers the resources project the subject of the investigation may increase demand in an area of the State for the infrastructure; or

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

56A Requirements for investigation notice

- (1) As soon as practicable after a direction is given under section 56(1), the Coordinator-General must publish a gazette notice about the direction.
- (2) The notice must—

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

56B Requirements for affected person's notice

- (1) This section applies if, under section 56(1), the Minister directs the Coordinator-General to carry out a development investigation.
- (2) As soon as practicable after the Minister gives the direction, the Coordinator-General must give written notice (an *affected person's notice*) about the development investigation to the following persons—
 - (a) the Planning Act chief executive;
 - (b) a local government whose local government area includes all or part of the land identified in the investigation notice for the development investigation;
 - (c) each person who is responsible for operating existing infrastructure, or who is to be responsible for operating proposed infrastructure, identified in the investigation notice;
 - (d) each proponent of the resources project the subject of the development investigation;

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- (e) any other person prescribed by regulation.
- (3) The affected person's notice must—
 - (a) state that, under section 56(1), the Minister has given the Coordinator-General a direction to carry out an investigation in relation to infrastructure required by, or associated with, the resources project the subject of the investigation; and
 - (b) identify the land on which the resources project is located, or is proposed to be located; and
 - (c) identify any existing or proposed infrastructure that, under section 56(2), the Minister has directed the Coordinator-General to include in the investigation; and
 - (d) state that division 4, subdivisions 1 and 2 apply in relation to the development assessment process for a relevant planning application during the pre-plan period for the development investigation.
- (4) Subsection (5) applies if the Planning Act chief executive is aware—
 - (a) a relevant planning application was made before the pre-plan period started; and
 - (b) the decision maker for the application has not received an affected person's notice under subsection (2).
- (5) The Planning Act chief executive must give a copy of the affected person's notice to the decision maker for the relevant planning application.

Subdivision 2 Carrying out development investigations

56C Definition for subdivision

In this subdivision—

owner, of land, includes—

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

56D Matters for development investigation

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

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

Examples—

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

56E Persons authorised to carry out development investigation

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

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

Example of a person for paragraph (b)—

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

56F General powers for development investigation

The Coordinator-General, or a person authorised by the Coordinator-General under section 56E, may do any of the following for the purposes of carrying out a development investigation—

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

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

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

Note—

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

56G Procedure for entering land for development investigation

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

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

56H Compensation for exercise of power under s 56F

- (1) This section applies if the Coordinator-General or a person authorised by the Coordinator-General enters land under section 56F.
- (2) The owner of the land may, by written notice given to the Coordinator-General, claim compensation for loss or damage suffered by the owner in relation to the exercise of a power under section 56F.
- (3) A claim under subsection (2) must be made—
- (a) within 1 year after the Coordinator-General or a person authorised by the Coordinator-General last entered the

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land under section 56F to carry out the development investigation; or

- (b) at a later time allowed by the Land Court.
- (4) The amount of compensation is—
 - (a) the amount agreed between the Coordinator-General and the owner of the land; or
 - (b) if the Coordinator-General and the owner of the land can not agree on the amount within a reasonable time—the amount decided by the Land Court.
- (5) However, the amount of compensation agreed or decided must not be more than the amount of compensation that would have been payable under the *Acquisition of Land Act 1967* had the land been taken under that Act.

56I Approval to investigate other land or infrastructure

- (1) This section applies if, while carrying out a development investigation, the Coordinator-General considers it is reasonably necessary to enter land (the *additional land*) other than the land identified in the investigation notice for the investigation.
- (2) The Coordinator-General may recommend to the Minister that a direction be given to the Coordinator-General to include the additional land for the purposes of the development investigation.
- (3) The Minister may give a direction mentioned in subsection (2) if the Minister is satisfied—
 - (a) the additional land is—
 - (i) land on which the resources project the subject of the development investigation is, or is proposed to be, located; or
 - (ii) land on which existing or proposed infrastructure mentioned in section 56(2) is located; and

- (b) it is reasonably necessary for the Coordinator-General to enter the land for the purpose of carrying out the development investigation.
- (4) If a direction is given under subsection (3), the Coordinator-General must publish a gazette notice amending the investigation notice for the development investigation to identify the additional land as land the subject of the direction.
- (5) Section 56A(3) applies in relation to the gazette notice published under subsection (4) as if it were a gazette notice published under section 56A(1).
- (6) Section 56B applies in relation to a direction given under subsection (3) as if it were a direction given under section 56(1).

56J Direction to discontinue development investigation

- (1) The Minister may, at any time before the Coordinator-General gives the Minister an investigation report under section 56M, direct the Coordinator-General to discontinue a development investigation or a stated part of the investigation.
- (2) If a direction is given under subsection (1), the Coordinator-General must—
 - (a) discontinue the development investigation or the stated part of the investigation; and
 - (b) give written notice that the development investigation or the stated part of the investigation has been discontinued to the following persons—
 - (i) each affected person;
 - (ii) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (iii) each applicant for a relevant planning application mentioned in subparagraph (ii).

Notes—

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

Subdivision 3 Reporting on development investigations

56K Coordinator-General must prepare investigation report

- (1) The Coordinator-General must prepare a report about the Coordinator-General's findings of a development investigation (an *investigation report*).
- (2) The investigation report must include—
 - (a) the Coordinator-General's recommendation about whether an infrastructure coordination plan should be made for some or all of the infrastructure required by, or associated with, the resources project the subject of the development investigation; and
 - (b) the reasons for the Coordinator-General's recommendation; and
 - (c) information about the following matters—
 - (i) the nature of the resources project the subject of the investigation;
 - (ii) any need, or increased demand, for infrastructure in an area of the State likely to be created by the resources project;
 - (iii) the options for meeting a need, or increased demand, identified under subparagraph (ii);
 - (iv) any known benefit or limitation of each option, having regard to the main purposes of this part;

- (v) any other matter the Minister reasonably requires for deciding whether an infrastructure coordination plan should be made.
- (3) In making the recommendation mentioned in subsection (2)(a), the Coordinator-General must consider—
 - (a) the economic significance of the resources project the subject of the development investigation to the State; and
 - (b) whether it would be in the interests of the State for an infrastructure coordination plan to be made; and
 - (c) whether an infrastructure coordination plan would facilitate a coordinated and efficient approach for the provision of infrastructure required by, or associated with, the resources project the subject of the investigation.
- (4) This section does not apply to the extent the development investigation is discontinued under section 56J(1).

56L Consultation on investigation report

- (1) The Coordinator-General must give a copy of the investigation report prepared under section 56K to the following persons—
 - (a) each affected person;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).
- (2) The Coordinator-General must give each person who receives a copy of the investigation report a notice inviting the person to make submissions to the Coordinator-General about the report.
- (3) The notice must state—

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- (a) the period, of at least 20 business days, within which the person may make submissions to the Coordinator-General about the investigation report; and
 - (b) how the submissions may be made.
- (4) The person may make submissions to the Coordinator-General about the investigation report within the period stated in the notice.

56M Finalising investigation report

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

56N Ending of development investigation

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

Division 3 Infrastructure coordination plans

Subdivision 1 Making and approval of infrastructure coordination plans

57 Direction to make infrastructure coordination plan

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

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- (6) The Coordinator-General must give written notice of the Minister's decision under subsection (2) to each person mentioned in section 56L(1)(a) to (c).

57A Requirements for infrastructure coordination plan

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

- (2) An infrastructure coordination plan may identify a class of planning applications that are relevant planning applications to which the plan applies.
- (3) Subsections (1) and (2) do not limit what may be included in an infrastructure coordination plan.

57B Draft infrastructure coordination plan for consultation

- (1) This section applies if, under section 57(1), the Minister directs the Coordinator-General to make an infrastructure coordination plan.
- (2) The Coordinator-General must prepare a draft infrastructure coordination plan complying with section 57A.
- (3) The Coordinator-General must give a copy of the draft infrastructure coordination plan to the following persons—
 - (a) each person proposed to be a party to the plan;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).
- (4) The Coordinator-General must give each person who receives a copy of the draft infrastructure coordination plan a notice inviting the person to make submissions to the Coordinator-General about the draft.
- (5) The notice must state—
 - (a) the period, of at least 20 business days, within which the person may make submissions to the Coordinator-General about the draft infrastructure coordination plan; and
 - (b) how the submissions may be made.
- (6) The person may make submissions to the Coordinator-General about the draft infrastructure coordination plan within the period stated in the notice.

57C Making of infrastructure coordination plan

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

57D Approval of infrastructure coordination plan

- (1) An infrastructure coordination plan made under section 57C takes effect when the plan is approved by regulation.
- (2) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1) only if satisfied the infrastructure coordination plan provides for infrastructure required by, or associated with, each resources project identified in the plan to be provided in a coordinated and efficient way.

- (3) The Coordinator-General must give notice of the approval to the following persons—
 - (a) each party to the plan;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).
- (4) The notice must state—
 - (a) that the infrastructure coordination plan has been approved under this section and is in effect; and
 - (b) that the Minister will decide how relevant planning applications mentioned in subsection (3)(b) will be managed under division 4, subdivision 2.
- (5) The Coordinator-General must keep a copy of the infrastructure coordination plan on the department's website.
- (6) If the Minister decides, under subsection (2), not to recommend to the Governor in Council the making of a regulation under subsection (1), the Coordinator-General must give notice of the Minister's decision to the persons mentioned in subsection (3)(a) to (c).

Notes—

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

57E Direction to not make infrastructure coordination plan

- (1) This section applies if a direction has been given under section 57(2) to the Coordinator-General to make an infrastructure coordination plan for some or all of the

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infrastructure required by, or associated with, the resources project the subject of a development investigation.

- (2) The Minister may, at any time before an infrastructure coordination plan is made under section 57C, direct the Coordinator-General not to make the plan.
- (3) If a direction is given under subsection (2), the Coordinator-General must give notice of the direction to the following persons—
 - (a) each person proposed to be a party to the plan;
 - (b) each decision maker for a relevant planning application that has been referred to the Coordinator-General under section 58A;
 - (c) each applicant for a relevant planning application mentioned in paragraph (b).

Notes—

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

Subdivision 2 Amendment of infrastructure coordination plans

57F Direction to amend infrastructure coordination plan

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

57G Process for making minor amendment

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

57H Process for making amendment other than minor amendment

- (1) This section applies if a direction is given under section 57F(1) and section 57G does not apply.
- (2) The Coordinator-General must prepare a draft of the infrastructure coordination plan as proposed to be amended

and give the documents mentioned in subsection (3) to the following persons—

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

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

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

Subdivision 3 Miscellaneous

57J Period of infrastructure coordination plan

An infrastructure coordination plan has effect for the period—

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

Division 4 Relevant planning applications

Subdivision 1 Referral of relevant planning applications to Coordinator-General

58 Application of subdivision

This subdivision applies if—

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

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

- (1) The decision maker for a relevant planning application must, in accordance with subsections (2) and (3), refer the application to the Coordinator-General.
- (2) For subsection (1), the relevant planning application must be referred to the Coordinator-General as soon as practicable after—
 - (a) if the application was made before a development investigation started—the pre-plan period for the investigation starts; or
 - (b) otherwise—
 - (i) for a relevant planning application that is a development application—the assessment manager for the application accepts it as a properly made application under the Planning Act; or
 - (ii) for a relevant planning application that is a change application—the responsible entity for the application accepts it under the Planning Act, section 79(4); or

- (iii) for a relevant planning application that is an extension application—the assessment manager for the application accepts it under the Planning Act, section 86(3).
- (3) The decision maker for the relevant planning application must—
 - (a) in referring the application to the Coordinator-General, give the Coordinator-General all material about the application, and any other material relevant to assessing the application, the decision maker has at the time of the referral; and
 - (b) give the Coordinator-General any other material about the application, or that is relevant to assessing the application, as it becomes available to the decision maker.

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

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

[s 58C]

- (c) if there are proceedings relating to the application in the Planning and Environment Court—the Planning and Environment Court.

58C Suspension of development assessment process

- (1) This section applies if a relevant planning application is referred to the Coordinator-General under section 58A.
- (2) The development assessment process for the application is suspended from the following day—
 - (a) if, before the referral day, the application was publicly notified but the period for making submissions had not ended—the day after the last day for making submissions under the Planning Act, section 53(4)(b);
 - (b) otherwise—the referral day.
- (3) To remove any doubt, it is declared that despite anything in the development assessment rules, the application does not lapse while subsection (2) applies.
- (4) In this section—

development assessment rules see the Planning Act, schedule 2.

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

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

Subdivision 2 **Return of relevant planning applications to decision maker**

58D When Minister must decide how application will be managed

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

[s 58E]

- (3) The Coordinator-General must give written notice of a decision made by the Minister under subsection (2)(a) or (b)(i) to the following persons—
 - (a) the decision maker for the relevant planning application;
 - (b) the applicant;
 - (c) any referral agency in relation to the application.
- (4) If the Minister decides, under subsection (2)(a), to return the relevant planning application to the decision maker for the application, the notice must state the point in the development assessment process for the application at which the process restarts under the Planning Act.
- (5) If a decision is not made under subsection (2) within the period mentioned in that subsection, the Minister is taken to have decided to return the relevant planning application to the decision maker for the application under subsection (2)(a).
- (6) This section does not limit section 58E.

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

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

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

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

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

58G Effect of return of application to decision maker

- (1) This section applies if a relevant planning application is referred to the Coordinator-General under section 58A and—
 - (a) the Minister decides to return the application to the decision maker under section 58D or 58E; or

[s 58H]

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

Subdivision 3 Decision of relevant planning applications by Minister

58H Application of subdivision

This subdivision applies if—

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

58I Minister may propose to assess and decide application

- (1) This section applies if the Minister considers it is likely to be necessary and appropriate for the Minister to assess and decide the relevant planning application to achieve the main purposes of this part.

- (2) The Minister may give a written notice (a *proposal to decide*) stating that the Minister proposes to assess and decide the relevant planning application under this subdivision to the following persons—
 - (a) the decision maker for the relevant planning application;
 - (b) the applicant;
 - (c) any referral agency in relation to the application;
 - (d) for an application that is a development application or change application—any principal submitter for a properly made submission under the Planning Act.
- (3) The proposal to decide must—
 - (a) be accompanied by a copy of the infrastructure coordination plan; and
 - (b) identify the relevant planning application; and
 - (c) state—
 - (i) that the Minister proposes to assess and decide the application in accordance with this subdivision; and
 - (ii) the reasons for the Minister’s belief mentioned in subsection (1); and
 - (iii) the point in the development assessment process for the application from which the Minister proposes the process will restart under the Planning Act; and
 - (iv) the effect of the Minister deciding the application on appeal rights under the Planning Act; and
 - (d) invite each person to whom the proposal to decide is given to make submissions to the Minister about the Minister’s proposal to assess and decide the application; and
 - (e) state—

[s 58J]

- (i) the period, of at least 5 business days, within which the person may make submissions to the Minister; and
- (ii) how the submissions may be made.

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

- (1) This section applies if the Minister has given the persons mentioned in section 58I(2)(a) to (d) a proposal to decide under that section for the relevant planning application.
- (2) A person mentioned in section 58I(2)(a), (b), (c) or (d) may, within the period stated in the proposal to decide, make submissions to the Minister about the Minister's proposal to assess and decide the relevant planning application.
- (3) The Minister must—
 - (a) consider each submission made under subsection (2); and
 - (b) decide whether the Minister will assess and decide the relevant planning application; and
 - (c) give notice of the decision mentioned in paragraph (b) and the reasons for the decision to—
 - (i) the persons mentioned in section 58I(2)(a) to (d); and
 - (ii) if there are proceedings relating to the application in the Planning and Environment Court—the Planning and Environment Court.
- (4) For subsection (3)(b), the Minister may decide to assess and decide the relevant planning application only if satisfied it is necessary and appropriate for the Minister to do so to achieve the main purposes of this part.

58K Requirement for Minister to decide application

- (1) This section applies if—

- (a) the Minister gives a notice mentioned in section 58J(3)(c) for the relevant planning application; and
 - (b) the notice states the Minister will assess and decide the application.
- (2) Despite section 58C(2), the Minister must, within the required period and in accordance with this section, assess and decide the relevant planning application under the Planning Act.
- (3) Subject to subsections (6) and (7), the development assessment process for the relevant planning application restarts under the Planning Act at the point in the process decided by the Minister.
- (4) If the Minister does not decide the relevant planning application within the period mentioned in subsection (2), the Minister is taken to have refused the application under the Planning Act.
- (5) The decision maker must give all reasonable help that the Minister requires to assess or decide the relevant planning application.
- (6) If, but for this division, an applicant would have been required to give notice of the relevant planning application under the Planning Act—
 - (a) the Planning Act, section 53 does not apply to the application; and
 - (b) the Coordinator-General must publicly notify—
 - (i) the application; and
 - (ii) an invitation to make submissions to the Minister by a stated day that is at least 15 days after the day the invitation is notified.
- (7) However, subsection (6) does not apply if—
 - (a) the relevant planning application was notified under the Planning Act, section 53 before being referred to the Coordinator-General under section 58A; and

- (b) the Minister has been given a copy of each properly made submission within the meaning of the Planning Act.
- (8) The following provisions of the Planning Act do not apply to the relevant planning application—
 - (a) for a development application—
 - (i) section 45(3) to (8); and
 - (ii) chapter 3, part 3, division 1; and
 - (iii) sections 60 to 62, to the extent those sections impose obligations on the assessment manager; and
 - (iv) sections 64 and 275ZI;
 - (b) for a minor change application—sections 81 and 81A;
 - (c) for a change application other than a minor change application—section 82;
 - (d) for an extension application—section 87(1) to (4).
- (9) In this section—

required period, in relation to the relevant planning application, means—

 - (a) 30 business days after the day the notice mentioned in section 58J(3)(c) was given to the decision maker and the applicant for the application; or
 - (b) if, before the 30 business days end—
 - (i) the Minister gives a notice extending the period to the decision maker and the applicant for the application—50 business days after the day the notice mentioned in section 58J(3)(c) was given; or
 - (ii) the Minister and the applicant for the application agree on a different number of business days after the day the notice mentioned in section 58J(3)(c) was given—the agreed number of business days after the day the notice mentioned in section 58J(3)(c) was given.

58L Considerations for Minister deciding application

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

58M Notice of Minister's decision

- (1) This section applies if the Minister decides the relevant planning application under section 58K.
- (2) The Minister must give written notice of the Minister's decision on the relevant planning application to the following persons—
 - (a) the decision maker and applicant for the application;
 - (b) a person who made a submission considered by the Minister under 58L(1)(c);
 - (c) any referral agency in relation to the application;

[s 58N]

- (d) if there are proceedings relating to the application in the Planning and Environment Court—the Planning and Environment Court.
- (3) The notice must state the reasons for the Minister's decision.
- (4) The requirements for the content of notices under the Planning Act, sections 63, 83 and 87(5) apply only to the extent the Minister considers relevant.

58N No appeal against Minister's decision of application

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

58O Report about decision of application

- (1) The Minister must prepare a report about each relevant planning application decided by the Minister under this subdivision.
- (2) The report must—
 - (a) explain the reasons for the Minister's decision; and
 - (b) include a copy of the notice mentioned in section 58J(3)(c); and
 - (c) include a copy of the notice of the Minister's decision given under section 58M(2).
- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after notice of the Minister's decision is given under section 58M(2).

58P Operation of Planning Act if application decided by Minister

- (1) This section applies if the Minister decides the relevant planning application under this subdivision.

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

Subdivision 4 Other provisions

58Q Changing relevant planning application

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

58R Withdrawal of relevant planning application

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

58S Register of relevant planning applications

- (1) The Coordinator-General must establish and maintain on the department's website a register of relevant planning applications referred to the Coordinator-General under section 58A.
- (2) The register must contain the following information for each relevant planning application—
 - (a) details of any of the following decisions made by the Minister—

[s 58T]

- (i) a decision under subdivision 2:
 - (ii) a decision to give a proposal to decide under section 58I;
 - (iii) a decision not to assess and decide the application under section 58J;
- (b) if the application has been decided by the Minister under section 58K—the reasons for the Minister’s decision;
- (c) if the application has been withdrawn—that the application was withdrawn.
- (3) The register may contain other information that the Coordinator-General considers appropriate for inclusion in the register.

58T Declaration by Planning and Environment Court

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

Division 5 Information concerning development

59 Minister may obtain information

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

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

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

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

Maximum penalty—50 penalty units.

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

Note—

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

Part 5A Prescribed projects

Division 1 Preliminary

76A Purposes of part

The purposes of this part are—

- (a) to recognise, promote and enable the development of projects of significance to the State or a region; and
- (b) to prioritise the development of projects mentioned in paragraph (a) that are—
 - (i) critical or essential for the State for economic, environmental or social reasons; or
 - (ii) a high priority for the State because the projects will, or are likely to, significantly contribute to the achievement of the Queensland Government's economic, environmental or social objectives for the State or a region; and
- (c) without limiting paragraphs (a) and (b), to ensure the following matters for the projects mentioned in the paragraphs—
 - (i) decision-making and processes relating to the projects are efficient and effective;
 - (ii) the projects, particularly projects mentioned in paragraph (b), are delivered as quickly as possible while minimising detrimental environmental effects;
 - (iii) the purposes mentioned in paragraphs (a) and (b) and subparagraphs (i) and (ii) and other matters of significance to the State or a region are taken into account in decision-making and processes relating to the projects.

76B How the purposes are to be primarily achieved

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

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

76C Application of other laws

This part applies despite any other law.

76D Definitions for part

In this part—

applicant, in relation to a prescribed decision or process, means the person seeking the decision or undertaking of the process under the relevant law for the decision or process.

decision maker—

- (a) for a prescribed decision, means the entity that may make the decision under the relevant law for the decision; and

Example of a decision maker for paragraph (a)—

an assessment manager under the Planning Act

- (b) for a prescribed process, means the entity responsible for undertaking the process under the relevant law for the process.

Example of a decision maker for paragraph (b)—

a referral agency

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

declaration, for a prescribed project, means the declaration for the project made by the Minister under section 76E.

notice to decide see section 76J(1).

prescribed decision—

- 1 A ***prescribed decision*** means a decision, in relation to a prescribed project, required to be made under a law of the State, including, for example, a decision about the construction, undertaking, carrying out, establishment, maintenance or operation of a prescribed project.
- 2 However, a ***prescribed decision***—
 - (a) includes a decision required to be made by a Minister only in relation to a State significance notice; and
 - (b) does not include a decision required to be made by the Governor in Council.

Examples of a prescribed decision—

- a decision of an assessment manager under the Planning Act on an application for a development approval
- a decision about the grant of a water licence under the *Water Act 2000*

prescribed process means a process, in relation to a prescribed project, required to be undertaken under a law of the State, including, for example, a process under the development assessment process under the Planning Act.

prescribed project means a project declared under section 76E to be a prescribed project.

progression notice see section 76I(1).

relevant law, for a prescribed decision or process, means the law, other than this Act, under which the decision may be made or the process undertaken.

relevant local government, for a prescribed decision, means the local government for the local government area to which the prescribed decision relates.

State significance notice see section 76RB(1).

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

step in notice see section 76K(1).

voluntary environmental agreement see section 76S(1).

Division 2 Declaration of prescribed projects, duty to cooperate and requesting further information

76E Declaration of prescribed project

- (1) The Minister may declare any of the following (each a **project**) to be a prescribed project—
- (a) works a local body, the Coordinator-General or other person is directed to undertake under section 100 or 109;
 - (b) a project in a State development area;
 - (c) a project declared under section 26 to be a coordinated project;
 - (d) another project the Minister considers—
 - (i) is economically or socially significant to the State or the region in which the project is to be undertaken; or
 - (ii) affects an environmental interest of the State or a region.

[s 76EA]

Note—

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

- (2) In deciding to declare a project to be a prescribed project, the Minister may have regard to any of the following—
 - (a) the public interest or the general welfare of persons in the region in which the project is to be undertaken;
 - (b) whether a voluntary environmental agreement is likely to be entered into in relation to the undertaking of the project;
 - (c) other matters the Minister considers relevant.
- (3) The declaration must be made by gazette notice.
- (4) This section applies subject to section 76EA.

76EA Process applying to particular declarations

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

- (3) The stated period for subsection (2)(a)(iii) must be at least 10 business days after the interested person is given the notice.
- (4) The Minister must, within 10 business days after making a decision about declaring the project to be a prescribed project, give to each interested person who gave the Minister a properly made submission a written notice stating the Minister's reasons for the decision.

- (5) In this section—

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

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

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

properly made submission means a submission that—

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

76EB Declaration of State strategic project

- (1) This section applies if the Minister considers the undertaking of a project that is or is proposed to be a prescribed project is—
 - (a) critical or essential for the State for economic, environmental or social reasons; or
 - (b) a high priority for the State because the project will, or is likely to, significantly contribute to the achievement

[s 76F]

of the Queensland Government's economic, environmental or social objectives for the State or a region.

- (2) The Minister may declare the project to be a State strategic project.
- (3) The declaration—
 - (a) must be made by gazette notice; and
 - (b) may be made with the declaration of the project as a prescribed project under section 76E or at a later time; and
 - (c) ends when the declaration of the project as a prescribed project ends.

76F When declaration ends

- (1) A declaration for a prescribed project ends on the later of the following—
 - (a) 2 years after the day the declaration is made;
 - (b) if the declaration states a time for it to end—the stated time.
- (2) Before a declaration ends under subsection (1), the Minister may, by gazette notice, extend the time when the declaration ends if satisfied the extension is necessary or desirable to achieve the purposes of this part.
- (3) However, the extension may not be for a period longer than the initial period of the declaration.

76G Particular entities to cooperate with Coordinator-General

- (1) It is the duty of an entity mentioned in section 13(1) to give to the Coordinator-General the information, documents or assistance the Coordinator-General requires to assess matters relating to a prescribed project.
- (2) Without limiting subsection (1), the Coordinator-General may require the entity to give to the Coordinator-General—

- (a) an application for a prescribed decision or a document relating to the application or a prescribed process for the application, including, for example, correspondence between the applicant and the decision maker for the decision or the prescribed process; or
 - (b) information to help the Coordinator-General evaluate a prescribed project; or
 - (c) if a process of public consultation has happened for an aspect of a prescribed project—any submissions received by the entity under the process and any responses given by the entity to the submissions.
- (3) This section does not limit section 13.

76H Coordinator-General may seek further information

- (1) The Coordinator-General may ask a relevant person for a prescribed decision to give the Coordinator-General information the Coordinator-General reasonably requires—
 - (a) to decide whether to give a progression notice, a notice to decide or a step in notice for the decision; or
 - (b) to make an assessment and a decision about the prescribed decision under this part; or
 - (c) to undertake a prescribed process.
- (2) The relevant person must comply with a request under subsection (1).
- (3) In this section—

relevant person, for a prescribed decision, means the applicant for the decision or another entity the Coordinator-General reasonably considers has information that may help the Coordinator-General act on the matters mentioned in subsection (1)(a) or (b).

76HA Access to land by proponent of prescribed project

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

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

Note—

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

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

76HB Enabling works by proponent of State strategic project

- (1) This section applies if a proponent of a State strategic project—
 - (a) considers—
 - (i) it is necessary to carry out enabling works on particular land for the project; and
 - (ii) having regard to the minor and temporary nature of the enabling works, it would be appropriate to carry out the enabling works under an access authority; and
 - (b) despite making reasonable efforts, has not been able to negotiate the carrying out of the enabling works with the owner of the land.

- (2) The proponent may apply to the Coordinator-General for an access authority for the land under part 6A that authorises the carrying out of the enabling works on the land.

Note—

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

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

Division 3 Notices about prescribed projects

Subdivision 1 Progression notice

76I Progression notice

- (1) The Coordinator-General may, by written notice (a *progression notice*) given to the decision maker for a prescribed process, require the decision maker to undertake, within the period stated in the notice, administrative processes required to complete the process.
- (2) The progression notice must—
- (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed process relates; and
 - (b) identify the process; and
 - (c) state the decision maker must—
 - (i) undertake the process within the stated period; and
 - (ii) inform the Coordinator-General of the completion of the process within 5 business days after it is completed.
- (3) On receiving the progression notice, the decision maker must—

[s 76J]

- (a) subject to subsection (5), undertake the prescribed process within the period stated in the notice for that purpose; and
 - (b) inform the Coordinator-General of the completion of the process within 5 business days after it is completed.
- (4) The Coordinator-General may, by written notice given to the decision maker and without the decision maker's agreement, extend the period for undertaking the prescribed process, having regard to the nature of the prescribed project to which the process relates.
- (5) If the Coordinator-General extends the period for undertaking the prescribed process under subsection (4), the decision maker must undertake the process within the extended period.
- (6) Before giving a progression notice for a prescribed process the Coordinator-General must have regard to the requirements, if any, under the relevant law for the undertaking of the process.
- (7) Subject to this section, the relevant law for the prescribed process continues to apply to the undertaking of the process.

Subdivision 2 Notice to decide

76J Notice to decide

- (1) The Coordinator-General may, by written notice (a ***notice to decide***) given to the decision maker for a prescribed decision, require the decision maker to make the decision within the period stated in the notice.
- (2) The stated period must be at least the following number of days after the notice is given—
 - (a) if there is a decision-making period for the prescribed decision and the period is less than 20 business days—the number of days in the decision-making period;
 - (b) otherwise—20 business days.

-
- (3) The notice to decide must—
- (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed decision relates; and
 - (b) identify the decision; and
 - (c) state the decision maker must—
 - (i) make the decision within the stated period; and
 - (ii) inform the Coordinator-General of the decision within 5 business days after it is made.
- (4) On receiving the notice to decide, the decision maker must—
- (a) subject to subsection (6), make the prescribed decision within the period stated in the notice for that purpose; and
 - (b) inform the Coordinator-General of the decision within 5 business days after it is made.
- (5) The Coordinator-General may, by written notice given to the decision maker and without the decision maker's agreement, extend the period for making the prescribed decision, having regard to the nature of the prescribed project to which the decision relates.
- (6) If the Coordinator-General extends the period for making the prescribed decision under subsection (5), the decision maker must make the decision within the extended period.
- (7) If the prescribed decision relates to an application for a development approval, or a change application for a development approval (other than a minor change application), the notice to decide may be given to the decision maker only after the decision-making period for the application starts.
- (8) Before giving a notice to decide for a prescribed decision, other than a decision mentioned in subsection (7), the Coordinator-General must have regard to the requirements, if any, under the relevant law for the decision about public

[s 76K]

notification of information or other matters in relation to the decision.

- (9) Subject to this section, the relevant law for the prescribed decision continues to apply to the making of the decision.

Subdivision 3 Step in notice

76K Step in notice

- (1) The Coordinator-General may, with the approval of the Minister, give to the decision maker and applicant for a prescribed decision or a prescribed process a written notice (a *step in notice*) advising the decision maker and applicant that the Coordinator-General is to make an assessment and a decision about the prescribed decision or process under this part.
- (2) The step in notice must—
- (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed decision or process relates; and
 - (b) identify the prescribed decision or process; and
 - (c) state the Coordinator-General is the decision maker for the prescribed decision or process from the time the notice is given until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process.

76L When step in notice may be given

- (1) The Coordinator-General may give a step in notice for a prescribed decision or process only if the Coordinator-General is satisfied that, to achieve the purposes of this part, it is necessary and appropriate for the Coordinator-General to become the decision maker for the decision or process.
- (2) A step in notice may be given for a prescribed decision—

- (a) at any time before the decision maker makes the decision; or
- (b) if the decision maker has made, or is taken to have made, the decision—
 - (i) within 10 business days after the end of the appeal or review period for the decision; or
 - (ii) if an appeal or review under the relevant law about the decision has been started within the appeal or review period—within 10 business days after the appeal or review is started; or
 - (iii) if the relevant law does not confer a right to appeal against, or seek a review of, the decision under the relevant law—within 10 business days after the decision is made or is taken to have been made.

Note—

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

- (3) A step in notice may be given for a prescribed decision that is the subject of a State significance notice.
- (4) A step in notice may be given for a prescribed process at any time before the decision maker completes the process.
- (5) In this section—

appeal or review period, for a prescribed decision, means the period within which an appeal against, or review of, the decision may be started under the relevant law.

76M Providing assistance or recommendations

- (1) The decision maker for the prescribed decision or process must give the Coordinator-General all reasonable assistance or materials the Coordinator-General requires to act under this part, including—
 - (a) all material about the prescribed decision or process the decision maker had before the step in notice was given; and

[s 76N]

- (b) any material received about the prescribed decision or process by the decision maker after the step in notice was given.
- (2) Without limiting subsection (1), the Coordinator-General may, by written notice, require the decision maker to give the Coordinator-General within the reasonable period stated in the notice a written report containing—
 - (a) an assessment of matters, stated in the notice, relevant to the prescribed decision or process; or
 - (b) recommendations about the assessment mentioned in paragraph (a), including, for example, recommendations about proposed conditions relevant to the prescribed decision or process.
- (3) Subsection (4) applies if, other than for the giving of the step in notice, under the relevant law for the prescribed decision a local government could have imposed a condition, in relation to the decision, for trunk infrastructure or non-trunk infrastructure under the Planning Act.
- (4) The local government may, before the Coordinator-General makes a decision under section 76O about the prescribed decision, give the Coordinator-General a written recommendation to impose the condition.

76N Effects of step in notice

- (1) If the Coordinator-General gives a step in notice for a prescribed decision or process—
 - (a) the Coordinator-General is the decision maker under the relevant law for the prescribed decision or process from the time the step in notice is given until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process; and
 - (b) for making the decision, the Coordinator-General has all the powers of the decision maker under the relevant law for the prescribed decision or process; and

- (c) for making the decision, the Coordinator-General must consider the following—
 - (i) the criteria, if any, for making the prescribed decision under the relevant law for the decision or process;
 - (ii) the purposes of this part;
 - (iii) the matters relevant to the undertaking of a prescribed project and prescribed under a regulation;
 - (iv) another matter relevant to the prescribed decision or process, or the prescribed project to which the decision or process relates, and prescribed under a regulation; and
- (d) if the prescribed decision or process relates to an application for a development approval or a change application for a development approval (other than a minor change application)—
 - (i) the assessment manager or responsible entity for the application is taken, for the Planning Act, to be a referral agency for the application; and
 - (ii) the functions and powers of a referral agency for the application (including a referral agency mentioned in subparagraph (i)) is, for the Planning Act, limited to the power to only give advice; and
- (e) if the decision maker has made, or is taken to have made, the prescribed decision or a decision in the prescribed process—the decision, and any notice about the decision, stops having effect; and
- (f) if an appeal was made or a review was started in relation to the prescribed decision or process under the relevant law for the decision or process—the appeal or review is of no further effect; and
- (g) despite paragraph (a), the Coordinator-General's decision about the prescribed decision or process is

taken to be the exercise of a power or performance of a function of the Coordinator-General under this Act.

- (2) Despite subsection (1)(d)(i), the assessment manager or responsible entity for the application is taken to be a referral agency for the application only until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process.

76O Coordinator-General's decision

- (1) After making an assessment about the prescribed decision or process, the Coordinator-General may—
- (a) if the decision had not been made or the process had not been undertaken by the decision maker—
 - (i) make the decision or undertake the process; or
 - (ii) send back the decision or process, with or without conditions, to the decision maker under the relevant law for the decision or process; or
 - (iii) decide aspects of the decision and send back undecided aspects of the decision, with or without conditions, to the decision maker under the relevant law for the decision; or
 - (b) otherwise—
 - (i) confirm or amend the decision; or
 - (ii) cancel the decision and substitute a new decision.
- (2) In acting under subsection (1), the Coordinator-General may, in relation to the prescribed decision, impose conditions the Coordinator-General considers necessary or desirable having regard to—
- (a) the nature of the prescribed project to which the decision relates; and
 - (b) whether the applicant for the decision has entered into a voluntary environmental agreement for the undertaking of the project; and

- (c) the matters mentioned in section 76N(1)(c) the Coordinator-General considered for the decision.
- (3) Without limiting subsection (2), the Coordinator-General may impose a condition requiring the applicant to carry out an activity or works that—
 - (a) prevent, control or mitigate detrimental environmental effects that may arise because of the undertaking of the prescribed project; or
 - (b) restore or enhance aspects of the environment that may be affected by the undertaking of the prescribed project to which the decision relates.
- (4) For subsection (3), an activity or works mentioned in the subsection may be required to be carried out on land on which the prescribed project is being undertaken or on other land in another part of the State.
- (4A) If the Coordinator-General receives a recommendation under section 76M(4) to impose a condition in relation to the prescribed decision, the Coordinator-General must impose the condition unless the Minister directs otherwise.
- (5) For a condition imposed under this section, the Coordinator-General may nominate an entity that is to have jurisdiction, under the relevant law for the prescribed decision, for the condition.
- (6) An entity may be nominated for 1 or more of the conditions.
- (7) If the Coordinator-General nominates an entity under subsection (5), the Coordinator-General must give each of the following written notice of the nomination—
 - (a) the entity;
 - (b) the decision maker and the applicant for the prescribed decision.
- (8) Subject to this part, the relevant law for the prescribed decision or process applies to the making of the Coordinator-General's decision under this section.

76P Effects of decision

- (1) The Coordinator-General's decision under section 76O about the prescribed decision or process, including a decision to impose a condition—
 - (a) is taken to be a decision of the decision maker (the *original decision maker*) under the relevant law for the prescribed decision or process but a person may not appeal against the Coordinator-General's decision under this Act or the relevant law; and
 - (b) takes effect when the applicant for the prescribed decision or process and the original decision maker are given notice, under section 76Q(1), of the Coordinator-General's decision.
- (2) A condition imposed by the original decision maker in relation to the prescribed decision is of no effect to the extent it is inconsistent with a condition imposed by the Coordinator-General.
- (3) If the original decision maker makes another prescribed decision for the prescribed project to which the step in notice relates, the other prescribed decision must not be inconsistent with the Coordinator-General's decision.

76Q Notice of decision

- (1) The Coordinator-General must give written notice of the Coordinator-General's decision under section 76O about the prescribed decision or process to—
 - (a) the applicant and decision maker for the prescribed decision or process; and
 - (b) each entity nominated by the Coordinator-General to have jurisdiction for a condition in relation to the prescribed decision or process.
- (2) The Coordinator-General must also give written notice of the Coordinator-General's decision about the prescribed decision to the relevant local government for the decision, if—

- (a) the prescribed decision is a decision on an application for a development approval or a change application for a development approval; and
 - (b) the relevant local government is not the decision maker for the prescribed decision.
- (3) A notice under this section must include—
- (a) the reasons for the Coordinator-General's decision; and
 - (b) the conditions, if any, imposed under section 76O(2) in relation to the decision.

76R Report about decision

- (1) The Coordinator-General must prepare a report about each step in notice given for a prescribed decision or process.
- (2) The Coordinator-General must include the following in the report—
 - (a) a copy of the step in notice;
 - (b) details of each entity nominated, under section 76O(5), to have jurisdiction for a condition in relation to the prescribed decision or process;
 - (c) a copy of the notice, under section 76Q(1), of the Coordinator-General's decision;
 - (d) other details about the Coordinator-General's decision required by the Minister.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after notice is given under section 76Q(1) of the Coordinator-General's decision.

Division 3A State significance notice

76RA Application of division

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

76RB State significance notice

- (1) The Minister may give to the decision maker and applicant for a prescribed decision a written notice (a ***State significance notice***) advising the decision maker and applicant that the decision maker must make the decision as provided under this division.
- (2) The Minister may give a State significance notice for a prescribed decision only if—
 - (a) the prescribed project to which the decision relates is a State strategic project; and
 - (b) the Minister is satisfied that, to achieve the purposes of this part, it is necessary and appropriate for the Minister's advice and other matters to be taken into account by the decision maker in considering or making the decision.
- (3) The State significance notice must—
 - (a) be accompanied by a copy of—
 - (i) the declaration of the prescribed project to which the prescribed decision relates; and
 - (ii) the declaration of the prescribed project as a State strategic project; and
 - (b) identify the prescribed decision; and
 - (c) state matters the Minister considers should be taken into account in considering or making the decision; and
 - (d) state that the decision maker must—
 - (i) take the following matters into account in considering or making the decision—
 - (A) the purposes of this part;
 - (B) the matters mentioned in paragraph (c); and
 - (ii) make the decision in consultation with the Minister as provided under section 76RD.

- (4) The State significance notice may also state the period within which a written notice mentioned in section 76RD(2) must be given to the Minister.
- (5) The period stated under subsection (4) must be at least the following number of days after the State significance notice is given—
 - (a) if there is a decision-making period for the prescribed decision and the period is less than 20 business days—the number of days in the decision-making period;
 - (b) otherwise—20 business days.

76RC Matters to consider for making prescribed decision

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

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

76RD Consultation with Minister about prescribed decision

- (1) This section states, for a prescribed decision to which a State significance notice relates, the process for the decision maker to consult with the Minister before making the decision.
- (2) The decision maker must give the Minister a written notice stating—
 - (a) the decision the decision maker proposes to make, and any conditions the decision maker proposes to impose on the decision; and
 - (b) how the matters mentioned in section 76RC were taken into account in deciding the matters mentioned in paragraph (a).

[s 76RE]

- (3) If the State significance notice states the period within which a written notice mentioned in subsection (2) must be given to the Minister, the notice must be given to the Minister within the stated period.
- (4) The Minister must, as soon as practicable after receiving the written notice under subsection (2), give the decision maker a written notice either—
 - (a) giving advice to be considered by the decision maker; or
 - (b) notifying the decision maker that the Minister has no advice.
- (5) The written notice given under subsection (4) must state the day on which the decision maker must make the prescribed decision.
- (6) If the Minister gives a written notice under subsection (4)(a), the decision maker must, before making the prescribed decision, consider whether any changes should be made to the proposed decision, or the proposed conditions, mentioned in subsection (2)(a), having regard to the advice.
- (7) Subsection (8) applies if the Minister does not give a written notice under subsection (4) within 15 business days after receiving the written notice under subsection (2) (the *advice period*).
- (8) The Minister is taken to have given a notice under subsection (4)(b) on the last day of the advice period.

76RE When prescribed decision must be made

- (1) The prescribed decision to which a State significance notice relates must be made—
 - (a) on the day stated in the written notice given to the decision maker under section 76RD(4); or
 - (b) if section 76RD(8) applies, within the following number of days after the last day of the advice period mentioned in that subsection—

- (i) if there is a decision-making period for the prescribed decision and the period is less than 20 business days—the number of days in the decision-making period;
 - (ii) otherwise—20 business days.
- (2) Subsection (1) applies—
 - (a) whether or not there is a decision-making period for the prescribed decision; and
 - (b) if there is a decision-making period for the prescribed decision—even if the decision-making period would otherwise have ended before the day mentioned in subsection (1).
- (3) If there is a decision-making period for the prescribed decision and the State significance notice is repealed before the decision is made—
 - (a) the Minister must, in the notice repealing the State significance notice, state the period within which the decision maker must make the decision under the relevant law; and
 - (b) the decision must be made under the relevant law within the period stated in the notice.
- (4) The period stated in the notice under subsection (3) must be at least the prescribed number of days after the repeal.
- (5) In this section—

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

76RF Effect of prescribed decision

- (1) A prescribed decision to which a State significance notice relates made by the decision maker in accordance with sections 76RC to 76RE is as valid as the prescribed decision would have been if the relevant law had required the

prescribed decision to be made in accordance with the sections.

- (2) Subsection (3) applies if the prescribed decision, or the effect of the prescribed decision, is that any of the following is approved, with or without conditions—
 - (a) the prescribed project;
 - (b) an aspect or part of the prescribed project;
 - (c) another matter relating to the prescribed project.
- (3) Subject to subsection (4), the prescribed decision can not be reviewed or appealed against under the relevant law to the extent the decision relates to the approval.
- (4) Subsection (3)—
 - (a) does not apply to a review or appeal under the relevant law started by the applicant; and
 - (b) has no effect on the *Judicial Review Act 1991*.

Division 3B Modification orders

76RG Definitions for division

In this division—

modification order see section 76RH(3).

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

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

76RH Modification order

- (1) A regulation may prescribe that a stated provision of an Act (the ***modified provision***) that, but for this division, would

apply to undertaking a State strategic project, or provide for a State strategic project to be undertaken—

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

Note—

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

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

76RI Restriction on Minister recommending order

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

Example for subparagraph (ii)—

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

- (c) the detrimental environmental effects (if any) that may arise from the making of the order—
 - (i) are not significant; or
 - (ii) can be appropriately dealt with under an Act, including under provisions of an Act to be modified as mentioned in section 76RH(2)(a); or
 - (iii) can be prevented, controlled or mitigated by the imposition of conditions mentioned in section 76RH(2)(b); and

- (d) the detrimental effect (if any) on the achievement of the object of each modified Act that may arise from the making of the order—
 - (i) is not significant; or
 - (ii) is outweighed by the benefit to the State of the project proceeding.
- (2) Also, before recommending to the Governor in Council the making of a modification order for a State strategic project, the Minister must consult—
 - (a) the proponent of the project; and
 - (b) the responsible Minister for each modified Act; and
 - (c) each local body the Minister considers may be affected by the making of the order.
- (3) This section is subject to sections 76RJ to 76RN.

76RJ Order can not override requirement for key authorisation

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

- (b) a process or requirement that applies in relation to granting a key authorisation.
- (3) In this section—

grant includes approve and issue.

key authorisation means any of the following—

- (a) an environmental authority, PRCP schedule or ERC decision under the *Environmental Protection Act 1994*;
- (b) a resource authority within the meaning of the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 10;
- (c) a development approval, PDA development approval or SDA approval;
- (d) a cultural heritage management plan under the *Aboriginal Cultural Heritage Act 2003* or the *Torres Strait Islander Cultural Heritage Act 2003*;
- (e) consent of an owner of land required for the making of an application for an authority, lease, licence, permit or other approval;
- (f) an interest in, or right to access or use, land, including, for example, a covenant or easement.

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

76RK Order can not substitute particular decision-makers

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

76RL Order can not be made for particular provisions

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

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

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

- (1) A modification order can not—
 - (a) exclude or modify—
 - (i) a person's liability to pay a State tax; or
 - (ii) a provision of an Act providing for the payment of a State tax or the recovery of unpaid amounts of a State tax; or
 - (b) exclude or modify a person's liability to pay a fee or charge that is not a State tax, other than to the extent provided under this section.
- (2) A modification order may waive all or part of, or provide for an entity to waive all or part of, a liability to pay a fee or charge that is not a State tax if—
 - (a) the fee or charge is payable for an application or process under an Act; and
 - (b) the provisions about dealing with the application or conducting the process are excluded or modified by the modification order; and

- (c) the Minister is satisfied that the amount of the fee or charge that would otherwise be payable for the application or process is unreasonable, having regard to—
 - (i) the cost of dealing with the application or conducting the process under the modification order; and
 - (ii) the advice of the Treasurer; and
 - (iii) any other matter the Minister considers appropriate.
- (3) In this section—
 - State tax*—
 - (a) means a tax, impost, rate, royalty, levy or duty payable to the State; and
 - (b) includes any interest, penalty or other amount payable in relation to a tax, impost, rate, royalty, levy or duty mentioned in paragraph (a).

76RN Restriction on excluding or modifying review or appeal

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

- (a) a review or appeal under an Act started by the proponent of the State strategic project; or
 - (b) the application of the *Judicial Review Act 1991*.
- (4) A modification order may provide for matters about a review of, or appeal against, a decision made under a modified Act, as applying under the modification order, that are necessary to ensure the review or appeal is decided on the basis of the provisions of modified Acts as they applied to making the decision under the modification order.

Example for subsection (4)—

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

76RO Compliance with condition

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

Maximum penalty—1,665 penalty units.

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

76RP Effect of modification order

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

[s 76RQ]

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

76RQ Amending or repealing modification order

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

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

 - (a) the proponent of the project;

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

76RR Transitional arrangements for amendment or repeal of order

- (1) This section applies if a modification order applying to a State strategic project or former State strategic project is amended or repealed.
- (2) A regulation may provide for—
 - (a) how each modified Act applies to the State strategic project or former State strategic project after the amendment or repeal; and
 - (b) how another Act applies to the State strategic project or former State strategic project because of the application of a modified Act as provided under the regulation.
- (3) Without limiting subsection (2), the regulation may provide for matters of a transitional nature relating to the transition—
 - (a) from the application of the modified Act or another Act to the State strategic project or former State strategic project under the modification order before the amendment or repeal; and
 - (b) to the application of the modified Act or another Act to the State strategic project or former State strategic project after the amendment or repeal.
- (4) The Minister may recommend to the Governor in Council the making of a regulation under this section providing for a matter mentioned in subsection (3) in relation to the repeal of a modification order only if the Minister is satisfied—
 - (a) the regulation is not inconsistent with any matters stated in the modification order under section 76RH(2)(e); or

[s 76S]

- (b) any inconsistency with matters stated in the modification order under section 76RH(2)(e) is appropriate in the circumstances.
- (5) In this section—

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

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

Division 4 Voluntary environmental agreements

76S Entering into agreement

- (1) The Coordinator-General may, with the approval of the Minister, enter into an agreement (a *voluntary environmental agreement*) with an applicant for a prescribed decision, or the applicant and another person, about—
 - (a) preventing, controlling or mitigating detrimental environmental effects of a prescribed project; or
 - (b) conserving, maintaining, rehabilitating or enhancing aspects of the environment.
- (2) However, if the rights of any of the following persons will be materially affected by the agreement, the Coordinator-General must not enter into it without that person's written consent—
 - (a) if the applicant is not the registered owner of land to which the agreement relates—the registered owner of the land;
 - (b) if land to which the agreement relates is subject to a lease or other interest—the lessee or interest holder.

76T Content and duration of agreement

- (1) A voluntary environmental agreement in relation to land may contain terms that are binding on the registered owner of the land and the registered owner's successors in title and other persons who have an interest in the land.
- (2) Without limiting subsection (1), a voluntary environmental agreement may contain terms—
 - (a) requiring the applicant to provide financial or other assistance; or
 - (b) requiring the applicant to provide financial assurance to the State; or
 - (c) requiring the applicant to provide technical advice or carry out stated activities; or
 - (d) prohibiting a stated use of land to which the agreement relates; or
 - (e) restricting the use or management of land mentioned in paragraph (d); or
 - (f) requiring the applicant to permit or restrict access to land mentioned in paragraph (d) by stated persons; or
 - (g) requiring the applicant to refrain from, or not to permit, stated activities; or
 - (h) stating the way in which amounts provided by the applicant under the agreement are to be applied by the State or the applicant; or
 - (i) providing for other matters relating to the matters mentioned in section 76S(1).
- (3) Subsections (1) and (2) do not limit the terms the voluntary environmental agreement may contain.
- (4) A voluntary environmental agreement has effect until it ends under its terms.

76U Recording of particular agreements

- (1) The Coordinator-General must, within 14 days after entering into a recorded voluntary environmental agreement in relation to land, give the registrar written notice of the agreement.
- (2) The notice must include particulars of the land to which the agreement relates.
- (3) The registrar must keep records that—
 - (a) show the land to which the agreement relates is the subject of a recorded voluntary environmental agreement; and
 - (b) state the places where particulars of the agreement may be inspected.
- (4) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land will show the existence of the recorded voluntary environmental agreement.
- (5) As soon as practicable after the recorded voluntary environmental agreement ends—
 - (a) the Coordinator-General must give the registrar written notice of its ending; and
 - (b) the registrar must remove the particulars of the agreement from the registrar's records.
- (6) While the recorded voluntary environmental agreement has effect and is recorded by the registrar under this section, the agreement is binding on—
 - (a) the successors in title to a registered owner who entered into the agreement or consented, under section 76S(2), to the agreement; and
 - (b) persons who have an interest in the land.
- (7) In this section—

recorded voluntary environmental agreement, in relation to land, means a voluntary environmental agreement expressed

to be binding on the successors in title to the registered owner of the land and other persons who have an interest in the land.

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

Division 5 Other matters

76V Recovering cost of particular advice or services

- (1) This section applies if, in making an assessment under this part about a prescribed decision or process, the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to make the assessment.
- (2) The Coordinator-General may recover from the applicant for the prescribed decision or process as a debt the reasonable cost of obtaining the advice or services.

76W Application of Judicial Review Act 1991

The *Judicial Review Act 1991*, parts 3 and 5, other than section 41(1), do not apply to—

- (a) a decision of the Minister to declare a project to be—
 - (i) a State strategic project; or
 - (ii) a prescribed project if the project is a State strategic project; or
- (b) a decision of the Coordinator-General to give a progression notice, notice to decide or a step in notice for a State strategic project; or
- (c) the Coordinator-General's decision under section 76O about a prescribed decision or process for a State strategic project; or
- (d) a decision of the Minister to give a State significance notice; or

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- (e) a decision of the Minister to give a notice under section 76RD(4); or
- (f) a decision or conduct leading up to or forming part of the process of making a decision mentioned in paragraph (a), (b), (c), (d) or (e).

Note—

The *Judicial Review Act 1991*, part 3 deals with statutory orders of review, and part 5 deals with prerogative orders and injunctions.

Part 6 Planned development

Division 1 State development areas

77 Declaration of State development areas, variation and termination thereof

- (1) A regulation may declare any part of the State or of any area over which the State claims jurisdiction to be a State development area, if the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the State requires it, and may, in like manner—
 - (a) vary a State development area by excluding therefrom any part thereof or by including therein any part of the State or any part of any area over which the State claims jurisdiction; or
 - (b) revoke the declaration.
- (2) Where—
 - (a) the declaration is revoked, the area shall thereupon cease to exist; or
 - (b) any part of a State development area is excluded therefrom it shall cease to be comprised in that area.
- (3) In considering whether the public interest or general welfare of persons requires the declaration of a State development

area under subsection (1), the Governor in Council may have regard to—

- (a) the purposes for taking or acquiring land under section 82(1); and
- (b) other matters the Governor in Council considers relevant.

78 Procedure in relation to State development areas

- (1) Every State development area and every variation of an area shall be delineated on a plan held available for inspection by the public at the office of the Coordinator-General and at such other places, in such manner, and at such times as are prescribed.
- (2) If the regulations prescribe a procedure by or pursuant to which the declaration or variation or termination of a State development area is to be made, the declaration, variation or termination, as the case may be, of any area shall be made as prescribed.

79 Preparation of development scheme

As soon as practicable after the declaration of a State development area the Coordinator-General shall prepare in relation to that area a development scheme and shall furnish it to the Minister who, if the Minister approves of it, shall submit the same to the Governor in Council for the Governor in Council's approval.

Note—

See also the *Sustainable Ports Development Act 2015*, section 32 for additional requirements for making or amending an approved development scheme.

79A Content of approved development scheme

- (1) The approved development scheme for a State development area may regulate development—

- (a) in all or part of the area; or
 - (b) outside the area if the development is SDA-related development for the area.
- (2) The approved development scheme must—
 - (a) if the scheme regulates development in part only of the State development area—state the area in which development is regulated; and
 - (b) identify any SDA assessable development or SDA self-assessable development; and
 - (c) if the scheme identifies development as SDA assessable development—state the matters or things an SDA application for the development will be assessed against; and
 - (d) if the scheme identifies development as SDA self-assessable development—include requirements the development must comply with.
- (3) Without limiting subsection (2), the approved development scheme may do any or all of the following—
 - (a) state that regulated development is consistent or inconsistent with the scheme;
 - (b) prescribe a process for any of the following—
 - (i) assessing and deciding an SDA application;
 - (ii) making, assessing and deciding a request to change an SDA application;
 - (iii) assessing and deciding a change application for an SDA approval;
 - (iv) making, assessing and deciding a request to state a later currency period for an SDA approval under section 84H(2)(c);
 - (v) making, assessing and deciding a request (a **prior affected development request**) to the Coordinator-General to carry out a prior affected development for land;

- (vi) the Coordinator-General approving a plan of subdivision for land in the State development area;
- (c) state requirements for an application or request mentioned in paragraph (b);
- (d) prescribe the circumstances in which the Coordinator-General may accept an application under section 84D;
- (e) identify development, other than development that is to be carried out entirely within the area, as SDA-related development for the area.

Note—

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

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

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- (5) If the approved development scheme identifies development as SDA-related development for the State development area, the scheme must also—
 - (a) identify whether the development is SDA assessable development or SDA self-assessable development; and
 - (b) include a description of the land on which the development is proposed to be located; and
 - (c) include a description of the development, including plans and supporting documentation.

80 Approval, implementation, and variation of development scheme

- (1) If the Governor in Council approves a development scheme submitted to the Governor in Council—
 - (a) notification of the approval shall be published in the gazette and in a newspaper that circulates within the locality of the State development area to which the scheme relates; and
 - (b) a copy of the scheme shall be held available for inspection by the public at the office of the Coordinator-General and elsewhere as the Coordinator-General directs; and
 - (c) the Coordinator-General shall, as soon as practicable, take all steps necessary to secure the implementation of the scheme.
- (2) The Coordinator-General may vary a development scheme approved by the Governor in Council but if the Coordinator-General does so the scheme as so varied shall again be furnished to the Minister and submitted to the Governor in Council as prescribed by section 79.

Note—

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

- (3) If the Governor in Council approves a development scheme as so varied the provisions of subsection (1) shall apply in respect thereof and the scheme as so varied shall be the approved development scheme for the State development area to which it relates in lieu of the development scheme theretofore approved.

81 Abrogation of development scheme

- (1) If a development scheme approved by the Governor in Council proves to be impracticable to implement or undesirable for the State development area to which it relates the Governor in Council may, on the recommendation of the Minister, abrogate the scheme.

Note—

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

- (2) Notification of such abrogation shall be published in the gazette and in a newspaper that circulates within the locality of the State development area to which the abrogated scheme related.

81A Making SDA rules

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

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

81B Application of SDA rules to State development area

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

82 Acquisition of land in State development area

- (1) The Coordinator-General may take or otherwise acquire land situated in a State development area for the purpose of—
 - (a) dealing satisfactorily with conditions of natural disaster or hazard, of act of war or civil strife, of bad layout or obsolete development; or
 - (b) providing for the establishment or relocation of population, industry or essential services, the

establishment of an infrastructure corridor or for the replacement of open space in the course of the development of any other part of the State.

- (2) The power conferred by subsection (1) may be exercised notwithstanding that at the time of the taking or acquisition the development of the land taken or acquired is not provided for in an approved development scheme.
- (3) A taking or acquisition of land situated in a State development area or a disposal of such land shall not be called in question in any proceeding—
 - (a) on account of the taking or acquisition of the land from one person and its disposal to another (whether or not development of the land has taken place between the time of its taking or acquisition and the time of its disposal) where the taking or acquisition and the disposal are for the purpose of securing implementation of an approved development scheme for the State development area; or
 - (b) on account of the fact that the Coordinator-General will not control the development of the land but will secure such development by way of contract with other persons.
- (4) The power to take or acquire land in a State development area for a purpose (the *primary purpose*) includes power to take at any time land in the area either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.
- (5) As well as land granted in fee simple, the Coordinator-General may take or acquire land that is held from the State for an estate or interest less than fee simple for any of the purposes stated in subsection (1).
- (6) The following provisions apply with the stated changes to the taking or acquisition of land in a State development area—
 - (a) section 125(4) applies as if the reference in the subsection to subsection (1) were a reference to section 82(1);

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- (b) section 125(7) and (9) apply as if the reference in the subsections to subsection (6) were a reference to section 82(5);
 - (c) section 125(8) applies as if the reference in the subsection to the land were a reference to land taken under section 82(5);
 - (d) section 125(10) applies as if the reference in the subsection to subsections (4) to (9) were a reference to a taking or acquisition of land under section 82;
 - (e) section 125(11) applies as if the reference in the subsection to this section were a reference to section 82;
 - (f) section 125A applies as if—
 - (i) a reference in the section to section 125 were a reference to section 82; and
 - (ii) the reference in the section to section 125(1) were a reference to section 82(1);
 - (g) section 127 applies as if—
 - (i) the reference in the section to section 125(6) were a reference to section 82(5); and
 - (ii) the reference in the section to section 125(9) were a reference to section 125(9) as it has effect under paragraph (b);
 - (h) section 129 applies as if a reference in the section to section 125 were a reference to section 82.
- (7) Subsection (6) applies subject to section 83.
- (8) In this section—

infrastructure corridor means an area for the establishment of infrastructure relating to roads, public transport or the transportation, movement, transmission or flow of anything, including, for example, goods, material, substances, matter, particles with or without charge, light, energy, information and anything generated or produced.

83 Disposal of land in State development area

- (1) This section applies in relation to land in a State development area held by the Coordinator-General if the land was taken or acquired under section 82.
- (2) If land is within a State development area and there is an approved development scheme in effect for the area—
 - (a) any grant of, demise of, or other dealing with that land made by the Governor in Council shall be subject to such reservations and conditions as are calculated to secure the implementation of that scheme; and
 - (b) it is not competent to the Coordinator-General to sell, lease, or otherwise dispose of such of that land as is held by the Coordinator-General unless the sale, lease, or disposal is authorised by subsection (3).
- (3) The Coordinator-General may sell, lease or otherwise dispose of land held by the Coordinator-General in a State development area—
 - (a) for the purpose of implementing an approved development scheme that relates to that State development area; or
 - (b) for another purpose approved by the Governor in Council.
- (4) Also, the Coordinator-General may lease land in a State development area, held by the Coordinator-General, for a term of 4 years or less for any purpose.
- (5) In deciding the term of a lease for subsection (4), the term of the lease under an option to renew the lease or under any other provision extending the term of the lease is to be included in the term of the lease.
- (6) A sale, lease, or other disposal by the Coordinator-General of land held by the Coordinator-General in a State development area may be on such terms and conditions as the Coordinator-General thinks fit, including the condition that the purchaser, lessee or disponent of the land shall enter into such covenants (whether positive, restrictive or both) as the

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Coordinator-General requires touching and concerning the use to be made of the land and the right to sell, lease or dispose of it and such terms, conditions and covenants may be varied from time to time in such manner as is agreed by the parties concerned.

- (7) For so long as land is comprised in a State development area a person shall not breach or attempt to breach a covenant that binds the land or that binds the person in respect of the use to be made of the land or of the right to sell, lease or dispose of it.

84 Development under approved development scheme

- (1) This section applies to the extent an approved development scheme for a State development area identifies regulated development that—
- (a) is in the area; or
 - (b) is SDA-related development for the area.
- (2) If another Act or law would, apart from this section, regulate the regulated development, the other Act or law does not apply to the regulated development to the extent the other Act or law regulates that development.
- (3) Subsection (2) is subject to section 85A.

84A Carrying out SDA assessable development without SDA approval

A person must not carry out SDA assessable development without an SDA approval for the development.

Maximum penalty—1,665 penalty units.

Note—

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

84B SDA self-assessable development must comply with approved development scheme

If a person carries out SDA self-assessable development, the person must comply with the requirements about carrying out the development—

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

Maximum penalty—1,665 penalty units.

Note—

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

84C Compliance with SDA approval

A person must not contravene an SDA approval.

Maximum penalty—1,665 penalty units.

Note—

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

84D How to make SDA application

(1) Each SDA application must—

- (a) be made to the Coordinator-General in the approved form; and
- (b) address the requirements for the application stated in the approved development scheme for the State development area to which the application relates; and
- (c) be accompanied by the application fee prescribed by regulation, less any amount waived by the Coordinator-General under subsection (2).

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- (2) The Coordinator-General may, but need not, waive all or part of the application fee mentioned in subsection (1)(c) by written notice given to the applicant.
- (3) The Coordinator-General must not accept an application that does not comply with subsection (1).

Note—

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

84E Deciding SDA application

- (1) The Coordinator-General must—
 - (a) decide to—
 - (i) approve all or part of the SDA application, with or without conditions; or
 - (ii) refuse the SDA application; and
 - (b) give the applicant written notice of the decision (the *decision notice*).
- (2) In deciding an SDA application, the Coordinator-General must consider the approved development scheme for the State development area to which the application relates.
- (3) Also, in deciding an application for SDA-related development for a State development area, the Coordinator-General may give the weight the Coordinator-General considers appropriate to any instruments that would, under another Act or law, have regulated, or applied to the regulation of, the development if it were not SDA-related development.

Examples of instruments—

- a planning instrument
- an instrument mentioned in the Planning Act, section 43(1)(c)
- a master plan or port overlay under the *Sustainable Ports Development Act 2015*

- a port authority's land use plan under the *Transport Infrastructure Act 1994*, section 285
- (4) If the SDA application is refused, the decision notice must state the reasons for the decision.
- (5) A condition imposed under subsection (1)(a)(i) must—
- (a) be relevant to, but not an unreasonable imposition on, the development or use of the land as a consequence of the development; or
 - (b) be reasonably required in relation to the development or use of the land as a consequence of the development.

84EA Condition about infrastructure charges

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

[s 84EB]

- (ii) is otherwise associated with the development the subject of the SDA approval.
- (4) Subsection (3) applies despite any other law but is subject to section 85ZF(2).

84EB Condition about environmental offsets

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

84F Application to change SDA approval

- (1) A person may apply to the Coordinator-General to change an SDA approval (a *change application*).
- (2) Sections 84D to 84EB apply to the change application as if a reference in the provisions to an SDA application were a reference to the change application.

84G Duration of SDA approval

- (1) An SDA approval has effect on and after the date stated in the decision notice for the relevant SDA application.
- (2) The development the subject of the SDA approval may, subject to any conditions imposed on the approval, start when the approval has effect.
- (3) However, the SDA approval ceases to have effect if it lapses under section 84H.

84H When SDA approval lapses

- (1) An SDA approval lapses at the end of its currency period unless—

- (a) for development that is a material change of use of premises—the first 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 the Coordinator-General for approval before the currency period ends; or
 - (c) for all other development—the development substantially starts before the currency period ends.
- (2) The **currency period**, for an SDA approval, is—
- (a) if paragraphs (b) and (c) do not apply—
 - (i) for development that is a material change of use of premises—6 years after the day the approval has effect under section 84G; or
 - (ii) for all other development—4 years after the day the approval has effect under section 84G; or
 - (b) if the approval states a different period—the period stated in the approval; or
 - (c) if, within the period mentioned in paragraph (a) or (b), the applicant for the SDA approval requests the Coordinator-General state a later currency period under the approved development scheme—the period mentioned in subsection (3).
- (3) For subsection (2)(c)—
- (a) the period is—
 - (i) if the Coordinator-General gives the applicant written notice stating a later currency period—the later currency period stated in the notice; or
 - (ii) otherwise—the period ending when the later of the following happens—
 - (A) the period mentioned in subsection (2)(a) or (b) ends;

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- (B) the Coordinator-General gives the applicant written notice stating that the request has been refused; and
 - (b) the SDA approval continues in effect until the Coordinator-General decides the request, even if the period mentioned in subsection (2)(a) or (b) ends while the Coordinator-General is considering the request.
- (4) In this section—
applicant, for an SDA approval, means the person in whom the benefit of the approval vests from time to time.

85 Carrying out particular development, use or works not an offence

- (1) Subsection (2) applies if—
 - (a) immediately before an approved development scheme applies to land, a use or works is lawfully being carried out on the land by a person; and
 - (b) after the approved development scheme applies to the land, the person continues the use or works.
- (2) Sections 84A and 84B do not apply to the use or works by the person or the person's successors in title to the land.
- (3) Subsection (4) applies if—
 - (a) immediately before an approved development scheme applies to land, there was a prior affected development for the land; and
 - (b) the owner of the land makes a prior affected development request to the Coordinator-General to approve the development of the land for the prior affected development—
 - (i) within 2 years after the approved development scheme started to apply to the land; and
 - (ii) in accordance with the approved development scheme; and

- (c) the Coordinator-General has approved the prior affected development request.
- (4) Sections 84A and 84B do not apply to the development of the land for the prior affected development by the owner or the owner's successors in title to the land.
- (5) Subsection (6) applies to premises the subject of a designation under the Planning Act.
- (6) Sections 84A and 84B do not apply to development carried out on the premises under the designation.

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

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

[s 85B]

- (a) provisions of the relevant law the contravention of which constitute an offence; and
 - (b) provisions of the relevant law relating to the enforcement of the provisions mentioned in paragraph (a).
- (5) In this section—

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

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

Division 1A SDA-related development

85B Application of division

This division applies to development—

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

Note—

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

85C Consultation required before declaring SDA-related development

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

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

85D Declaration of SDA-related development

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

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development area stated in the approved development scheme for the area; and

- (B) can not reasonably be located or accommodated entirely within the State development area.
- (3) A declaration must not compromise the implementation of the approved development scheme for the State development area.
- (4) In making a declaration, the Coordinator-General must decide—
 - (a) whether the SDA-related development is—
 - (i) SDA assessable development; or
 - (ii) SDA self-assessable development; and
 - (b) if the development is SDA self-assessable development—the requirements for carrying out the development.

85E Content of declaration

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

- (a) the State development area the development is for;
- (b) a description of the land on which the development is proposed to be located;
- (c) a description of the development;
- (d) the matters forming the basis of the Coordinator-General's satisfaction under section 85D(2);
- (e) whether the development is SDA assessable development or SDA self-assessable development;
- (f) if the development is SDA self-assessable development—the requirements for carrying out the development decided under section 85D(4)(b).

85F Notice of declaration

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

- (a) publish the declaration on the department's website; and
- (b) give a copy of the declaration to—
 - (i) each local government in whose local government area the development is to be located; and
 - (ii) each port authority in whose strategic port land area the development is to be located; and
 - (iii) the owner of the land on which the development is proposed to be located; and
 - (iv) each government entity, GOC or other entity consulted under section 85C before the making of the declaration.

Division 1B Ceasing regulation under approved development scheme

Subdivision 1 Planning instrument to regulate development

85G Definitions for subdivision

In this subdivision—

excluded development see section 85H(1).

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

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

SDA change see section 85H(1).

85H Ceasing regulation under approved development scheme

- (1) This section applies in relation to the following (each an *SDA change*) if the effect of the SDA change is that development (the *excluded development*) will no longer be regulated under the approved development scheme for a State development area—
 - (a) a variation of the approved development scheme under section 80;
 - (b) the abrogation of the approved development scheme under section 81.
- (2) The SDA change may be made only if the Coordinator-General considers the excluded development is appropriately dealt with—
 - (a) in the relevant local government's planning instrument; or
 - (b) by a proposed amendment of the relevant local government's planning instrument, or a new planning instrument of the relevant local government, that will take effect at the same time as the SDA change; or
 - (c) in an interim planning instrument that, under section 85K, will take effect as a temporary local planning instrument of the relevant local government at the same time as the SDA change.
- (3) However, subsection (2) does not apply if the excluded development is carried out, or to be carried out, on strategic port land.

85I Coordinator-General may prepare instrument for excluded development

- (1) The Coordinator-General may prepare an instrument for an SDA change that deals with the excluded development (an *interim planning instrument*).
- (2) In preparing the interim planning instrument, the Coordinator-General must consult—

- (a) the relevant local government; and
- (b) any other government entity or GOC who the Coordinator-General considers is likely to be affected by the interim planning instrument.

85J Approval of interim planning instrument

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

85K Effect of interim planning instrument

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

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

85L Notice of interim planning instrument

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

public notice means a notice published in a way the Coordinator-General considers is likely to bring the notice to the attention of persons likely interested in or affected by the information stated in the notice.

Examples of ways notice may be published—

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

Subdivision 2 Existing SDA approvals and applications

85M Application of subdivision

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

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

85N Definitions for subdivision

In this subdivision—

former SDA development see section 85M.

relevant approved development scheme see section 85M.

85O References to cessation

In this subdivision, a reference to cessation in relation to former SDA development is, if the context permits, a reference to the time the development ceases to be regulated under the relevant approved development scheme.

85P Existing SDA approvals

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

85Q Existing SDA applications

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

85R Existing change applications

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

85S Existing request to state later currency period

- (1) This section applies if—
 - (a) before the cessation, a request to state a later currency period for an SDA approval for the former SDA development has been made, but not decided, under the relevant approved development scheme; and
 - (b) on the cessation, the SDA approval is taken, under section 85P(2), to be a development approval.
- (2) The request must continue to be decided under the relevant approved development scheme as if—
 - (a) the cessation had not happened; and
 - (b) the SDA approval were still an SDA approval; and
 - (c) the request were being decided immediately before the cessation.
- (3) If the decision is to state the later currency period, the decision is taken to be a decision under the Planning Act to extend the currency period of the development approval under that Act.
- (4) If the decision is to refuse the request, the development approval lapses on the later of the following days—
 - (a) the day the SDA approval would have lapsed under section 84H if the SDA approval were still an SDA approval;
 - (b) the day the person who made the request is given notice of the decision under the relevant approved development scheme.
- (5) Despite the Planning Act, section 229, a person may not appeal under that Act against the decision on the request.

85T Process for approving plans of subdivision

- (1) This section applies if, before the cessation, the process under the relevant approved development scheme for approving a

plan of subdivision for the former SDA development had started but not ended.

- (2) The relevant approved development scheme continues to apply in relation to the plan of subdivision as if—
 - (a) the cessation had not happened; and
 - (b) for a plan of subdivision authorised or required under an SDA approval that, under section 85P(2), becomes a development approval—the SDA approval were still an SDA approval; and
 - (c) for a plan of subdivision for reconfiguring a lot that, before the cessation, was SDA self-assessable development—the reconfiguration were still SDA self-assessable development.
- (3) For registering the plan of subdivision under the *Land Title Act 1994*, anything done by the Coordinator-General under the relevant approved development scheme in relation to the plan is taken to have been done by the local government for the local government area to which the plan relates.

85U Registering particular plans of subdivision approved before cessation

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

85V Lawful use of premises

- (1) This section applies if—
 - (a) immediately before the cessation for the former SDA development, a use of premises to which the relevant approved development scheme applied was a lawful use of the premises under this Act or another Act; and
 - (b) on the cessation, the relevant approved development scheme no longer applies to the premises.
- (2) From the cessation, the use is taken to be a lawful use of the premises under the Planning Act.

Subdivision 3 Dealing with converted SDA approvals

85W Application of subdivision

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

85X Conditions and enforcement authorities under Planning Act

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

Integrated Planning Act 1997 as in effect when the application for the SDA approval was made.

85Y Proceedings about development approvals

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

85Z Lapsing of development approvals

- (1) Section 84H continues to apply in relation to the development approval, instead of the Planning Act, section 85—
 - (a) as if a reference in section 84H to an SDA approval were a reference to the development approval; and
 - (b) subject to—

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

85ZA Extension applications for development approvals

- (1) For applying the relevant planning provisions to an extension application for the development approval—
 - (a) the approval's currency period is taken to be the currency period applying for the development approval under section 84H, as applied under section 85Z, including any extension of that period—
 - (i) given under this Act for the SDA approval; or
 - (ii) given under the Planning Act; and
 - (b) a reference in the relevant planning provisions to the assessment manager includes a reference to the entity that would be the prescribed assessment manager for a development application made under the Planning Act—
 - (i) for the development the subject of the development approval; and

[s 85ZB]

- (ii) at the time the extension application is made; and
 - (c) a reference in the relevant planning provisions to a referral agency or concurrence agency includes a reference to—
 - (i) an entity that would be a referral agency or concurrence agency for a development application made under the Planning Act—
 - (A) for the development the subject of the development approval; and
 - (B) at the time the extension application is made; and
 - (ii) any other entity prescribed by regulation; and
 - (d) a reference in the Planning Act, section 87(7) to section 85 of that Act includes a reference to section 84H, as applied under section 85Z; and
 - (e) the relevant planning provisions apply with any other necessary changes.
- (2) In this section—
- relevant planning provisions*** means the following provisions—
- (a) the Planning Act, sections 86 and 87;
 - (b) the Planning Act, chapter 3, part 6;
 - (c) the Planning Act, section 229;
 - (d) the Planning Act, schedule 1, section 1, table 1, item 3;
 - (e) the development assessment rules under the Planning Act.

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

- (1) This section applies if a change application is made under the Planning Act for a change to the development approval.

- (2) Despite the Planning Act, schedule 2, definition *minor change*, the change to the development approval is a minor change for that Act unless—
- (a) the change results in substantially different development; or
 - (b) the development the subject of the development approval, including the change, is prohibited development under the Planning Act; or
 - (c) both of the following apply—
 - (i) a development application for the development the subject of the development approval, made under the Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997* when the application for the SDA approval was made, would not have required public notification under the Act under which the application was made;
 - (ii) a development application for the development the subject of the development approval, including the change, made under the Planning Act when the change application was made, would require public notification under section 53 of that Act.

85ZC Responsible entities for change applications for development approvals

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

- (a) if the change is to a condition of the development approval that was a condition of the SDA approval—the entity prescribed by regulation; or
- (b) otherwise—the entity that would be the prescribed assessment manager for a development application made under the Planning Act—

[s 85ZD]

- (i) for the development the subject of the development approval, including the change; and
- (ii) at the time the change application is made.

85ZD Change applications for development approvals

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

- (3) If the responsible entity for the change application under the Planning Act must, in assessing the application, consider a matter mentioned in section 81(2)(d), (e) or (f) of that Act—
 - (a) section 81(4) and (5)(c) of that Act applies for the assessment as if a reference in that section to when the development application for the development approval was properly made were a reference to when the change application was made; and
 - (b) section 81(5)(a) of that Act does not apply for the assessment.
- (4) In this section—

relevant planning provisions means the following provisions—

 - (a) the Planning Act, chapter 3, part 5, division 2, subdivision 2 other than section 78A(1) or 82;
 - (b) the Planning Act, chapter 3, part 5, division 2, subdivision 3;
 - (c) the Planning Act, chapter 3, part 6 or 6A;
 - (d) the Planning Act, section 229;
 - (e) the Planning Act, schedule 1, section 1, table 1, item 2;
 - (f) the development assessment rules under the Planning Act.

85ZE Cancellation applications for development approvals

- (1) For applying the relevant planning provisions to a cancellation application under the Planning Act for the development approval—
 - (a) a reference in the relevant planning provisions to the assessment manager includes a reference to the entity that would be the prescribed assessment manager for a development application made under the Planning Act—

[s 85ZF]

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

85ZF Other matters about development approvals

- (1) Despite the Planning Act, section 119(2), the local government for the local government area to which the development approval relates must not give an infrastructure charges notice under that Act for the approval.
- (2) However, if a change application or extension application is approved under the Planning Act for the development approval, the local government may give an infrastructure charges notice under that Act for the development approval if

the notice relates to the change to, or extension of, the development approval.

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

Division 2 Compensation

Subdivision 1 Preliminary

86 Definition for div 2

In this division—

owner, of an interest in land, means the owner of the interest at the time an approved development scheme first applied to the land.

Subdivision 2 Entitlement to compensation

87 Compensation

An owner of an interest in land is entitled to be paid reasonable compensation by the Coordinator-General if—

- (a) immediately before an approved development scheme started applying to the land, there was a prior affected development for the land; and
- (b) after the approved development scheme started applying to the land, the development of the land for the prior affected development would be an offence under section 84A or 84B; and
- (c) the application of the approved development scheme to the land reduces the value of the interest; and
- (d) the owner of the land has, under the approved development scheme, made a prior affected development request to the Coordinator-General to approve the development of the land for the prior affected development; and
- (e) the Coordinator-General has refused the prior affected development request.

88 Limitations on compensation under s 87

Despite section 87, compensation is not payable—

- (a) for a matter under this division if compensation has already been paid for the matter to a previous owner of the interest in land; or
- (b) for anything done in contravention of this Act.

Subdivision 3 Claims for, and payment of, compensation

89 Time limit for claiming compensation

A claim for compensation under section 87 must be made to the Coordinator-General within 3 years after the day the approved development scheme came into effect.

90 Deciding claims for compensation

- (1) The Coordinator-General must decide the claim for compensation within 60 business days after the day the claim is made.
- (2) In deciding the claim for compensation, the Coordinator-General must—
 - (a) grant all of the claim; or
 - (b) grant part of the claim and reject the rest of the claim; or
 - (c) refuse all of the claim.
- (3) However, the Coordinator-General may decide the claim by giving a notice of intention to resume the interest in the land under section 82.

91 Notification of decision

- (1) The Coordinator-General must, within 10 business days after the day the claim is decided, give the claimant written notice of the decision.
- (2) The notice must state the following—
 - (a) the decision, and the reasons for it;
 - (b) if the decision is to pay compensation, the amount of compensation to be paid;
 - (c) the claimant may appeal against the decision to the Planning and Environment Court;

- (d) how to appeal.

92 Calculating reasonable compensation involving changes

- (1) For section 87, reasonable compensation is the difference between the market values, appropriately adjusted having regard to the following matters, to the extent they are relevant—
 - (a) any limitations or conditions that may reasonably have applied to the development of the land immediately before the approved development scheme applied to the land;
 - (b) any benefit accruing to the land from the approved development scheme coming into effect, including but not limited to the likelihood of improved amenity in the locality of the land;
 - (c) if the owner owns land adjacent to the interest in land, any benefit accruing to the adjacent land because of—
 - (i) the coming into effect of the approved development scheme; or
 - (ii) the construction of, or improvement to, infrastructure on the adjacent land under the approved development scheme (other than infrastructure funded by the owner) before the claim for compensation was made;
 - (d) the effect of any other changes to the approved development scheme made since the approved development scheme applied to the land;
 - (e) if any SDA approval for the land is subject to conditions, the effect of the conditions on the development.
- (2) Despite subsection (1), if land for which compensation is claimed has, since the day the approved development scheme came into effect, become or ceased to be separate from other land, the amount of reasonable compensation must not be

increased because the land has become, or ceased to be, separate from other land.

(3) In this section—

difference between the market values means the difference between the market value of the interest in land immediately before the approved development scheme came into effect and the market value of the interest immediately after the approved development scheme came into effect.

93 When compensation is payable

If compensation is payable under section 87, the compensation must be paid within 30 business days after—

- (a) the last day an appeal could be made against the Coordinator-General's decision about the payment of compensation; or
- (b) if an appeal is made, the day the appeal is decided.

94 Payment of compensation to be recorded on title

- (1) The Coordinator-General must give the registrar of titles written notice of the payment of compensation under section 93.
- (2) The notice must be in the form approved by the registrar.
- (3) The registrar must keep the information stated in the notice as information under the *Land Title Act 1994*, section 34.

Subdivision 4 Appeals

95 Appeals against decisions on compensation claims

- (1) A person who is dissatisfied with the Coordinator-General's decision on a claim for compensation may appeal against the decision to the Planning and Environment Court.

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- (2) An appeal must be started within 20 business days after the day notice of the decision is given to the person.

96 How appeals are started

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

97 Hearing procedures

- (1) The procedure for hearing an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with the judge constituting the court.
- (2) An appeal is by way of rehearing, unaffected by the decision appealed against.

98 Appeal decision

- (1) In deciding an appeal the court may—
 - (a) confirm the decision appealed against; or
 - (b) change the decision appealed against; or
 - (c) set aside the decision appealed against and make a decision replacing the decision set aside.
- (2) If the court acts under subsection (1)(b) or (c), the court's decision is taken, for this Act (other than this decision) to be the decision of the Coordinator-General.

Division 3

Undertaking of works by local bodies or approved persons

99 Recommendation of certain works

If the Coordinator-General recommends to the Minister that particular works should be undertaken by any local body or local bodies, or another person, who under an agreement with a local body or local bodies, is permitted or required to undertake the works, the Minister, if the Minister approves of the recommendation, shall submit the same to the Governor in Council for the Governor in Council's approval.

100 Approval of certain works

- (1) A regulation may direct the local body or local bodies concerned or the other person mentioned in section 99 (an *approved person*) to undertake the works recommended.
- (2) If the undertaking of the works concerns more than 1 local body, the regulation may direct—
 - (a) that each local body undertake the part of the works stated in the regulation; or
 - (b) that the stated local body undertake the works and that the costs thereof be apportioned among all the local bodies concerned in the shares stated in the regulation.

101 Time limited for works

By order directed to and served on a local body or approved person that is required to undertake works by a regulation made under section 100 the Minister may specify a time within which the works or any part thereof shall be commenced or completed and may, in like manner, extend the time so specified.

102 Direction to be complied with

A local body or approved person mentioned in a regulation made under section 100 shall comply in every respect with the regulation and—

- (a) where a time is specified in a regulation made under section 100 for the doing of any act—shall do that act within that time; or
- (b) where a time is not so specified—shall take all steps necessary to comply with the regulation as soon as practicable;

and in every case shall therein consult and cooperate with the Coordinator-General and all other local bodies concerned or, for an approved person, the local body or local bodies concerned.

103 Borrowing of money for works

For the purpose of enabling a local body to undertake works and to borrow money to comply with a regulation made under section 100 and directed to it the undertaking of works as directed by the regulation shall be deemed to be a function of that local body under the Act under which the local body is appointed or constituted and, in the case of a local body that is a local government, shall be deemed to be a function of local government.

104 Procedure on local body's or approved person's default

- (1) If, on the report of the Coordinator-General, the Governor in Council is satisfied that a local body or approved person is in default in complying with a regulation made under section 100 and directed to it the Governor in Council may notify that local body or approved person that upon the expiration of the period therein specified (being not less than 21 days from the date of the notification) the Governor in Council will authorise the Coordinator-General to commence and complete or, as the case may require, complete the works or part thereof in respect of which the local body or approved

person is in default as agent for that local body or approved person.

- (2) A local body or approved person notified pursuant to subsection (1) may make to the Minister written representations against the Governor in Council effecting the Governor in Council's notified intention.
- (3) The Minister shall submit such representations to the Governor in Council who, if the Governor in Council thinks the case warrants it, may direct that the issue be heard by such person or persons as the Governor in Council appoints.
- (4) The hearing shall be deemed to be an inquiry and shall be conducted as a commission of inquiry under the *Commissions of Inquiry Act 1950* and the person or persons conducting the inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under that Act and in addition, where there is 1 such person, that person or, where there are more than 1 such person, the person appointed as chairperson of such inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a chairperson of such a commission except such as are by that Act confined to a chairperson who is a judge of the Supreme Court and the provisions of that Act shall apply accordingly.
- (5) The finding on the hearing shall be made to the Minister for reference to the Governor in Council who shall give thereto such weight as the Governor in Council thinks fit in determining the issue in question.
- (6) If, upon the expiration of the period specified in the Governor in Council's notification of intention given to the local body or approved person or upon the receipt by the Governor in Council of the finding on the hearing conducted at the Governor in Council's direction (whichever event is the later to occur), the Governor in Council decides to effect the intention so notified a regulation may authorise the Coordinator-General to commence and complete or, as the case may be, complete the works or part thereof in respect of which the local body or approved person is in default as agent for that local body or approved person.

105 Borrowing to facilitate remedy of default

For the purpose of remedying a local body's or approved person's default pursuant to the authority conferred by a regulation made under section 104(6) the Coordinator-General may exercise all or any of the powers conferred on the Coordinator-General by the *Statutory Bodies Financial Arrangements Act 1982* with respect to borrowing money.

106 Liability for costs of work to remedy default

- (1) All costs, charges and expenses incurred by the Coordinator-General in or in connection with remedying a local body's or approved person's default pursuant to the authority conferred by a regulation made under section 104(6), including all sums borrowed for that purpose together with interest and charges in respect thereof, shall be paid by the local body or approved person in default and may be recovered from the local body or approved person as prescribed.
- (2) All sums payable by a local body or approved person pursuant to subsection (1) are payable to the Treasurer and shall be paid to the Treasurer at such times and in such instalments as the Treasurer requires by order in writing given to the local body or approved person.
- (3) In addition to any other method prescribed for the recovery of such moneys, there may be filed in the registry of the Supreme Court—
 - (a) a certificate by the Treasurer that the amount of costs, charges or expenses claimed in the Treasurer's order given under subsection (2) as payable by the local body or approved person specified in the certificate is duly payable by the local body or approved person and that the local body or approved person has failed to comply with the order in the amount specified in the certificate; and

- (b) a writing purporting to be a copy of an order of the Treasurer given under subsection (2);

whereupon the certificate so filed shall, in the absence of proof to the contrary, be conclusive evidence of the matters contained therein, and such steps and orders may be taken and made to enforce the order of the Treasurer so filed as if it were a judgment of the Supreme Court, duly entered, given against the local body or approved person to whom the Treasurer's order is directed that orders the local body or approved person to pay to the Treasurer the amount shown in the said certificate as the amount in which the local body or approved person has failed to comply with the Treasurer's order.

107 Power to order postponement of works

- (1) The Coordinator-General may, having regard to the matters specified in section 23, recommend to the Minister that works to be undertaken by any local body or approved person should be postponed.
- (2) If the Minister approves of the recommendation the Minister shall submit the matter to the Governor in Council who may order that the works specified by the Governor in Council shall be postponed for the period specified by the Governor in Council.
- (3) An order made under subsection (2) shall be directed and served on the local body or approved person concerned and shall be given effect to by that local body or approved person and all other persons concerned.

Division 4 Undertaking of works by Coordinator-General

108 Recommendation of particular works

If the Coordinator-General recommends to the Minister that particular works should be undertaken by the Coordinator-General, or by another person on behalf of the

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Coordinator-General, the Minister, if the Minister approves of the recommendation, shall submit the same to the Governor in Council for the Governor in Council's approval.

109 Direction about particular works

Where a recommendation is submitted to the Governor in Council—

- (a) pursuant to section 108; or
- (b) pursuant to section 99 and the Governor in Council is satisfied that the works therein recommended should be undertaken by the Coordinator-General, or by another person on behalf of the Coordinator-General, instead of by the local body or local bodies or approved person recommended;

a regulation may direct the Coordinator-General or other person to undertake the works recommended.

110 Undertaking particular works

- (1) As soon as practicable after a regulation is made under section 109 the Coordinator-General or other person directed under the section shall, subject to and in accordance with the regulation, take and cause to be taken all steps necessary to undertake the works to which the regulation relates.
- (2) Works directed by the regulation to be undertaken by the Coordinator-General or by another person on behalf of the Coordinator-General shall, for the purposes of the *Land Act 1994*, be taken to be community purposes within the meaning of that Act.

111 Delegation of authority of Coordinator-General

- (1) The provisions of section 11 shall be construed subject to this section.
- (2) A power or function conferred or imposed on the Coordinator-General by a regulation under section 109—

- (a) shall not be delegated save with the approval of the Governor in Council first had and obtained in lieu of the approval of the Minister; and
- (b) may be delegated only to a local body or any of the following under the *Public Sector Act 2022*—
 - (i) a chief executive;
 - (ii) a senior executive;
 - (iii) a term appointee whose remuneration is equivalent to, or more than, that of a senior executive.
- (3) An entity to whom such a power or function is delegated shall, in its performance thereof, be subject to and comply with the directions given in relation thereto by the Coordinator-General.
- (4) The Coordinator-General may, at any time, and shall, at the direction of the Governor in Council, revoke a delegation of such a power or function but such revocation shall not affect anything done or anything arising out of anything done under the authority of the delegation prior to its revocation.
- (5) This section does not limit the persons who may, under section 110, undertake works the subject of a regulation under section 109 on behalf of the Coordinator-General.

112 Borrowing of money for works

For the purpose of enabling a local body to undertake works under the authority of a delegation duly given by the Coordinator-General and subsisting, and to borrow money for that purpose, the undertaking of those works shall be deemed to be a function of that local body under the Act under which the local body is appointed or constituted and, in the case of a local body that is a local government, shall be deemed to be a function of local government.

Division 6

Special powers incidental to planned development

125 Power of Coordinator-General to take land

- (1) In addition to the power to take or otherwise acquire land under section 82, the Coordinator-General may take land for any of the following purposes—
 - (a) works that the Coordinator-General is authorised by the Governor in Council to undertake;
 - (b) works included in a program of works or a development scheme approved under this Act by the Governor in Council that the Coordinator-General is not authorised by the Governor in Council to undertake;
 - (c) works undertaken or to be undertaken by a local body or by a department of the Government;
 - (d) a purpose specified in the schedule to the *Acquisition of Land Act 1967* and approved by the Governor in Council as a purpose for which the Coordinator-General may take land;
 - (e) a purpose of rural or urban development recommended by the Coordinator-General and approved by the Governor in Council;
 - (f) a State strategic project declared by regulation under section 143 as a purpose for which land may be taken under this section.
- (2) However, the Coordinator-General may take land for a purpose mentioned in subsection (1)(f) only in compliance with section 142.
- (3) Subsection (1)(f) applies even if the taking of land by the Coordinator-General is for conferring rights or interests in the land taken on a person other than the State or a local body.
- (4) The process stated in the *Acquisition of Land Act 1967* for the taking of land and the payment of compensation for the land taken applies to all land taken under subsection (1) as if the

taking were a taking under that Act by a constructing authority.

- (5) The power to take land under this section for a purpose (the ***primary purpose***) includes power to take at any time land either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.
- (6) As well as land granted in fee simple, the Coordinator-General may take land that is held from the Crown for an estate or interest less than fee simple for any of the purposes stated in subsection (1).
- (7) Land referred to in subsection (6) shall, if vested in the Coordinator-General, an instrumentality representing the Crown, a local body, or other person by the proclamation whereby it is taken, be vested in him, her or it for an estate in fee simple.
- (8) The Governor in Council is hereby authorised to grant in fee simple and so vest the land subject to such reservations and conditions as are authorised or required by the *Land Act 1994*.
- (9) The process stated in the *Acquisition of Land Act 1967* for the taking of land and the payment of compensation for the land taken applies to all land taken under subsection (6) as if the taking were a taking of land under that Act by a constructing authority.
- (10) The *Acquisition of Land Act 1967* shall be read with and subject to all such modifications and adaptations as are necessary to give operation and effect to subsections (4) to (9) including by reading a reference therein to the registrar of titles as a reference to the person or authority charged with registering instruments evidencing the title to the estate or interest in the land in question held from the Crown.
- (11) To remove any doubt, it is declared that the taking of land under this section is not a taking of land under the *Acquisition of Land Act 1967*, even though the process to be used for the taking of the land and for the payment of compensation for the land taken is the process stated in that Act.

125A Power of Coordinator-General to take public utility easement

- (1) The Coordinator-General's power under section 125 to take land for a purpose mentioned in section 125(1), includes the power to create, by registration under any of the following that apply to the land, a public utility easement over the land—
 - (a) the *Land Act 1994*, chapter 6, part 4, division 8;
 - (b) the *Land Title Act 1994*, part 6, division 4.
- (2) For the *Land Act 1994*, section 369 and the *Land Title Act 1994*, section 89, the person for whom the land is to be taken under section 125 is taken to be a public utility provider.
- (3) If the document creating the easement states the following have been complied with to the extent they are relevant for the taking of the easement, the easement may be registered under the Acts without the document having been signed by the owner of the land to be burdened by the easement—
 - (a) section 142;
 - (b) any relevant guidelines made under section 174.
- (4) Subsection (3) applies despite the *Land Act 1994*, section 363(1) or the *Land Title Act 1994*, section 83(1).

127 Relationship with native title legislation

For the taking of land under section 125(6) and the payment of compensation for the land taken—

- (a) the process mentioned in section 125(9) must be carried out in a way that is consistent with the *Native Title (Queensland) Act 1993* and the *Native Title Act 1993* (Cwlth); and
- (b) if the *Native Title (Queensland) Act 1993* or the *Native Title Act 1993* (Cwlth) states a process in relation to the taking or payment that is in addition to the process stated in the *Acquisition of Land Act 1967*, the additional process also applies to the taking or payment; and

- (c) the Land Court is the independent body for the *Native Title Act 1993* (Cwlth), section 24MD(6B).

128 Vesting of land taken

- (1) Land taken by the Coordinator-General under this Act shall, according as the proclamation whereby it is taken or a later proclamation provides, vest in the Crown, the Coordinator-General, an instrumentality representing the Crown, a local body, or any other person whomsoever.
- (2) A regulation may divest any land from the Coordinator-General and vest the same in the Crown, an instrumentality representing the Crown, a local body, or other person whomsoever.
- (3) Land taken by the Coordinator-General and vested in the Crown by the proclamation whereby it is taken shall be and remain Crown land until the same is, according to the works or purposes for which it is taken, dealt with as prescribed.

129 Power to use, lease or dispose of land

The Coordinator-General may, to give effect to a purpose mentioned in section 125, do any or all of the following—

- (a) lease, or agree to lease, to any person land taken, or proposed to be taken, under section 125;
- (b) sign an agreement with any person to carry out, own, operate and maintain any works or development on land taken, or proposed to be taken, under section 125;
- (c) sign an agreement with any person in relation to works or development for land taken, or proposed to be taken, under section 125;
- (d) sell land taken, or agree to sell land to be taken, under section 125.

130 Payment of costs of taking land and compensation

- (1) The Governor in Council may, by the proclamation whereby land is taken by the Coordinator-General under this Act or subsequently, by notification published in the gazette, specify by whom the costs of taking the land and the compensation payable therefor are to be paid and thereupon such costs and compensation shall be payable to the Coordinator-General by the person, instrumentality or local body so specified.
- (2) An amount payable on account of such costs or compensation that is not paid to the Coordinator-General within 3 months after it becomes payable or after the amount of such costs or compensation is established (whichever last occurs) may be recovered by the Coordinator-General in a court of competent jurisdiction as a debt due and payable to the Coordinator-General by the person, instrumentality or local body by whom it is payable.
- (3) In this section—
costs includes operational, administrative and legal costs.

131 Power of Governor in Council to alienate land to Coordinator-General

The power conferred on the Governor in Council by the *Land Act 1994* to grant in fee simple, or demise for a term of years or in perpetuity any Crown land within Queensland includes power to make such a grant or demise to the Coordinator-General of such land pursuant to agreement between the Coordinator-General and the Governor in Council who is hereby there unto authorised.

132 Disposal of land not required for purpose of acquisition

If land taken by the Coordinator-General under this Act and held by the Coordinator-General, or any part of it, is not required for or in connection with the purpose for which it was taken the land not required shall be dealt with in manner directed by the Governor in Council by gazette notice.

133 Proof of requirement of land

A writing purporting to be a certificate of the Coordinator-General that land therein specified and taken or acquired by the Coordinator-General under this Act was, at the time of its taking or acquisition, required by the Coordinator-General or by any person, instrumentality, or local body for a purpose therein specified shall be admissible in any proceeding as conclusive evidence of the matters contained therein.

134 Power of Coordinator-General to negotiate transfer of works undertaken by the Coordinator-General

- (1) When the Coordinator-General is satisfied that works undertaken by the Coordinator-General as authorised works have been completed in accordance with the plans and specifications therefor, or have attained such a stage as to be available for use for the purpose for which they were undertaken the Coordinator-General may, subject to this section, negotiate and enter into agreement—
 - (a) with any person or instrumentality representing the Crown; or
 - (b) with any local body; or
 - (c) with any entity established under an Act;that is authorised or required to undertake works of a similar nature for the acquisition, management, operation and control of the authorised works by such person, instrumentality, or local body (the *transferee*).
- (2) The Minister shall submit to the Governor in Council particulars of an agreement negotiated between the Coordinator-General and the transferee and no such agreement shall be entered into or, being entered into, have any effect until its terms are approved by regulation.
- (3) The transferee is hereby authorised to acquire, manage, operate and control the authorised works pursuant to an agreement relating thereto approved by the Governor in

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Council and the same shall be deemed to be a function of the transferee under the Act under which he, she or it, as the case may be, is appointed or constituted and, where the transferee is a local government, shall be deemed to be a function of local government.

- (4) From time to time the Coordinator-General may certify what land vested in the Crown is included in or required for authorised works to which an agreement made pursuant to this section relates and for the purpose of securing such land to the transferee the Governor in Council is hereby empowered to grant in fee simple or demise on an appropriate leasehold tenure or set apart and reserve the land to which the certificate relates.
- (5) Every such grant or demise shall be made to the transferee without competition but otherwise shall be subject to the *Land Act 1994*.

135 Undertaking private works

- (1) The Government may enter into an agreement with any person that private works agreed on by them shall be undertaken by the Coordinator-General on such terms and conditions as are provided in the agreement.
- (2) A regulation may authorise the Coordinator-General to undertake works agreed by the Government (whether under subsection (1) or otherwise) to be undertaken by the Coordinator-General and the Coordinator-General is hereby empowered to undertake those works as authorised works subject to and in accordance with the regulation and the material agreement.

136 Powers in respect of land for purposes of works

- (1) In connection with the undertaking by the Coordinator-General of authorised works or in connection with any other works undertaken or to be undertaken pursuant to authority conferred under this Act, the Coordinator-General or his or her delegate, an officer or employee of the

Coordinator-General, or any person authorised in writing by the Coordinator-General or his or her delegate may—

- (a) enter upon any land; or
 - (b) on any land, make any inspection, investigation, valuation or survey, or take levels; or
 - (c) dig and bore into any land to ascertain the nature of the soil or substrata thereof, and set out thereon the lines of any works; or
 - (d) affix to or set up on any land trigonometrical stations, survey pegs, marks or poles and, from time to time, inspect, alter, remove, reinstate and repair the same; or
 - (e) occupy any land; or
 - (f) on and from any land occupied by or on behalf of the Coordinator-General—
 - (i) construct or place plant, machinery, equipment or goods; or
 - (ii) erect workshops, sheds and other buildings, including buildings for providing housing and other amenities for officers or employees and their dependants; or
 - (iii) make roads, cuttings and excavations; or
 - (iv) manufacture and work materials of all kinds; or
 - (v) deposit clay, earth, gravel, sand, stone, timber, wood, and other material; or
 - (vi) take clay, earth, gravel, sand, stone, timber, wood, and other material; or
 - (vii) demolish, destroy, and remove plant, machinery, equipment, goods, workshops, sheds, buildings or roads.
- (2) The power to enter land conferred by subsection (1) includes power—
- (a) to enter and re-enter the land from time to time; and

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- (b) to remain upon the land for such time as is necessary to achieve the purpose of the entry; and
 - (c) to take such assistants, vehicles, materials, equipment and things as are necessary to achieve the purpose of the entry.
- (3) Where practicable, not less than 7 days notice in writing shall be given to the occupier or, if there is no occupier, the owner of land of the intention to enter thereon.
- (4) Where entry to land is sought to be or has been made pursuant to authority in writing of the Coordinator-General or his or her delegate, the authority shall be produced and shown to the owner or occupier of the land upon his or her demand.

137 Offences of interference and wilful obstruction

A person shall not—

- (a) destroy, mutilate, deface, remove, or alter the position of any trigonometrical station, survey peg, mark, or pole affixed to or set up on land pursuant to this Act save under the authority of the Coordinator-General or his or her delegate; or
- (b) wilfully obstruct, or attempt to obstruct any person in the exercise by the person of a power conferred on the person by section 136.

138 Powers in respect of water for purposes of works

- (1) The Coordinator-General or his or her delegate expressly authorised in that behalf may—
 - (a) raise or lower the level of the water in any body of water; or
 - (b) take, impound, divert or use, either permanently or temporarily the water in any body of water;to the extent to which the Coordinator-General or, as the case may be, his or her delegate thinks it necessary for the purpose of or in connection with undertaking—

- (c) authorised works for or connected with the supply of water; or
 - (d) works authorised under this Act to be undertaken for or connected with the supply of water.
- (2) If a moratorium notice has been published under the *Water Act 2000*, the power of the Coordinator-General under subsection (1) does not apply to—
- (a) water to which the notice applies; or
 - (b) if the notice is amended—water to which the amended notice applies.
- (3) If a water plan has been approved, or is taken to have been approved, under the *Water Act 2000*, the power of the Coordinator-General under subsection (1) does not apply to—
- (a) water to be supplied to water entitlement holders, or persons authorised to take water under the *Water Act 2000*, section 20, in the plan area at the time the power is exercised; and
 - (b) water required to meet environmental flow objectives and water allocation security objectives under the plan.
- (4) However, if the Coordinator-General acts under subsection (1)—
- (a) the Coordinator-General must consider the economic and social benefits of the proposed works and any industry to be supplied with the water, and any 1 or more of the following—
 - (i) the need for sustainable management and efficient use of water under the *Water Act 2000*, section 10;
 - (ii) the principles of ecologically sustainable development under the *Water Act 2000*, section 11;
 - (iii) relevant water planning information;
 - (iv) the needs of water entitlement holders under the *Water Act 2000*;

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- (v) the volume of water to be supplied under subsection (1); and
- (b) the Coordinator-General must—
 - (i) prepare a statement giving reasons why the power is exercised; and
 - (ii) publish a copy of the statement in the gazette; and
- (c) the Minister must table the statement in the Legislative Assembly within 3 sitting days after the notice is published in the gazette.

139 Compensation for exercise of power under ss 136 and 138

- (1) A person who claims to have suffered damage resulting from an exercise of power under section 136 or 138 may apply for and be awarded compensation as provided for in this section.
- (2) Every application for compensation on account of such damage shall be made and dealt with in the manner prescribed by the *Acquisition of Land Act 1967* in relation to applications for compensation made under that Act and the entitlement to such compensation (including right of appeal in respect thereof) and the assessment of such compensation shall be as prescribed by that Act in so far as the provisions of that Act are appropriate to a claim for compensation made on account of such damage and subject always to the provisions of this section.
- (3) Compensation that may be payable on a claim made on account of damage resulting from an exercise of power under section 136 may include compensation in respect of—
 - (a) damage of a temporary nature as well as of a permanent nature; or
 - (b) the taking of clay, earth, gravel, sand, timber, wood, and other material;

but shall not in any case exceed the amount that would have been payable under the *Acquisition of Land Act 1967* had the land in question been taken by the Coordinator-General.

- (4) The assessment of compensation that may be payable on a claim made on account of damage resulting from an exercise of power under section 138 is subject to the following conditions—
- (a) compensation is not payable for the taking, impounding, diversion or use, permanently or temporarily, of water from any body of water;
 - (b) compensation is not payable on account of a diminution or deterioration in a supply of water to any person unless it—
 - (i) deprives the person of a supply of water theretofore enjoyed by the person lawfully; and
 - (ii) is the direct result of the works for or in connection with which the power was exercised; and
 - (iii) will be permanent in its duration;
 - (c) where the damage appears to be of a permanent or recurrent nature—an amount of compensation may be agreed on or awarded on account of damage sustained up to the date of the application for compensation and to be sustained thereafter in full satisfaction of the claim and in such case no further compensation shall be payable on account of future such damage.
- (5) Where at the time when an application is made for compensation on account of damage resulting from an exercise of power under section 136 or 138 the works for or in connection with which the power is exercised are not completed a member of the Land Court may, on the application of the Coordinator-General, order that the matter of the application for compensation be deferred until the works are completed or for a time limited in the order and thereupon no further proceeding shall be had on the application for compensation (save an application hereinafter in this subsection referred to) until the completion of the

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works or, as the case may be, the expiration of the time so limited unless a member of the Land Court on the application of the applicant for compensation otherwise orders.

140 Powers in respect of particular works on foreshore and under waters

- (1) A regulation may authorise the Coordinator-General to undertake works in, on, over, through or across any foreshore or land lying under Queensland waters and may—
 - (a) authorise the Coordinator-General to take from the foreshore or from such land sand, stone, gravel and other material and to use the same for the works specified in the regulation; and
 - (b) direct that the taking and use of the sand, stone, gravel and other material for the works is accepted development under the Planning Act.
- (2) The Coordinator-General may exercise an authority conferred on the Coordinator-General pursuant to subsection (1) in accordance with the regulation and subject to this section.
- (3) For the *Coastal Protection and Management Act 1995*, section 101, an authorisation under this section to take sand, stone, gravel and other material is taken to be an allocation notice under the Act for the removal of the sand, stone, gravel and other material.

Division 7 Provisions about taking land for State strategic projects

Subdivision 1 General matters

141 Purpose of division

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

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

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

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

143 Regulation may declare project as purpose for taking land

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

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

Subdivision 2 Coordinator-General's endorsement

144 Application for endorsement

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

- (e) be accompanied by the fee prescribed by regulation, less any amount waived by the Coordinator-General under subsection (3).
- (3) The Coordinator-General may, but need not, waive all or part of the fee mentioned in subsection (2)(e) by written notice given to the proponent.

145 Additional information and consultation about application for endorsement

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

146 Deciding application for endorsement

- (1) This section applies if the proponent of a State strategic project makes an application under section 144.
- (2) The Coordinator-General must—

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

Subdivision 3 Amendment or repeal of declaration

147 Amendment of declaration

- (1) The Minister may recommend to the Governor in Council that a declaration under section 143 for a State strategic project be amended—
 - (a) on the Minister's own initiative; or
 - (b) on request by the Coordinator-General.

- (2) The Coordinator-General may ask the Minister to recommend to the Governor in Council that a declaration under section 143 for a State strategic project be amended—
- (a) on the Coordinator-General's own initiative; or
 - (b) on written application by the proponent of the project under section 148.
- (3) A recommendation under subsection (1), or a request under subsection (2), may be made for a State strategic project only if—
- (a) the amendment—
 - (i) is a minor amendment; or
 - (ii) has been requested, or agreed to, by the proponent of the project; and
 - (b) the entity making the recommendation or request is satisfied—
 - (i) of the matters mentioned in section 146(3) in relation to the project and the land to be identified in the declaration as amended; and
 - (ii) the proponent of the project has complied with subdivision 4 for any new land to be identified in the declaration.

Note—

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

- (4) In this section—

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

Examples of minor amendments—

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

148 Application by proponent for amendment of declaration

- (1) The proponent of a State strategic project may apply to the Coordinator-General for an amendment of a declaration under section 143 for the project.
- (2) The application must—
 - (a) be written; and
 - (b) include enough information about the amendment to allow the Coordinator-General to assess the matters mentioned in section 147(3)(b)(i); and
 - (c) include evidence that the proponent has given written notice of the application to—
 - (i) the registered owner of land identified in the declaration; and
 - (ii) the registered owner of any new land to be identified in the declaration as amended; and
 - (d) be accompanied by the fee prescribed by regulation, less any amount waived by the Coordinator-General under subsection (3).
- (3) The Coordinator-General may, but need not, waive all or part of the fee mentioned in subsection (2)(d) by written notice given to the proponent.
- (4) In deciding whether to waive all or part of the fee mentioned in subsection (2)(d), the Coordinator-General must have regard to the nature of the amendment being sought.
- (5) The Coordinator-General may require the proponent to give the Coordinator-General additional information relevant to the application within a reasonable period of at least 28 days.
- (6) If the proponent fails to comply with a requirement under subsection (5) without a reasonable excuse, the Coordinator-General may decide the application without the information.
- (7) The Coordinator-General must—

- (a) decide whether to make a request under section 147(2) for the amendment requested by the applicant, or refuse the application; and
- (b) give the proponent a written notice stating the decision and, if the decision is to refuse the application, the reasons for the refusal.

Note—

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

149 Notice of proposed amendment to identify new land in declaration

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

150 Repeal of declaration

- (1) The Minister may recommend to the Governor in Council that a declaration under section 143 for a State strategic project be repealed—
 - (a) on the Minister's own initiative; or
 - (b) on request by the Coordinator-General.
- (2) A recommendation under subsection (1), or a request under subsection (1)(b), may be made for a State strategic project only if—

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- (a) the entity making the recommendation or request is not satisfied, or is no longer satisfied, of 1 or more matters mentioned in section 146(3) in relation to the project; or
- (b) the declaration is being replaced by another declaration for the project; or
- (c) the project is no longer a State strategic project.

Note—

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

151 Consultation requirement for amendment or repeal of declaration

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

Subdivision 4 Final negotiations with owner of land

152 Requirement for final negotiation with owner of land

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

[s 153]

required information means—

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

153 Final unconditional offer

- (1) The final unconditional offer for the purchase of land by the proponent of a State strategic project under section 152(2)(a) must—
 - (a) be written; and
 - (b) offer to purchase the land subject only to any statutory requirements that apply to the purchase of the land; and
 - (c) state the amount the proponent is offering to pay for the land; and
 - (d) for an offer relating to an easement for the land—include the terms of the easement; and
 - (e) include an offer to pay any reasonable costs incurred by the registered owner of the land in seeking a land valuation or legal advice about the offer; and
 - (f) state the period (the ***offer period***) for which the offer has effect.
- (2) The offer period must be at least 10 business days after the day the final unconditional offer is given to the registered owner of the land.

Subdivision 5 Miscellaneous

153AA Recovering cost of advice or services

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

Examples of advice or services for subsection (1)—

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

Division 8 Easements for State strategic projects

153A Definitions for division

In this division—

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

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

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

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

relevant public utility easement means an easement registered as a public utility easement under the *Land Act 1994*, chapter 6, part 4, division 8, or the *Land Title Act 1994*,

[s 153B]

part 6, division 4, or that would have been registered as a public utility easement under those provisions if it had been registered after the provisions commenced.

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

153B Registration of strategic infrastructure easement

- (1) This section applies to land that—
 - (a) is the subject of a State strategic project; and
 - (b) is burdened by a relevant public utility easement.
- (2) However, this section applies to land used or to be used for a purpose other than to provide a public utility service only if the Governor in Council has approved an instrument of easement for the land to be registered under this section.
- (3) On receiving an instrument of easement for the land, the registrar must record the particulars of the easement in the appropriate register if—
 - (a) the instrument—
 - (i) relates only to the land affected by the relevant public utility easement; and
 - (ii) is signed by the Minister; and
 - (b) the easement is in favour of the Coordinator-General.
- (4) Despite the *Land Act 1994*, section 363 or the *Land Title Act 1994*, section 83, the easement may be registered under the Acts—
 - (a) without the instrument being signed by a person other than the Minister; and
 - (b) for an easement under the *Land Act 1994*—without the approval of the Minister under that Act.
- (5) The easement is taken to be a public utility easement under the *Land Act 1994*, chapter 6, part 4, division 8, or the *Land Title Act 1994*, part 6, division 4.

Note—

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

153C Terms of easement

A strategic infrastructure easement may include the following terms—

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

153D Effect of registration of easement

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

Note—

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

153E Transfer of easement

- (1) With the Minister's approval, a strategic infrastructure easement may be transferred to—
 - (a) for a strategic infrastructure easement for land other than land mentioned in section 153B(2)—
 - (i) another public utility provider; or
 - (ii) a person approved by the Minister as suitable to provide a public utility service in relation to the strategic infrastructure easement; or
 - (b) for a strategic infrastructure easement for land mentioned in section 153B(2)—a person, other than a public utility provider, approved by the Governor in Council as suitable to provide infrastructure in relation to the strategic infrastructure easement.
- (2) On receiving an instrument evidencing the transfer, the registrar must record the transfer in the appropriate register.
- (3) The transfer may be recorded in the appropriate register—
 - (a) without the approval of a person other than the Minister; and
 - (b) if the appropriate register is a register under the *Land Act 1994*—without the approval of the Minister under that Act.
- (4) A person approved by the Minister under subsection (1)(a)(ii) is taken to be a public utility provider for the purposes of the strategic infrastructure easement.
- (5) In this section—

public utility provider means a public utility provider under—

 - (a) the *Land Act 1994*, chapter 6, part 4, division 8; or
 - (b) the *Land Title Act 1994*, part 6, division 4.

153EA Effect of transfer of particular easements

- (1) This section applies if a strategic infrastructure easement for land mentioned in section 153B(2) is transferred to another person under section 153E(1)(b).
- (2) Despite section 153B(5)—
 - (a) the strategic infrastructure easement is taken to be a public utility easement only for the following provisions—
 - (i) for land to which the *Land Act 1994* applies—sections 362(3), 366(2), 369(1) and 372 of that Act;
 - (ii) for land to which the *Land Title Act 1994* applies—sections 85(3), 85B(2), section 89(1) of that Act; and
 - (b) the easement holder is taken to be a public utility provider only for applying the provisions mentioned in paragraph (a) to the strategic infrastructure easement.
- (3) Also—
 - (a) section 153D(2) does not apply, or stops applying, in relation to the strategic infrastructure easement; and
 - (b) the easement holder of the strategic infrastructure easement can not, without the consent of the grantee of the relevant public utility easement, exercise any rights in relation to the strategic infrastructure easement to the extent the exercise of the rights would interfere with the exercise of rights under the relevant public utility easement.

153F Amendment of easement

- (1) A strategic infrastructure easement may, with the Minister's written approval, be amended under, as appropriate—
 - (a) the *Land Act 1994*, section 370; or
 - (b) the *Land Title Act 1994*, section 91.

[s 153G]

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

153G Minister to give notice of registration or amendment

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

153H Application of particular provisions

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

153I Compensation

- (1) Subsection (2) applies to a person who has an interest in land burdened by a strategic infrastructure easement—
 - (a) when it is registered under section 153B; or
 - (b) when its terms are amended under section 153F.

- (2) The person has a right to claim compensation under the *Acquisition of Land Act 1967* in relation to the extent to which the person's interest is affected by the registration or amendment.
- (3) For claiming the compensation, the process stated in the *Acquisition of Land Act 1967* for the payment of compensation for land taken under that Act applies with any necessary changes as if the registration or amendment were a taking of land under that Act by the State.
- (4) Other than as stated in this section, a person has no right to compensation for the registration or amendment of a strategic infrastructure easement under this division.

153IA Surrender of particular easements

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

153J Delegation of Minister's functions under div 8

- (1) The Minister may delegate the Minister's functions under this division to an appropriately qualified public service officer or an appropriately qualified person employed under this Act.
- (2) In this section—
appropriately qualified, in relation to a delegated function, includes having the qualifications, experience or standing to perform the function.

[s 153K]

Example of standing—

a person's classification level in the public service

functions includes powers.

Part 6A Access authorities

Division 1 Preliminary

153K Purpose of part

The purpose of this part is—

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

153L Definitions for part

In this part—

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

- (a) if the holder is a corporation—the chief executive, secretary or a director of the corporation; or
- (b) an employee of the holder; or
- (c) a partner of the holder who is an individual; or
- (d) an agent of, or contractor for, the holder who is engaged in writing for the access authority; or

- (e) if a person mentioned in paragraph (d) is a corporation—the chief executive, secretary or a director of the corporation; or
- (f) an employee of a person mentioned in paragraph (d);
- (g) a partner of a person mentioned in paragraph (d) who is an individual.

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

owner, of land, includes—

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

Division 2 Grant of access authority

153M Application for authority

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

Note—

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

- (2) The application must—
 - (a) be written; and
 - (b) state the following information—
 - (i) the project for which the access authority is sought;
 - (ii) the land for which the access authority is sought;
 - (iii) whether the access authority is sought—
 - (A) under section 76HA for the purpose of investigating the land's suitability for, or potential impact on, the development of the project; or

[s 153N]

- (B) under section 76HB for the purpose of carrying out enabling works for the project on the land;
 - (iv) details of the activities proposed to be carried out on the land under the access authority;
 - (v) the period for which the access authority is sought; and
 - (c) be accompanied by the fee prescribed by regulation, less any amount waived by the Coordinator-General under subsection (4).
- (3) The applicant must give the Coordinator-General the following in support of the application—
- (a) details of the project;
 - (b) details of the applicant's financial and technical capability to undertake the project;
 - (c) details of the steps the applicant has taken, or tried to take, to negotiate carrying out activities on the land with the owner of the land;
 - (d) details of why, in the applicant's opinion, the access authority should be granted;
 - (e) any other information that may be necessary to decide the application.
- (4) The Coordinator-General may, but need not, waive all or part of the fee mentioned in subsection (2)(c) by written notice given to the applicant.

153N Additional information about application for authority

- (1) If an application for an access authority for land is made under section 153M, the Coordinator-General must—
- (a) advise the owner of the land—
 - (i) that an application for an access authority has been made for the land; and
 - (ii) whether the access authority is sought—

- (A) under section 76HA for the purpose of investigating the land's suitability for, or potential impact on, the development of the project; or
- (B) under section 76HB for the purpose of carrying out enabling works for the project on the land; and
- (iii) the activities that may be carried out on the land under the access authority if the authority is granted; and
- (b) invite the owner of the land to make submissions about the activities proposed to be carried out on the land under the authority; and
- (c) make reasonable efforts to consult the owner about the activities proposed to be carried out on the land under the authority.
- (2) Before deciding the application, the Coordinator-General may require the applicant to give the Coordinator-General additional information relevant to the application within a reasonable period of at least 28 days.
- (3) If the applicant fails to comply with a requirement under subsection (2) without a reasonable excuse, the Coordinator-General may refuse the application.

1530 Deciding application for authority

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

[s 153P]

lodge a bond or security deposit with the Coordinator-General.

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

- (1) The Coordinator-General may grant an access authority that authorises the holder of the authority, or an associated person of the holder, to the extent reasonably necessary for the purpose for which the authority is granted, to—
 - (a) do a stated thing on land entered under the authority; or
 - (b) bring a stated thing onto land entered under the authority; or
 - (c) temporarily leave machinery, equipment or another item on land entered under the authority.
- (2) For subsection (1)—
 - (a) the activities that may be authorised for an access authority granted on an application under section 76HA include, for example—
 - (i) conducting surveys, investigating land or taking samples from land; and
 - (ii) clearing vegetation or otherwise disturbing land; and
 - (iii) constructing temporary access tracks using land or materials brought onto land; and
 - (b) the activities that may be authorised for an access authority granted on an application under section 76HB include, for example—
 - (i) constructing or placing plant, machinery, equipment or goods; and
 - (ii) erecting workshops, sheds or other buildings, including buildings for providing housing and other amenities for employees and their dependants; and

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

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

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

- (a) it is necessary to carry out the works on the land to enable the project to be undertaken; and
- (b) having regard to the minor and temporary nature of the works, it would be appropriate for the works to be carried out under an access authority; and
- (c) despite making reasonable efforts, the proponent of the project has not been able to negotiate the carrying out of the works with the owner of the land; and
- (d) the works will not interfere with the owner's use of the land to an unreasonable extent.

153R Form of authority

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

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

Division 3 Exercise of powers under access authority

153S Entry to land and other activities authorised under authority

- (1) The holder of an access authority, or an associated person of the holder, may—
 - (a) enter and re-enter the land to which the authority applies for the purpose for which the authority is granted; and
 - (b) carry out an activity authorised under the authority to the extent reasonably necessary for the purpose for which the authority is granted.
- (2) However, the holder or associated person is authorised to enter land or carry out an activity mentioned in subsection (1)(b) under the authority only if section 153T has been complied with.
- (3) Also, if an activity mentioned in subsection (1)(b) is an activity for which an approval is required under an Act, the holder or associated person is authorised to carry out the activity under the authority only if the holder or associated person—

- (a) is authorised to carry out the activity under a relevant approval under that Act; and
 - (b) carries out the activity in accordance with the relevant approval and any other requirements under that Act.
- (4) In this section—

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

153T Procedure for entering land under authority

- (1) Before land is entered for the first time under an access authority, the holder of the authority must give the owner of the land—
 - (a) a written notice complying with subsection (2); and
 - (b) a copy of the authority.
- (2) The notice must state the following—
 - (a) the holder has been granted the access authority;
 - (b) the activities the holder, or an associated person of the holder, is authorised to carry out on the land under the access authority;
 - (c) a general outline of the activities intended to be carried out on the land under the access authority;
 - (d) the approximate period for which the holder, or an associated person of the holder, will be carrying out activities on the land under the access authority;
 - (e) the rights of the owner under section 153X or 153Y for the rectification of, or compensation for, any damage or loss caused by activities carried out, or purportedly carried out, under the access authority.
- (3) The holder, or an associated person of the holder, may enter land under the access authority only if—
 - (a) the owner of the land gives written consent to the entry; or

[s 153U]

- (b) at least 7 days have passed since the holder complied with subsection (1).

153U Compliance with conditions of authority

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

Maximum penalty—200 penalty units.

153V Identification for associated person

- (1) Before the holder of an access authority allows an associated person of the holder to act under the authority, the holder must issue the associated person written identification complying with subsection (2).

Maximum penalty—10 penalty units.

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

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

153W Production of authority or identification

- (1) This section applies if—
 - (a) the holder of an access authority, or an associated person of the holder, has entered, is entering, or is about to enter, land under the authority; and
 - (b) a person who claims to be, or appears to be, the owner of the land (a *relevant person*) asks the holder or associated person—
 - (i) for identification; or
 - (ii) about the holder's or associated person's authority to enter the land.
- (2) The holder or associated person must immediately—
 - (a) state the holder's or associated person's name; and
 - (b) show the relevant person the relevant document.

Maximum penalty—10 penalty units.

- (3) In this section—

relevant document means—

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

Division 4 Other provisions

153X Rectification of damage by holder of authority

- (1) The owner of land may, by written notice given to the holder of an access authority, require the holder to rectify damage or

[s 153Y]

loss caused by activities carried out, or purportedly carried out, under the authority.

- (2) A notice under subsection (1) must be given—
 - (a) before, or within 3 months after, the access authority expires; or
 - (b) at a later time allowed by the Land Court.

153Y Compensation payable by holder of authority

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

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

153Z Release of bond or security deposit

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

[s 153ZA]

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

- (5) In this section—

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

notice of damage means a notice under section 153X.

153ZA Pretending to be holder of authority or associated person

A person must not pretend to be—

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

Maximum penalty—80 penalty units.

153ZB Recovering cost of advice or services

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

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

Examples of advice or services for paragraph (a)—

- legal advice about native title or the application of other laws to things that may be done under the access authority
- expert advice about a matter mentioned in section 153M(3)(b) or (c)

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

Example of advice or services for paragraph (b)—

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

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

Part 7 Finance provisions

154 Expenses of works

- (1) When works are undertaken by the Coordinator-General—
- (a) for the benefit of a local body or a department of the Government; or
 - (b) for the benefit of a particular person; or
 - (c) upon the default of or on behalf of a local body;
- a regulation may direct the local body or department or person concerned to pay to the Treasurer, at such time or times and on such terms and conditions as specified in the regulation the whole or a proportion, specified in the regulation, of the costs and expenses incurred by or on behalf of the Coordinator-General in connection with the works.
- (2) Where there is more than 1 local body or person concerned the regulation may apportion the costs and expenses between or among them and may require payment of each local body or person accordingly.
- (3) Moneys required pursuant to this section to be paid and unpaid as required may be recovered by the Treasurer—
- (a) by action in any court of competent jurisdiction as a debt due and payable to the Treasurer; or
 - (b) under the *Statutory Bodies Financial Arrangements Act 1982*, sections 24 to 28, as if a reference in the sections to—
 - (i) the recovery amounts were a reference to moneys to be paid and unpaid under this section; and
 - (ii) a statutory body were a reference to a local body.

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155 Expenditure generally on work by Coordinator-General

Where for work of a certain nature, an Act provides for expenditure from any fund or Parliament has appropriated money, moneys may be expended in respect of work of that nature undertaken by the Coordinator-General or the Coordinator-General's delegate.

156 Subsidies or Treasury loans for works

The Treasurer may, with the approval of the Governor in Council and subject to all necessary appropriations by Parliament, expend moneys in respect of works referred to in section 154(1), whether by way of grant of subsidy or of Treasury loan, as if such works were being undertaken by a local government.

157 The Coordinator-General is a statutory body

- (1) The Coordinator-General is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the Coordinator-General's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

Part 7A Enforcement and general offences

Division 1AA Preliminary

157A What is an *enforceable condition*

- (1) An *enforceable condition* is any of the following—
 - (a) a condition mentioned in section 34D(3)(b) or (d), 34L(3)(b) or (d) or 35I(2);

- (b) a requirement recommended under section 35I(2)(b) or 43 that has been included in a designation under the Planning Act, chapter 2, part 5;
 - (c) a stated condition recommended under section 35I(2)(b) or section 52 that has become part of an approval under another Act mentioned in part 4, division 7 (a **relevant approval**);
 - (d) a condition imposed under section 76O;
 - (e) a condition of an environmental approval under part 4A;
 - (f) a condition stated in a modification order;
 - (g) a condition of an SDA approval;
 - (h) a requirement for carrying out SDA self-assessable development—
 - (i) stated in an approved development scheme; or
 - (ii) if the development is SDA-related development declared under section 85D(1)—decided by the Coordinator-General under section 85D(4).
- (2) To remove any doubt, it is declared that a condition or requirement mentioned in subsection (1) continues to be an enforceable condition even though—
- (a) it has become part of a relevant approval; or
 - (b) it has been amended under this Act; or
 - (c) the enforceable condition, as a part of a relevant approval, has been amended under another Act.

157AA Other definitions for part

In this part—

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

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

- (a) the decision; and

- (b) the reasons for the decision.

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

identification documents, for an authorised officer, means both of the following documents—

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

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

occupier, of a place, includes the following—

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

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

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

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

place includes the following—

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

public place means a place or part of a place—

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

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

a beach, a park, a road

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

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

a saleyard, a showground

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

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

Division 1AB Authorised officers

157AB Appointment

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

157AC When appointment ends

- (1) The appointment of a person as an authorised officer ends if—
 - (a) the term of office stated in a condition of office ends; or

[s 157AD]

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

157AD Identity card

- (1) The Coordinator-General must ensure each person appointed as an authorised officer has a card (an *identity card*) that—
 - (a) states the person's name and no other personal information about the person; and
 - (b) contains a recent photo of the person; and
 - (c) contains a copy of the person's signature; and
 - (d) states an expiry date for the card.
- (2) The identity card may be the card issued to the person for the person's employment or appointment with a public sector entity.
- (3) Subsection (4) applies if the Coordinator-General issues a person an identity card for the purposes of subsection (1) and the person's office as an authorised officer ends.
- (4) The person must return the identity card to the Coordinator-General within 21 days after the office ends, unless the person has a reasonable excuse.
Maximum penalty—10 penalty units.
- (5) In this section—
personal information see the *Information Privacy Act 2009*, section 12.

157AE Production of identification documents

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

Division 1AC Entry of places by authorised officers

Subdivision 1 Preliminary

157AF General power to enter

- (1) An authorised officer may enter a place if—
 - (a) an occupier at the place consents under subdivision 2 to the entry and section 157AG has been complied with for the occupier; or
 - (b) the place is a public place and the entry is made when the place is open to the public; or

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

Subdivision 2 Entry with consent

157AG Procedure for obtaining consent

- (1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer entering the place under section 157AF(1)(a).
- (2) For the purpose of asking the occupier for the consent, the authorised officer may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

- (b) enter a part of the place that the officer considers the public may enter if wanting to speak to the occupier.
- (3) Before asking for the consent, the authorised officer must—
 - (a) explain to the occupier the purpose of the entry, including the powers intended to be exercised; and
 - (b) tell the occupier that—
 - (i) the occupier is not required to consent; and
 - (ii) the consent may be given subject to conditions and may be withdrawn at any time.

157AH Consent acknowledgement

- (1) If the occupier of a place gives an authorised officer consent to the entry of the place, the officer may ask the occupier to sign an acknowledgement of the consent.
- (2) The acknowledgement must state—
 - (a) the purpose of the entry, including the powers intended to be exercised; and
 - (b) that the occupier has been given an explanation about the purpose of the entry, including the powers intended to be exercised; and
 - (c) that the occupier has been told—
 - (i) that the occupier is not required to consent; and
 - (ii) that the consent may be given subject to conditions and may be withdrawn at any time; and
 - (d) that the occupier gives the authorised officer consent to enter the place and exercise the powers; and
 - (e) any conditions of the consent; and
 - (f) the time and day the consent was given.
- (3) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy of the acknowledgement to the occupier.

- (4) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) a signed acknowledgement complying with subsection (2) for the entry is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

Subdivision 3 Entry under warrant

157AI Application for warrant

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

Example—

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

157AJ Issue of warrant

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting that a particular thing or activity that may provide evidence of an offence against this Act is, or will be, at the place within the next 7 days.
- (2) The warrant must state—
 - (a) the place to which the warrant applies; and

- (b) that a stated authorised officer may with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry to the place; and
 - (ii) exercise the officer's powers under this part; and
- (c) particulars of the offence that the magistrate considers appropriate; and
- (d) the name of the person suspected of having committed the offence unless the name is unknown or the magistrate considers it inappropriate to state the name; and
- (e) the evidence that may be seized under the warrant; and
- (f) the hours of the day or night when the place may be entered; and
- (g) the magistrate's name; and
- (h) the day and time of the warrant's issue; and
- (i) the day, within 14 days after the warrant's issue, the warrant ends.

157AK Electronic application

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

157AL Additional procedure if electronic application

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

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

157AM Defect in relation to a warrant

- (1) A warrant is not invalidated by a defect in the warrant or compliance with this subdivision, unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—
warrant includes a duplicate warrant under section 157AL(3).

157AN Procedure for entry under warrant

- (1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this subdivision.
- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
 - (a) identify themselves to a person who is an occupier of the place and is present by producing the officer's identification documents;

[s 157AO]

- (b) give the person a copy of the warrant;
 - (c) tell the person the officer is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the officer reasonably believes that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.
- (4) In this section—
warrant includes a duplicate warrant under section 157AL(3).

Division 1AD Powers after entering place

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

157AO Application of subdivision

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

157AP General powers

- (1) The authorised officer may do any of the following—
 - (a) search any part of the place;
 - (b) inspect, examine or film any part of the place or anything at the place;
 - (c) take for examination a thing, or a sample of or from a thing, at the place;

- (d) place an identifying mark in or on anything at the place;
 - (e) take an extract from, or copy, a document at the place, or take the document to another place to copy;
 - (f) reproduce sounds, images or writing from an electronic document at the place or, to the extent that is not practicable, take either or both of the following to another place to reproduce sounds, images or writing from an electronic document—
 - (i) a thing that is or contains an electronic document;
 - (ii) a thing that can be used to reproduce sounds, images or writing from an electronic document;
 - (g) take to, into or onto the place and use any person, equipment and materials the officer requires for exercising the officer's powers under this part;
 - (h) remain at the place for the time necessary to achieve the purpose of the entry.
- (2) The authorised officer may do anything necessary to exercise a power under subsection (1).
- (3) If the authorised officer takes a document from the place to copy it, the officer must copy the document and return it to the place as soon as practicable.
- (4) If the authorised officer takes a thing from the place to reproduce sounds, images or writing from an electronic document, the officer must reproduce the sounds, images or writing from the document and return the thing to the place as soon as practicable.
- (5) In this section—
- film* includes photograph, videotape and record an image in another way.
- inspect*, a thing, includes open the thing and examine its contents.

157AQ Requiring reasonable help

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

Maximum penalty—50 penalty units.
- (4) It is a reasonable excuse for an individual not to comply with the requirement if complying might tend to incriminate the individual or expose the individual to a penalty.

Subdivision 2 Power to seize

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

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

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

- (1) This section applies if—

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

157AT Seizure of property subject to security

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

157AU Securing seized thing

- (1) After seizing a thing under this subdivision, an authorised officer may—
 - (a) move the thing from the place (the *place of seizure*) where the thing was seized; or
 - (b) leave the thing at the place of seizure and take reasonable action to restrict access to the thing.
- (2) For subsection (1)(b), the authorised officer may, for example—
 - (a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or
 - (b) for equipment—make the thing inoperable; or
Examples of making equipment inoperable—
dismantling the equipment or removing a component without which the equipment can not be used
 - (c) require a person who the officer reasonably believes is in control of the place or thing to do—
 - (i) an act stated in paragraph (a) or (b); or
 - (ii) anything else an authorised officer could do under subsection (1)(b).
- (3) The person must comply with a requirement made of the person under subsection (2)(c), unless the person has a reasonable excuse.
Maximum penalty—100 penalty units.
- (4) If an authorised officer restricts access to a seized thing, a person must not tamper with the thing, or with anything used to restrict access to the thing, without—
 - (a) an authorised officer's approval; or
 - (b) a reasonable excuse.Maximum penalty—100 penalty units.

- (5) If an authorised officer restricts access to a place, a person must not enter the place in contravention of the restriction, or tamper with anything used to restrict access to the place, without—

- (a) an authorised officer's approval; or
- (b) a reasonable excuse.

Maximum penalty—100 penalty units.

Subdivision 3 Safeguards for seized things

157AV Receipt and decision notice for seized thing

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

[s 157AW]

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

157AW Access to seized thing

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

157AX Returning seized thing

- (1) This section applies if a seized thing is not—
 - (a) forfeited or transferred under division 1AE; or
 - (b) subject to a disposal order under division 1AE.
- (2) As soon as the Coordinator-General stops being satisfied there are reasonable grounds for keeping the thing, the Coordinator-General must return the thing to its owner.
- (3) If the thing is not returned to its owner within 3 months after the thing was seized, the owner may apply to the Coordinator-General for its return.
- (4) Within 30 days after receiving the application, the Coordinator-General must—

- (a) if the Coordinator-General is satisfied there are reasonable grounds for keeping the thing and decides to keep the thing—give the owner a decision notice about the decision to keep the thing; or
 - (b) otherwise—return the thing to the owner.
- (5) For this section, there are reasonable grounds for keeping a seized thing if—
- (a) the thing is being, or is likely to be, examined; or
 - (b) the thing is needed, or may be needed, for—
 - (i) a proceeding for an offence against this Act that is likely to be started or that has been started but not completed; or
 - (ii) an appeal from a decision in a proceeding for an offence against this Act; or
 - (c) it is not lawful for the owner to possess the thing.
- (6) Subsection (5) does not limit the grounds that may be reasonable grounds for keeping the thing.
- (7) Nothing in this section affects a lien or other security over the seized thing.

Division 1AE Forfeiture and disposal

157AY Forfeiture of seized thing by Coordinator-General decision

- (1) The Coordinator-General may decide a seized thing is forfeited to the State if an authorised officer—
- (a) after making reasonable inquiries, can not find an owner; or
 - (b) after making reasonable efforts, can not return the thing to an owner; or

- (c) reasonably believes it is necessary to keep the thing to prevent the thing being used to commit the offence for which the thing was seized.
- (2) However, the authorised officer is not required to—
 - (a) make inquiries if it would be unreasonable to make inquiries to find an owner; or
 - (b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.

Example for paragraph (b)—

the owner of the thing has migrated to another country

- (3) Regard must be had to the thing's condition, nature and value in deciding—
 - (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.
- (4) If the Coordinator-General decides under subsection (1) that a thing is forfeited, the Coordinator-General must as soon as practicable give the person who owned the thing immediately before the forfeiture (the **former owner**) a decision notice about the decision.
- (5) If the decision was made under subsection (1)(a) or (b), the decision notice may be given by leaving the notice at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.
- (6) However, subsections (4) and (5) do not apply if—
 - (a) the decision was made under subsection (1)(a) or (b); and
 - (b) the place where the thing was seized is—
 - (i) a public place; or
 - (ii) a place where the notice is unlikely to be read by the former owner.

157AZ Dealing with things forfeited or transferred to State

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

157AZA Disposal order

- (1) This section applies if a person is convicted of an offence against this Act by a court.
- (2) The court may make an order (a *disposal order*), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—
 - (a) anything that was the subject of, or used to commit, the offence;
 - (b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.
- (3) The court may make a disposal order for a thing—
 - (a) whether or not the thing has been seized under division 1AD; and

[s 157B]

- (b) if the thing has been seized—whether or not the thing has been returned to the person who owned the thing immediately before the seizure.
- (4) In deciding whether to make a disposal order for a thing, the court—
 - (a) may require written notice to be given to any person the court considers appropriate, including, for example, a person who may have any property in the thing; and
 - (b) must hear any submissions that a person claiming to have any property in the thing may wish to make.
- (5) The court may make any order it considers appropriate to enforce the disposal order.
- (6) This section does not limit the court's powers under another law.

Division 1 Enforcement notices

Subdivision 1 Giving enforcement notice

157B Power to give enforcement notice

- (1) This section applies if the Coordinator-General reasonably believes a person has contravened, or is contravening—
 - (a) section 84A; or
 - (b) an enforceable condition.
- (2) The Coordinator-General may give the person a written notice (an ***enforcement notice***) requiring the person to—
 - (a) comply with the section or the condition; or
 - (b) take stated steps the Coordinator-General considers are reasonably necessary to ensure compliance with the condition.

- (3) Without limiting subsection (2)(b), an enforcement notice may—
 - (a) require the recipient to not start, or stop, a stated activity indefinitely, for a stated period or until further notice from the Coordinator-General; or
 - (b) require the recipient to carry out a stated activity only during stated times or subject to stated conditions; or
 - (c) require the recipient to take stated action within a stated period.
- (4) An enforcement notice may also require the recipient to notify the Coordinator-General when the recipient has complied with the notice.
- (5) To remove any doubt, it is declared that this section does not—
 - (a) affect a power under another Act to enforce a condition; or
 - (b) prevent the bringing of a proceeding for an offence against another Act.

Note—

See, however, the *Acts Interpretation Act 1954*, section 45 (Offence punishable only once).

157C Requirements for enforcement notice

- (1) An enforcement notice must—
 - (a) identify—
 - (i) whether the notice is given in relation to a contravention of section 84A or an enforceable condition; and
 - (ii) if the notice is given in relation to a contravention of an enforceable condition—the enforceable condition; and
 - (b) state each of the following—
 - (i) the recipient's name;

[s 157D]

- (ii) the land or activity the subject of the notice;
 - (iii) that the Coordinator-General believes the recipient has contravened, or is contravening, the section or condition mentioned in paragraph (a);
 - (iv) the reasons for the belief;
 - (v) the requirements imposed under the notice; and
 - (c) include, or be accompanied by, an information notice about the decision to give the notice.
- (2) In this section—
- information notice*** means a written notice stating—
- (a) the appeal right against the decision, under section 157D; and
 - (b) that an appeal must be started within 20 business days after the day the notice is given; and
 - (c) how to appeal; and
 - (d) that, under section 157E, the recipient may apply for a stay of the decision.

Subdivision 2 Appeals

157D Right of appeal

- (1) The recipient of an enforcement notice may appeal to the Planning and Environment Court against the decision to give the notice.
- (2) The appeal must be started within 20 business days after the day the notice is given.

Note—

For how to start the appeal and procedures for the appeal, see the *Planning and Environment Court Act 2016*.

157E Stay only by application

- (1) An appeal under section 157D affects the decision the subject of the appeal and the operation of the relevant enforcement notice only if the decision is stayed.
- (2) The Planning and Environment Court may grant a stay of the decision to secure the effectiveness of the appeal.
- (3) A stay—
 - (a) may be given on the conditions the court considers appropriate; and
 - (b) operates for the period fixed by the court; and
 - (c) may be amended or cancelled by the court.
- (4) The period of a stay under this section must not extend past the time when the court decides the appeal.

Subdivision 3 Effects of enforcement notice

157F Offence to contravene enforcement notice

The recipient of an enforcement notice must comply with the notice.

Maximum penalty—1,665 penalty units.

157G Notice of disposal by recipient of any current enforcement notice

- (1) This section applies if the recipient of a current enforcement notice proposes to dispose of the land or business to which the notice relates to someone else (the *prospective buyer*).
- (2) Before agreeing to dispose of the land or business, the recipient must give written notice to the prospective buyer of the existence of the enforcement notice.

Maximum penalty—50 penalty units.

[s 157H]

- (3) Within 10 business days after agreeing to dispose of the land or business, the recipient must give written notice of the disposal to the Coordinator-General.

Maximum penalty—50 penalty units.

- (4) In this section—

current enforcement notice means an enforcement notice that has not been complied with and has not been withdrawn.

157H Additional consequence of not giving notice of disposal

- (1) This section applies if section 157G applies and the recipient of the enforcement notice does not comply with section 157G(2).
- (2) The prospective buyer may end the agreement to dispose of the land or business by written notice given to the recipient before the completion of the agreement or possession under the agreement, whichever is the earlier.
- (3) On the ending of the agreement under subsection (2)—
 - (a) a person who was paid amounts by the prospective buyer under the agreement must refund the amounts to the prospective buyer; and
 - (b) the prospective buyer must return to the recipient any documents about the disposal, other than the prospective buyer's copy of the agreement.
- (4) This section has effect despite any other Act or anything to the contrary in the agreement.

157HA Powers to remedy contravention of enforcement notice

- (1) This section applies if a person fails to comply with an enforcement notice given to the person by the Coordinator-General requiring the person to take particular action.
- (2) An authorised officer may—

- (a) enter the relevant place without the permission of the occupier; and
 - (b) take the action required under the enforcement notice.
- (3) At least 7 days before entering the relevant place, the authorised officer (or another employee or officer of the Coordinator-General) must give any occupier of the place a written notice stating—
 - (a) that an authorised officer proposes to enter the place; and
 - (b) the reason for the proposed entry; and
 - (c) the day and time of the proposed entry.
- (4) If the occupier of the relevant place is present, the authorised officer must do, or make a reasonable attempt to do, the following things before entering the place—
 - (a) identify themselves to the occupier by producing the officer's identification documents;
 - (b) tell the occupier the purpose of the entry;
 - (c) seek the consent of the occupier to the entry;
 - (d) tell the occupier that the officer is permitted under this Act to enter the place without the occupier's consent and take the action required under the enforcement notice.
- (5) The Coordinator-General may recover the amount that the Coordinator-General properly and reasonably incurs in relation to the taking of action, under this section, as a debt payable by the person who failed to take the action.
- (6) In this section—
 - relevant place***, in relation to an enforcement notice—
 - (a) means the place where the action required under the enforcement notice is required to be taken; but
 - (b) does not include premises, or a part of premises, where a person resides.

Division 2 Enforcement orders

157I Starting proceeding for enforcement order

- (1) The Coordinator-General may start a proceeding in the Planning and Environment Court—
 - (a) for an enforcement order to remedy or restrain a contravention of section 84A or an enforceable condition; or
 - (b) if the Coordinator-General has started a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 157J.
- (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 contravention the subject of the proceeding.

157J 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 the Coordinator-General to give an undertaking about damages.

157K Making enforcement order

- (1) The Planning and Environment Court may make an enforcement order if the court is satisfied the relevant contravention of section 84A or an enforceable condition—
 - (a) is happening, or has happened; or
 - (b) will happen unless the enforcement order is made.

- (2) The court may make the order whether or not an enforcement notice has been given for the contravention.

157L 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 contravention of section 84A or an enforceable condition; or
 - (b) not to start an activity that will constitute a contravention of section 84A or an enforceable condition; or
 - (c) to do anything required to stop a contravention of section 84A or an enforceable condition; or
 - (d) to return anything to a condition as close as practicable to the condition it was in immediately before a contravention of section 84A or an enforceable condition; or
 - (e) to do anything about the land or activity the subject of the order to comply with section 84A or an enforceable condition.
- (2) Without limiting the Planning and Environment Court's powers, it may make an enforcement order requiring the repair, demolition or removal of a building.
- (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 ensure compliance with section 84A or an enforceable condition.

157M 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—

[s 157N]

- (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
 - (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 anyone else 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 the Coordinator-General 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.

157N Offence to contravene enforcement order

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

Maximum penalty—3,000 penalty units or 2 years imprisonment.

Note—

See also the *Planning and Environment Court Act 2016*, section 36.

Division 2A Miscellaneous provisions relating to authorised officers

157NA Duty to avoid inconvenience and minimise damage

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

Note—

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

157NB Notice of damage

- (1) This section applies if—
 - (a) an authorised officer damages something when exercising, or purporting to exercise, a power under this part; or
 - (b) a person (the *assistant*) acting under the direction or authority of an authorised officer damages something.
- (2) However, this section does not apply to damage the authorised officer considers is trivial or if the officer reasonably believes—
 - (a) there is no-one apparently in possession of the thing; or
 - (b) the thing has been abandoned.
- (3) The authorised officer must give written notice of the damage to a person who appears to the officer to be an owner, or person in control, of the thing.

[s 157NC]

- (4) However, if for any reason it is not practicable to comply with subsection (3), the authorised officer must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure the notice is left in a conspicuous position and in a reasonably secure way.
- (5) The authorised officer may delay complying with subsection (3) or (4) if the officer reasonably suspects complying with the subsection may frustrate or otherwise hinder an investigation by the officer.
- (6) The delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place.
- (7) If the authorised officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the officer or the assistant, the officer may state the belief in the notice.
- (8) The notice must state—
 - (a) particulars of the damage; and
 - (b) that the person who suffered the damage may claim compensation under section 157NC.

157NC Compensation

- (1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised officer including a loss arising from compliance with a requirement made of the person under this part.
- (2) The compensation may be claimed and ordered in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

- (b) for an alleged offence against this Act the investigation of which gave rise to the claim for compensation.
- (3) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) In considering whether it is just to order compensation, the court must have regard to—
 - (a) any relevant offence committed by the claimant; and
 - (b) whether the loss arose from a lawful seizure or lawful forfeiture.
- (5) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.
- (6) Section 157NA does not provide for a statutory right of compensation other than as provided by this section.
- (7) In this section—
loss includes costs and damage.

157ND False or misleading information

- (1) A person must not, in relation to the administration of this Act, give an authorised officer information the person knows is false or misleading in a material particular.
Maximum penalty—1,665 penalty units.
- (2) Subsection (1) applies to information given in relation to the administration of this Act whether or not the information was given in response to a specific power under this part.
- (3) Subsection (1) does not apply to a person if the person, when giving information in a document—
 - (a) tells the authorised officer, to the best of the person's ability, how the document is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

157NE Obstructing authorised officer

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

Maximum penalty—60 penalty units.

- (2) If a person has obstructed an authorised officer, or someone helping an authorised officer, and the officer decides to proceed with the exercise of the power, the officer must warn the person that—

- (a) it is an offence to cause an obstruction, unless the person has a reasonable excuse; and
(b) the officer considers the person's conduct an obstruction.

- (3) In this section—

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

157NF Impersonating authorised officer

A person must not impersonate an authorised officer.

Maximum penalty—60 penalty units.

Division 3 General offences

157O Giving Coordinator-General a false or misleading document

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

Maximum penalty—1,665 penalty units.

157OA Coordinator-General may require relevant information

- (1) The Coordinator-General may give a notice under this section to a person requiring the person to give the Coordinator-General information relevant to the administration or enforcement of this Act.
- (2) The notice may only be given to a person the Coordinator-General reasonably suspects has knowledge of a matter, or has possession or control of a document dealing with a matter, for which the information is required.
- (3) The notice must—
 - (a) be in the approved form; and
 - (b) state the person to whom it is issued; and
 - (c) state the information required; and
 - (d) state the period within which the information is to be given to the Coordinator-General; and
 - (e) state the reasons the information is required; and
 - (f) be given to the person.
- (4) The person must comply with the notice unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.
- (5) If the person is an individual, it is a reasonable excuse for the individual to fail to comply with the notice if complying with it might tend to incriminate the individual.
- (6) The person does not commit an offence against subsection (4) if the information sought by the Coordinator-General is not in fact relevant to the administration or enforcement of this Act.

157P Executive officer must ensure corporation does not commit particular offences

- (1) The executive officers of a corporation must ensure the corporation complies with sections 84A, 84B, 84C, 157F, 157N and 157O.

[s 157Q]

- (2) If a corporation commits an offence against section 84A, 84B, 84C, 157F, 157N or 157O each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the section.

Maximum penalty—the penalty for the contravention of the section by an individual.

- (3) Evidence that the corporation has been convicted of an offence against section 84A, 84B, 84C, 157F, 157N or 157O is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the section.
- (4) However, it is a defence for an executive officer to prove that—
- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the section; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Division 4 Proceedings for offences

157Q Types of offence under Act

- (1) An offence against the following is a misdemeanour—
- (a) section 157N;
 - (b) section 157P, to the extent the offence relates to an offence by a corporation against section 157N.
- (2) Any other offence against this Act is a summary offence.

157R Who may bring summary proceeding

A proceeding for a summary offence against this Act may be brought only by the Coordinator-General or a person acting for the Coordinator-General.

Part 8 Miscellaneous provisions

Division 1 Specific powers and functions of Coordinator-General

158 Power to contract

- (1) The Coordinator-General may negotiate and enter into contracts for—
 - (a) the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers imposed or conferred on the Coordinator-General under any Act; or
 - (b) the recovery of costs incurred by the Coordinator-General or a cooperating person for the performance of functions or the exercise of powers mentioned in paragraph (a).
- (2) However, a contract for a matter mentioned in subsection (1)(b) (a **cost recovery contract**) must not permit the recovery of costs that have already been otherwise recovered by the Coordinator-General.
- (3) Also, if a cost recovery contract permits the recovery of costs that may be, but have not yet been, otherwise recovered by the Coordinator-General, the contract is taken to permit the recovery of the costs only to the extent the costs are not otherwise recovered by the Coordinator-General.
- (4) A contract entered into by the Coordinator-General shall be made, varied or discharged as follows—
 - (a) a contract that, if made between private persons, would be required by law to be in writing and under seal, shall be made in writing under the seal of the Coordinator-General and shall be varied or discharged in like manner;
 - (b) a contract that, if made between private persons, would be required by law to be in writing signed by the parties,

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shall be made under the hand of the person who holds the office of Coordinator-General or the Coordinator-General's delegate, and shall be varied or discharged in like manner;

- (c) a contract that, if made between private persons, would be valid in law though not reduced to writing, may be made without writing by the Coordinator-General or the Coordinator-General's delegate, and may be varied or discharged in like manner.

- (5) In this section—

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

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

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

159 Power to compound

The Coordinator-General may compound, for such sum or other consideration as the Coordinator-General thinks fit, with any party to a contract with the Coordinator-General or with any person by or against whom an action may be or has been commenced against or by the Coordinator-General.

160 Power to obtain material from watercourse

The Coordinator-General may in and from any river, creek, stream, or watercourse search for, dig, raise, gather, take and carry away clay, earth, gravel, sand, stone or other material required by the Coordinator-General for works undertaken by the Coordinator-General.

160A Powers for watercourse crossings

- (1) The Coordinator-General, or a person authorised in writing by the Coordinator-General, may—
 - (a) survey and resurvey a watercourse crossing; and
 - (b) construct, augment, improve, maintain, operate and replace a watercourse crossing; and
 - (c) enter and occupy the relevant land for the purpose of carrying out an activity mentioned in paragraph (a) or (b).
- (2) The Coordinator-General may also name and number a watercourse crossing.
- (3) The Coordinator-General may authorise a person to carry out an activity or exercise a power under subsection (1) even if the activity or exercise benefits a person other than the State or a local body.
- (3A) An authorisation under subsection (1) may be subject to conditions imposed by the Coordinator-General.
- (3B) Despite subsection (1)(c), the relevant land may be entered and occupied only if—
 - (a) the owner or occupier of the relevant land has been given written notice of the proposed entry and occupation, including the day the proposed entry and occupation will commence (the *proposed entry day*); and
 - (b) the entry and occupation of the relevant land does not commence until the proposed entry day or a later day agreed with the owner or occupier of the land.
- (3C) The proposed entry day stated in a notice given under subsection (3B)(a) must be a day that is at least 7 days after the day the notice is given.
- (4) If the Coordinator-General gives a copy of the prescribed details for an authorisation under subsection (1)(b) or (c) to the registrar of titles, the registrar of titles must note the

prescribed details against the relevant land in the appropriate register.

(5) In this section—

prescribed details, for an authorisation under subsection (1)(b) or (c) means the following—

- (a) the name and other identifying details of the watercourse crossing;
- (b) the name of the person to whom the authorisation is given;
- (c) the term of the authorisation.

relevant land means the land adjoining the watercourse crossing.

transport infrastructure see the *Transport Infrastructure Act 1994*, schedule 6.

watercourse means land that is the property of the State under the *Land Act 1994*, section 9 or 13A(1) or (2).

watercourse crossing—

- (a) means transport infrastructure that is, or is proposed to be, situated over, under, on or in a watercourse; but
- (b) does not include river crossings under the *City of Brisbane Act 2010*, section 77.

160B Compensation for exercise of power under s 160A

- (1) This section applies if the Coordinator-General, or a person authorised by the Coordinator-General, enters and occupies land under section 160A(1)(c).
- (2) The owner or occupier of the land may give the Coordinator-General a written notice that claims compensation for damage caused by the entry or occupation of the land, or the carrying out of an activity on the land.
- (3) A claim under subsection (2) must be made—

- (a) within 1 year after the occupation or activity has ended; or
 - (b) by the later time allowed by the Coordinator-General.
- (4) The amount of compensation, if any, payable under the claim is—
 - (a) the amount agreed between the Coordinator-General and the person that gave the notice under subsection (2); or
 - (b) if the Coordinator-General and the person can not agree, the amount decided by the Land Court.
- (5) However, the amount of compensation must not be more than the compensation that would have been awarded if the land had been acquired under the *Acquisition of Land Act 1967*.

161 Power as to roads

- (1) This section applies if a rearrangement of roads is required to be made for the undertaking of works by the Coordinator-General or for the implementation of an approved development scheme.
- (2) The Coordinator-General may, by gazette notice, do 1 or more of the following—
 - (a) permanently or temporarily close all or part of an existing road;
 - (b) open and construct new roads;
 - (c) increase the width of a road;
 - (d) divert a road.
- (3) The Coordinator-General may also—
 - (a) make surveys for new roads; and
 - (b) raise or lower the soil of a road.
- (4) Before the closure of all or part of a road takes effect, the Coordinator-General must publish, in a newspaper circulating

[s 161A]

- in the relevant local government area, a notice about the closure.
- (5) Failure to comply with subsection (4) does not invalidate the closure.
 - (6) The Coordinator-General may do everything necessary to stop traffic using a road or part of a road closed under subsection (2)(a).
 - (7) If all or part of a road is permanently closed, the land comprising the road or part of the road may be—
 - (a) used for the works being undertaken by the Coordinator-General or for the implementation of the approved development scheme; or
 - (b) otherwise disposed of.
 - (8) 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.

161A Vesting land comprised in permanently closed road or unallocated State land

- (1) Without limiting section 163, the Coordinator-General may, by gazette notice, declare that unallocated State land in a State development area is vested in the Coordinator-General, in fee simple.
- (2) Subsections (3) and (4) apply if the Coordinator-General, by gazette notice, permanently closes all or part of a road under section 161(2)(a).
- (3) If the gazette notice states that the land comprised in the road or part vests in the Coordinator-General in fee simple, the land so vests.
- (4) If the gazette notice states that the land comprised in the road or part vests in the State, the land becomes unallocated State land.

- (5) Subsections (6) to (9) apply if land vests in the Coordinator-General under subsection (1) or (3).
- (6) The vesting of the land takes effect—
 - (a) on the day the gazette notice is published; or
 - (b) if the gazette notice states a later day—on the later day.
- (7) The chief executive of the department in which the *Land Act 1994* is administered must, under that Act, register the vesting if the Coordinator-General 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.
- (8) On the registration of the request to vest, the Governor in Council may issue to the Coordinator-General a deed of grant under the *Land Act 1994* for the land the subject of the vesting.
- (9) Despite the *Land Act 1994* and the *Land Title Act 1994*, no fee is payable by the Coordinator-General in relation to the registration of the vesting or to give effect to it.

161B Giving information about roads to relevant local government

- (1) This section applies if, under section 161, the Coordinator-General performs a function or exercises a power relating to a road or former road.
- (2) The Coordinator-General must give the relevant local government the information the Coordinator-General has to allow the local government to comply with its obligation for its map and register of roads under—
 - (a) if the local government is the Brisbane City Council—the *City of Brisbane Act 2010*, section 81; or

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- (b) for another local government—the *Local Government Act 2009*, section 74.

162 Power to exclude or divert traffic

- (1) Where the Coordinator-General is satisfied that the proper performance of the Coordinator-General's functions or exercise of the Coordinator-General's powers requires it, the Coordinator-General may—
 - (a) temporarily exclude from any road, bridge, bridge approaches or any part thereof, all traffic or traffic of a type nominated by the Coordinator-General; or
 - (b) temporarily divert all traffic, or traffic of a type nominated by the Coordinator-General, upon any road, bridge or bridge approaches.
- (2) Wherever it is practicable, notice of intention to exercise a power conferred by subsection (1) shall be given by advertisement published in a newspaper that circulates in the locality concerned.
- (3) A person shall not fail to comply with a direction given or notice erected in the exercise of a power conferred by this section.

163 Power to manage reserves and other lands

- (1) The Governor in Council may, by proclamation published in the gazette, place under the control and management of the Coordinator-General any land reserved and set apart for a public purpose, any cemetery, park, foreshore or other land, and any building, structure, or other thing that has been provided for out of moneys appropriated by Parliament.
- (2) Upon publication of the proclamation—
 - (a) the land, building, structure or other thing concerned shall vest in the Coordinator-General and, in the case of land, for such estate or interest as is specified in the proclamation; and

- (b) the control and management of the land, building, structure or other thing concerned shall be a function of the Coordinator-General under this Act and a trust or provision that then regulates the management, control or use thereof shall cease to operate.
- (3) The registrar of titles and any other person charged with the duty of recording in a public register dealings affecting the land concerned shall, on the request of the Coordinator-General and production of sufficient notification of the making of the proclamation, make in the register that relates to the instrument of title to the land all entries necessary to give effect to the proclamation and the provisions of subsection (2).
- (4) The Coordinator-General may, according to the nature of that which the proclamation vests in the Coordinator-General and the purpose for which it is so vested, do all such things as the Coordinator-General thinks fit to effect that purpose and subject thereto to improve the land, building, structure or thing vested in the Coordinator-General.

164 Power to encroach upon roads and lands for purposes of works

The Coordinator-General may cause to be laid, led or carried under, on, through or over—

- (a) any road; or
- (b) any land other than a road, upon payment of just compensation to the owner and occupier thereof;

all tracks, lines, pipes, conduits, and material of every description required for the proper functioning of works.

165 Duty to take care at worksites and power to prevent traffic

- (1) During the progress of works undertaken by the Coordinator-General the Coordinator-General—

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- (a) shall take proper precautions against accident and to prevent injury to land adjoining the site of the works or to buildings and structures on such land; and
 - (b) shall cause the site of the works to be adequately lighted and guarded during the hours of darkness; and
 - (c) may cause such barricades to be erected across or in any road as the Coordinator-General thinks fit and thereby prevent the passage of traffic.
- (2) A person shall not take down, remove or alter the position of any barricade erected by or on behalf of the Coordinator-General or extinguish or move any light placed by the Coordinator-General or on his or her behalf save under the authority of the Coordinator-General.

Division 2 Provisions concerning legal liability of Coordinator-General

166 Service on Coordinator-General

A notice, order, process, summons, or document of any kind that is to be served on the Coordinator-General shall be—

- (a) delivered to the Coordinator-General personally; or
- (b) sent by prepaid post addressed to the Coordinator-General;

and in either case shall be taken to have been served when it is received by the Coordinator-General.

167 Limited liability of Coordinator-General for injury to person or property

- (1) Liability shall not attach to the Coordinator-General, and an action shall not lie against the Coordinator-General, in respect of anything done or omitted to be done by the Coordinator-General or by his or her contractors, officers or workers in or in connection with the construction,

maintenance, management or control of any road, bridge or culvert or the approaches to any bridge or culvert save in respect of the negligent acts of the Coordinator-General, the Coordinator-General's officers or workers in connection with the construction, maintenance, management or control thereof.

- (2) A person shall not be entitled to recover against the Coordinator-General, the Coordinator-General's officers or workers, damages in respect of any injury to the person or to property on account of anything done or omitted for the purposes of the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers under any Act or arising out of employment for any of those purposes unless—
 - (a) in the case of injury to the person—the person alleged to be injured shall, when so required by the Coordinator-General submit himself or herself for examination by a medical practitioner (nominated by the Coordinator-General), who is hereby authorised to make all relevant examinations and tests, and furnish to that medical practitioner all information that the Coordinator-General requires to enable the Coordinator-General to ascertain the true nature and extent of the injury; or
 - (b) in the case of injury to property—the plaintiff shall, when so required by the Coordinator-General, permit a person nominated by the Coordinator-General to enter upon and inspect the property alleged to be injured and furnish to that person all facilities and information that the Coordinator-General requires to enable the Coordinator-General to ascertain the full nature and extent of the injury and the amount (if any) expended in repairing the property.
- (3) Noncompliance with all or any of the provisions of subsection (2) shall not act as a bar to the maintenance of an action or to the recovery of damages therein if the court that determines the action is of opinion that there was reasonable excuse for such non-compliance.

168 Personal injury action adjudicated by judge alone

Every claim for damages in respect of injury to the person, fatal or non-fatal, that is made in an action against the Coordinator-General, the Coordinator-General's officers or workers on account of anything done or omitted for the purposes of the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers under any Act or arising out of employment for any of those purposes shall, where action is brought in the Supreme Court, be heard and determined by a judge without a jury.

169 Officers and workers not personally liable

- (1) An officer or worker of the Coordinator-General or his or her delegate shall not incur any personal liability on account of an act done or omission made by him or her under the direction of the Coordinator-General or his or her delegate and bona fide for the purposes of the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers under any Act.
- (2) An expense incurred by an officer or worker of the Coordinator-General or the Coordinator-General's delegate in respect of an act so done shall be taken to be an expense authorised by this Act or, as the case may be, by the Act that imposes or confers on the Coordinator-General the function or power in question.

Division 3 Facilitation of execution of Act

171 Publication of document or information by Coordinator-General

- (1) This section applies if a provision of this Act requires the Coordinator-General to publicly notify a document or information.
- (2) The notification must be made by placing a link to a record or register of the document or information on—

- (a) the department's website; or
- (b) another website the Coordinator-General considers appropriate.
- (3) However, the document or information may also be publicly notified in any other way decided by the Coordinator-General.

172 Mode of service

In addition to any other mode of service available a writing that is to be served on any person under this Act may be sent to the person by prepaid post addressed to the person at the person's address last known to the sender.

173 Regulation-making power

- (1) The Governor in Council may make regulations not inconsistent with this Act providing with respect to the following—
 - (a) the preparation of programs of works, development areas, development schemes, environmental coordination and procedures by or pursuant to which State development areas are to be declared or varied or terminated;
 - (b) the custody and affixing of the official seal of the Coordinator-General or any body corporate established under this Act;
 - (c) the procedure of meetings and the conduct of the business of any body, corporate or unincorporate, established under this Act preservation of the validity of the proceedings of any such body;
 - (d) the manner and detail in which the Coordinator-General, and any body, corporate or unincorporate, shall perform a function or exercise a power imposed or conferred upon the Coordinator-General or it by this Act;
 - (e) safeguarding and securing against trespass, injury, misuse, or use for or in connection with any purpose not

- authorised by or under this Act, authorised works or lands and property vested in or under the management or control of the Coordinator-General;
- (f) the use by the public of authorised works or of lands or property vested in or under the management or control of the Coordinator-General for or in connection with any purpose;
 - (g) requirements for environmental impact statements, reports, protected matters reports, studies or the process under part 4, division 3, subdivision 1 or part 4A to allow—
 - (i) the process to be accredited under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth); or
 - (ii) the making of a bilateral agreement under that Act to which the State is proposed as a party; or
 - (iii) the State to meet its obligations under a bilateral agreement under that Act to which the State is a party;
 - (h) the matters for which fees are payable under this Act, the amounts of the fees, the persons who are liable to pay fees, when the fees are payable, the recovery of unpaid amount of fees and the refund of fees;
 - (i) penalties not exceeding 20 penalty units for any breach of the regulations;
 - (j) all matters required or permitted by this Act to be prescribed;
 - (k) all matters, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.
- (2) Without limiting subsection (1)(h), a regulation may—
- (a) prescribe a fee for monitoring compliance with an imposed condition; and

- (b) prescribe a fee that is a stated amount, CPI indexed for the year the fee becomes payable.
- (3) Provision made by the regulations may, if the Governor in Council thinks fit, be so made as to require an exercise of discretion or the formation of an opinion by the Minister or by any other person.

174 Power of Coordinator-General to make guidelines

- (1) The Coordinator-General may make guidelines about the matters mentioned in schedule 1B.
- (2) However, if this Act provides that a particular thing must be done in accordance with the guidelines, the Coordinator-General must make guidelines about the thing.
- (3) The Coordinator-General must publicly notify the guidelines.
- (4) The guidelines are statutory instruments under the *Statutory Instruments Act 1992*.

175 Approved forms

- (1) The Coordinator-General may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

Division 4 Other miscellaneous provisions

175A EIS must not, under particular other Acts, be required for PNG pipeline project

- (1) This section applies—
 - (a) to an application under the *Environmental Protection Act 1994* for an environmental authority for the PNG pipeline project; or

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- (b) if, under the *Nature Conservation Act 1992*, section 34, 35 or 38, a person seeks an interest in land in a protected area and the interest sought is for the PNG pipeline project.
- (2) Despite the *Environmental Protection Act 1994*, sections 142 and 143, and the *Nature Conservation Act 1992*, section 39B, an EIS can not be required under those sections in relation to the application or the seeking of the interest.
- (3) In this section—

PNG pipeline project means all of the following, but only to the extent it was the subject of the 1998 Impact Assessment Study under this Act—

 - (a) the proposed project that involves the construction and operation of 1 or more pipelines to transport gas from the Southern Highlands of Papua New Guinea, across Torres Strait and Cape York Peninsula to parts of the State including Townsville and Gladstone;
 - (b) ancillary works, including, for example, access roads, construction camps and compressor and other stations, to enable the construction and the ongoing operation of the pipeline or pipelines.

Part 9 Repeal, transitional and declaratory provisions

Division 1 Transitional provision for State Development and Public Works Organisation Amendment Act 1999

176 Studies being prepared are taken to be EISs for this part

- (1) This section applies if—
 - (a) a project involves—

-
- (i) development requiring an application for a development approval; or
 - (ii) mining; or
 - (iii) land that the Minister proposes to designate under the repealed *Integrated Planning Act 1997*, section 2.6.8, as community infrastructure; and
 - (b) at the commencement of section 26, the proponent is preparing a study under this Act about the environmental effects of the project; and
 - (c) the Coordinator-General, under section 26, declares the project to be a significant project.
- (2) The proponent may complete the study as if the *State Development and Public Works Organisation Amendment Act 1999* had not commenced.
- (3) The study, when completed and given to the Coordinator-General, is taken to be an EIS prepared under part 4.
- (4) Any written submission made about the study is taken to be a properly made submission for an application for the project if the application—
- (a) is for a development approval requiring impact assessment under the repealed *Integrated Planning Act 1997*; or
 - (b) is for an approval under an Act other than the repealed *Integrated Planning Act 1997* and the application requires public notification.
- (5) Words used in this section that are defined in part 4 have the same meaning in this section.

Division 2 **Transitional provisions for State
Development and Public Works
Organisation and Other Legislation
Amendment Act 2005**

177 **Existing approvals for the use of land in State
development area**

- (1) This section applies to an approval under section 84(4)(b) for the use of land in a State development area if the approval was granted before the commencement of this section.
- (2) Section 84A applies to the approval.
- (3) However, for applying section 84A(3) the approval is taken to have taken effect only when this section commenced.

178 **Conditions for north-south bypass tunnel project**

- (1) This section applies for the significant project called the ‘north-south bypass tunnel project’.
- (2) Sections 35(4)(d) and part 4, division 8 are taken to apply to the project.
- (3) The conditions stated in appendix 1, schedule 3 of the Coordinator-General’s report dated 25 August 2005 evaluating the EIS for the project are taken to be imposed conditions for the undertaking of the project.

Division 3 **Transitional provisions for
amendments under Revenue and
Other Legislation Amendment Act
(No. 2) 2008**

179 **Meaning of *commencement* for div 3**

In this division—

commencement means the date of assent of the *Revenue and Other Legislation Amendment Act (No. 2) 2008*.

180 Existing evaluation requests under pt 4, div 3A

- (1) A notice under former section 35D given before the commencement is taken to be an application under section 35C as in force from the commencement.
- (2) Subject to section 181(2), this Act as in force from the commencement applies to the application and the evaluation under part 4, division 3A for the application.

181 Fees

- (1) The fees stated in schedule 1, part 2 under the heading 'Significant project declaration and EIS process' do not apply to a proponent of a significant project declared before the commencement.
- (2) The fees stated in schedule 1, part 2 do not apply to an evaluation under part 4, division 3A for a notice under former section 35D given before the commencement.

182 Enforcement notices and orders

- (1) An enforcement notice or enforcement order may relate to an enforceable condition that existed before the commencement.
- (2) However, an enforcement notice or enforcement order can not relate to a contravention of an enforceable condition if the act or omission that constitutes the contravention happened before the commencement.

Division 4 Transitional provisions for expiry of Queensland Reconstruction Authority Act 2011

183 Definition for div 4

In this division—

Reconstruction Act means the *Queensland Reconstruction Authority Act 2011*.

184 Application of div 4

This division applies on and after the day the Reconstruction Act expires.

Note—

The Reconstruction Act expires 2 years after the day it commences.

185 Requirement for Coordinator-General to advise registrar of titles

- (1) This section applies if land vests in the Coordinator-General under the Reconstruction Act, section 131.
- (2) As soon as practicable after the land vests in the Coordinator-General, the Coordinator-General must give written notice of the vesting to the registrar of titles.
- (3) On receiving the notice, the registrar of titles must record in the freehold land register that the land has vested in the Coordinator-General.

186 Dealing with acquisition land

- (1) The owner of acquisition land must not dispose of the land other than to—
 - (a) if the entity stated in the notice given under the Reconstruction Act, section 44(1)(a)(ii) for the land (the

relevant notice) is the Queensland Reconstruction Authority—the Coordinator-General; or

- (b) if paragraph (a) does not apply—the local government stated in the relevant notice for the land.

Maximum penalty—165 penalty units.

- (2) If subsection (1)(a) applies to the owner of acquisition land and the owner gives the Coordinator-General a written notice stating that the owner proposes to sell the land, the Coordinator-General must acquire the land from the owner in the way provided for under section 125 of this Act.
- (3) If subsection (1)(b) applies to the owner of acquisition land, and the owner gives the local government stated in the relevant notice for the land a written notice stating that the owner proposes to sell the land, the local government must acquire the land from the owner in the way provided for under the *Acquisition of Land Act 1967*.
- (4) If any transaction is entered into in contravention of subsection (1), the transaction is not invalid, and the new owner is taken to have been given notice under the Reconstruction Act, section 44(1)(a).
- (5) This section does not limit the Coordinator-General's power to otherwise take the land under this Act.
- (6) In this section—

acquisition land means land that, immediately before the expiry of the Reconstruction Act, is land to which section 100 of that Act applies.

Division 5 Transitional provisions for Economic Development Act 2012

188 Definitions for div 5

In this division—

amending Act means the *Economic Development Act 2012*.

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commencement means the commencement of this section.

former, in relation to a provision, means the provision as in force immediately before the commencement.

189 Continuation of former matters Coordinator-General considers before making declaration under s 26(1)

- (1) This section applies to an application, under section 27AA for a declaration under section 26(1) about a project, made before the commencement.
- (2) Former section 27 continues to apply to the application as if the amending Act had not been enacted.
- (3) Section 27AB(c) and (d) does not apply to the application.

190 Existing significant projects

- (1) This section applies to a project that immediately before the commencement was a significant project.
- (2) The project is taken to be a coordinated project.
- (3) Former sections 32(4) and 35A(1) continue to apply to the project as if the amending Act had not been enacted.

191 References to significant project

In an Act or other document, a reference to a significant project may, if the context permits, be taken to be a reference to a coordinated project.

192 Application of s 35(6)–(9)

Section 35(6) to (9) applies only to a request by the Coordinator-General to the proponent of a project for supplementary information or comment about an EIS and the project made after the commencement.

193 Existing requests for Coordinator-General's approval of use of land for s 84(4)(b)

- (1) This section applies if a person made a request to the Coordinator-General for the Coordinator-General's approval for a use of land under section 84(4)(b) before the commencement.
- (2) The request must be decided as if the amending Act had not been enacted.

194 Continuation of particular former provisions

- (1) Former part 6, division 6 and the former guidelines continue to apply to the following as if the amending Act had not been enacted—
 - (a) a request made before the commencement to the Coordinator-General seeking, for a proposed infrastructure facility, the Governor in Council's approval under former section 125(1)(f)(ii);
 - (b) an infrastructure facility approved under former section 125(1)(f)(ii).
- (2) In this section—

former guidelines means the guidelines in force under former section 174 immediately before the commencement.

Division 6 Transitional provision for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

195 Particular coordinated projects publicly notified under pt 4

- (1) This section applies to a coordinated project for which a bilateral project declaration is made under section 54J(1) if,

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before a bilateral agreement mentioned in section 54H(1)(a) was in force—

- (a) an EIS was prepared for the project under part 4; and
 - (b) the EIS included the matters required by regulation for a project to which the *State Development and Public Works Organisation Regulation 2010*, part 13 applies; and
 - (c) the EIS was publicly notified under section 33.
- (2) The EIS, to the extent it includes the matters mentioned in subsection (1)(b), is taken to be a draft protected matters report for the coordinated project.
- (3) The proponent is taken to have complied with sections 54P and 54Q in relation to the coordinated project.

Division 7 Transitional provisions for State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014

196 Definitions for div 7

In this division—

amending Act means the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014*.

commencement means the commencement of this section.

former, in relation to a provision, means the provision as in force immediately before the commencement.

197 Particular existing coordinated projects

- (1) This section applies to a coordinated project if—
- (a) the declaration for the project was—

- (i) made under section 26(1) before the commencement; and
 - (ii) in effect immediately before the commencement; and
- (b) before the commencement, the proponent of the project complied with section 33(1).
- (2) Former part 4 continues to apply to the coordinated project as if the amending Act had not been enacted.
- (3) However, on and after 1 July 2015, the fees stated in the *State Development and Public Works Organisation Regulation 2010*, schedule 1B, as in force at 1 July 2015, apply to the coordinated project as if a reference in the provisions to—
 - (a) section 34D were a reference to former section 35; and
 - (b) the giving to the proponent of a notice under section 34B were a reference to when the submission period for the EIS ends under section 33(1)(d).
- (4) If a condition mentioned in former section 35(4)(b) or (d) is imposed by the Coordinator-General for the project, the condition is taken to be an enforceable condition under section 157A.

198 Existing approved development schemes

- (1) This section applies to an approved development scheme in effect immediately before the commencement.
- (2) If the approved development scheme states a particular use of land or material change of use of premises can not be carried out without the approval of the Coordinator-General, the use or material change of use is taken to be—
 - (a) SDA assessable development; and
 - (b) regulated development.
- (3) Subsection (4) applies if the approved development scheme states matters or things the Coordinator-General may consider in assessing a proposed use.

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- (4) The matters or things are taken to be the matters or things an SDA application for the development may be assessed against.
- (5) A reference in the approved development scheme to—
 - (a) an application to the Coordinator-General for approval to carry out a use of land, or a material change of use of premises, is a reference to an SDA application for approval to carry out a material change of use of premises; and
 - (b) an approval given by the Coordinator-General for a use of land, or a material change of use of premises, is a reference to an SDA approval for a material change of use of premises; and
 - (c) a request to change an approval is a reference to a change application for an SDA approval; and
 - (d) an alternative lawful use is a reference to an alternative lawful development; and
 - (e) an approved use is a reference to an approved development; and
 - (f) an authorised use is a reference to an authorised development.

199 Existing applications for approval for use of land in a State development area

- (1) This section applies to an application made under former section 84AA, but not decided, before the commencement.
- (2) For deciding the application, former section 84AB continues to apply as if the amending Act had not been enacted.
- (3) If an approval is given under former section 84AB for the application, the approval is taken to be an SDA approval.

200 Existing approvals for use of land in a State development area

- (1) This section applies to an approval given by the Coordinator-General under former section 84AB and in force immediately before the commencement.
- (2) The approval is taken to be an SDA approval.
- (3) However—
 - (a) section 84H does not apply to the approval; and
 - (b) former section 84A continues to apply to the approval as if the amending Act had not been enacted.
- (4) An approval continued in force under subsection (2) is taken to have had effect on the day it had effect under the unamended Act.
- (5) In this section—
unamended Act means this Act as in force before the commencement.

201 Existing private infrastructure facility application

- (1) This section applies to a private infrastructure facility application made, but not decided, before the commencement.
- (2) Former part 6, division 7 continues to apply to the application as if the amending Act had not been enacted.

Division 8 Transitional provision for Mineral and Energy Resources (Common Provisions) Act 2014

202 Pre-amended Act continues to apply for particular mining leases

- (1) This section applies if, on or after the commencement—
 - (a) a native title issues decision is made in relation to a proposed mining lease; and

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- (b) a condition is imposed or made under, or is part of, the native title issues decision under the Mineral Resources Act as in force immediately before the commencement.
- (2) The pre-amended Act, section 47, continues to apply to the proposed mining lease.
- (3) In this section—

commencement means the commencement of this section.

native title issues decision has the meaning given by schedule 1A, section 669(1) of the Mineral Resources Act as in force immediately before the commencement.

pre-amended Act means this Act as in force immediately before the commencement.

Division 9 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

203 Existing development application under repealed Sustainable Planning Act 2009

- (1) This section applies to an existing development application for development for a project, to which former part 4, division 4, subdivision 1 applied.
- (2) Former part 4, division 4, subdivision 1 continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) In this section—

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

existing development application means a development application made under the repealed *Sustainable Planning Act 2009*, to which the Planning Act, section 287 applies.

former part 4, division 4, subdivision 1 means part 4, division 4, subdivision 1 as in force immediately before the commencement.

Division 10 Repeal, transitional and declaratory provisions for Energy Roadmap Amendment Act 2025

Subdivision 1 Repeal of Forest Wind Farm Development Act 2020

204 Repeal

The Forest Wind Farm Development Act 2020, No. 28 is repealed.

Subdivision 2 Transitional and declaratory provisions

205 Definition for subdivision

In this subdivision—

repealed Act means the repealed *Forest Wind Farm Development Act 2020*.

206 Saving of operation of particular provision of repealed Act

The repealed Act, section 57 is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

207 No compensation payable by State

- (1) No compensation is payable by or on behalf of the State to a person in relation to the repeal of the repealed Act.

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- (2) This section applies despite anything to the contrary in another Act or law.

208 Transitional regulation-making power

- (1) A regulation (a ***transitional regulation***) may make provision about a matter for which—
- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the repealed Act; and
- (b) this subdivision does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire on the day that is 1 year after the day this section commences.

Division 11 Transitional provisions for State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Act 2026

Subdivision 1 Preliminary

209 Definitions for division

In this division—

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

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

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

relevant declaration means—

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

Subdivision 2 Provision about coordinated projects

210 Particular existing coordinated projects

- (1) This section applies in relation to a coordinated project if—
 - (a) the declaration for the project was made under section 26(1) before the commencement and was in effect immediately before the commencement; and
 - (b) the project involves—
 - (i) the carrying out of an activity requiring a regional interests development approval; or
 - (ii) an approval or decision under the *Transport Infrastructure Act 1994* mentioned in section 49N(b)(i) to (iv).
- (2) Subsection (3) applies if—

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- (a) before the commencement, the Coordinator-General had not given the proponent a copy of a report evaluating the EIS or IAR for the coordinated project; or
- (b) before the commencement—
 - (i) either—
 - (A) the proponent applied to the Coordinator-General to evaluate a proposed change to the coordinated project or a condition of the project; or
 - (B) the Coordinator-General gave the proponent written notice stating that the Coordinator-General proposed to assess a proposed change to the coordinated project; and
 - (ii) the Coordinator-General had not given the proponent a copy of the Coordinator-General's change report.
- (3) This Act, as amended by the amendment Act, applies in relation to the coordinated project or the proposed change.

Subdivision 3 Provisions about prescribed projects

211 State strategic projects

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

212 Notice to decide

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

213 Step in notice

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

214 State significance notice

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

215 Modification order

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

216 Access to land by proponent

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

217 Enabling works by proponent

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

Subdivision 4 Provisions about State development areas

218 Waiver of fees for SDA applications

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

219 Imposing conditions on SDA approvals

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

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

220 Lapsing of SDA approvals

- (1) New section 84H applies in relation to an SDA approval that was in effect immediately before the commencement subject to subsections (2) and (3).
- (2) If the SDA approval is for development that is a material change of use of premises—
 - (a) new section 84H(1)(a) does not apply to the SDA approval; and
 - (b) the material change of use is taken to be other development for the purposes of new section 84H(1)(c); and
 - (c) new section 84H(2)(a)(i) applies to the SDA approval as if the reference to 6 years were a reference to 4 years.
- (3) If the applicant for the SDA approval requested the Coordinator-General state a later currency period under the approved development scheme before the commencement and, immediately before the commencement, the Coordinator-General had not given the applicant written notice about the request—
 - (a) new section 84H(2)(c) and (3) apply in relation to the request; and
 - (b) anything done in relation to the request before the commencement is taken to have been done in relation to new section 84H(2)(c) and (3).

221 Existing prior affected development

- (1) This section applies if—
 - (a) before the commencement, the owner of land made a prior affected development request to the Coordinator-General under an approved development scheme for a State development area; and
 - (b) immediately before the commencement, the Coordinator-General had not decided whether or not to approve the request.

[s 222]

- (2) Former section 85(3)(b) continues to apply in relation to the prior affected development as if the amendment Act had not been enacted.

Subdivision 5 Provisions about infrastructure facilities

222 Existing applications relating to private infrastructure facilities

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

223 Existing investigator's authorities

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

224 Existing approvals of private infrastructure facilities

- (1) This section applies in relation to an approval of a project as a private infrastructure facility granted under former part 6, division 7, subdivision 2 that was in effect immediately before the commencement.
- (2) The approval ends on the commencement.

225 Rectification of damage or payment of compensation

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

226 Release of bond or security deposit

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

227 Proceedings for particular offences

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

Subdivision 6 Provisions about enforcement notices and enforcement orders

228 Enforcement notices and enforcement orders

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

229 Powers to remedy contravention of enforcement notice

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

Schedule 1B Subject matter for guidelines

section 174

1 Arrangements about payment of costs and compensation

- (1) Arrangements that may be entered into between the Coordinator-General and a proponent of a project relating to the proponent's payment to the Coordinator-General of the following for the project—
 - (a) costs of taking land under this Act;
 - (b) the payment of compensation payable for the land.
- (2) In this section—

costs includes operational, administrative and legal costs.

2 Native title guidance

Guidance on native title matters relevant to this Act.

Schedule 2 Dictionary

section 2

accepted submissions, for a coordinated project or amendment application, for part 4A, see section 54I.

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

action, for part 4A, see the Commonwealth Environment Act, sections 523, 524 and 524A.

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

alternative lawful development, for land, means development of land that could be carried out under the Planning Act without a development approval.

applicant, for part 5A, see section 76D.

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

approval, for part 4, see section 24.

approved development, for land, means development approved under an SDA approval for the land.

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

Note—

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

approved person see section 100(1).

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

assessment manager, for a development application, means the person who is the assessment manager for the application under the Planning Act.

assessment report, for part 4A, see section 54W(4).

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

authorised development, for land, means development of the land authorised under a development approval, or an instrument taken to be a development approval, under the Planning Act.

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

authorised works means works authorised under this Act to be undertaken by the Coordinator-General.

bilateral agreement, for part 4A, see section 54I.

bilaterally accredited authorisation process, for part 4A, see the Commonwealth Environment Act, section 46(2A).

bilateral project declaration, for part 4A, see section 54J(1).

body of water means water contained in a river, creek, stream, watercourse, lake, lagoon, swamp, marsh or subterranean deposit.

building work see the Planning Act, schedule 2.

change application—

- (a) for a development approval—means a change application under the Planning Act for the approval; or
- (b) for an SDA approval—see section 84F(1).

Commonwealth Environment Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

Commonwealth Minister means the Minister of the Commonwealth responsible for administering the Commonwealth Environment Act.

coordinated project means—

- (a) after a declaration under section 26(1) about a project is made by gazette notice, but before the Coordinator-General's report for an EIS or IAR for the project is publicly notified under section 34D(4) or 34L(4)—the project as declared in the gazette notice; or

(b) otherwise—

- (i) the project as described in the Coordinator-General's report for the EIS or IAR for the project, including any amendment of the report under section 35AA; or
- (ii) if 1 or more Coordinator-General's change reports have been prepared for the project—the project as described in the current Coordinator-General's change report for the project.

coordinated project declaration for part 4A, see section 54I.

Coordinator-General means the corporation sole constituted under section 8A of the *State Development and Public Works Organisation Act 1938* and preserved, continued in existence and constituted under section 8 of this Act.

Coordinator-General's change report see section 35I(1).

Coordinator-General's report see section 24.

CPI means—

- (a) the all groups index for Brisbane published by the Australian Bureau of Statistics; or
- (b) if the index ceases to be published, another similar index prescribed under a regulation.

CPI indexed, for a year (the ***relevant year***), means the addition of any amount that equates to any percentage increase in the CPI between the following quarters—

- (a) the September quarter for the year before the previous year to the relevant year;
- (b) the September quarter for the previous year to the relevant year.

decision maker—

- (a) for part 4, division 4—
 - (i) for a development application—means the assessment manager for the application; or

- (ii) for a change application—means the responsible entity for the application; or
- (b) for part 5, see section 55B; or
- (c) for part 5A, see section 76D.

decision-making period means—

- (a) for a development application for a development approval—the period, or extended period, allowed under the development assessment rules under the Planning Act for the assessment manager to decide the application; or
- (b) for a change application for a development approval, other than a minor change application—the period, or extended period, allowed under the development assessment rules under the Planning Act for the responsible entity to decide the application; or
- (c) for a prescribed decision, for part 5A—see section 76D.

decision notice—

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

declaration, for part 5A, see section 76D.

development—

- 1 Generally, *development* means the use of land or water within the State or over which the State claims jurisdiction and includes the construction, undertaking, carrying out, establishment, maintenance, operation, management, control and decommissioning of any activity, use, works or private works on or in land or water.
- 1A For part 5, the term also includes the following—
 - (i) making a material change of use of premises;
 - (ii) carrying out operational work;
 - (iii) reconfiguring a lot.
- 2 For part 6, the term also includes the following—

- (i) carrying out building work;
- (ii) carrying out plumbing or drainage work;
- (iii) carrying out operational work;
- (iv) reconfiguring a lot;
- (v) making a material change of use of premises.

development application means a development application under the Planning Act.

development approval means a development approval under the Planning Act.

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

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

drainage work see the *Plumbing and Drainage Act 2018*, schedule 1.

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

EIS means environmental impact statement.

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

enforceable condition see section 157A.

enforcement notice see section 157B(2).

enforcement order means an order made under part 7A, division 2.

environment includes—

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and

- (d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c).

environmental approval, for part 4A, see section 54I.

environmental authority, for part 4, see section 24.

environmental effects means the effects of development on the environment, whether beneficial or detrimental.

environmental law, for part 4A, see section 54I.

environmental matter protected, for part 4A, see section 54I.

Environmental Protection Act, for part 4, see section 24.

environmental record, of a proponent or proposed new proponent of a coordinated project, for part 4A, see section 54I.

EPA Minister, for part 4, see section 24.

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

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

extension application see the Planning Act, schedule 2.

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 officer.

foreshore means the part of the bed, shore or banks of the sea or of any harbour, including any tidal navigable river, that is ordinarily covered and uncovered by the flow and ebb of the tide at spring tides, and includes land that adjoins land with a tidal boundary or right line tidal boundary and is on the same side of the boundary as the water subject to tidal influence and is not ordinarily covered and uncovered by the flow and ebb of the tide at spring tides.

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

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

guidelines means guidelines made under section 174.

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

IAR means an impact assessment report.

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

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

impact, for part 4A, see the Commonwealth Environment Act, section 527E.

imposed condition see section 54B(2).

indigenous land use agreement means an indigenous land use agreement under the *Native Title Act 1993* (Cwlth), section 24BA, 24CA or 24DA.

information requirement notice, for part 4A, see section 54S(2).

infrastructure means those facilities, services and utilities that, in the opinion of the Coordinator-General, are required by or associated with a development or works and includes training schemes relevant to, and accommodation required for a work force related to a development or works and facilities, services and utilities required by or associated with such training schemes or accommodation.

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

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

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

land includes any estate or interest in land, and any easement, right, power or privilege in, over, or in connection with land, and any wharf.

local body means—

- (a) a government owned corporation; or

- (b) a statutory body as defined under the *Statutory Bodies Financial Arrangements Act 1982*; or
- (c) another body established under an Act; or
- (d) a rail government entity under the *Transport Infrastructure Act 1994*; or
- (e) a corporation whose shares are wholly owned by—
 - (i) the State; or
 - (ii) the State and 1 or more local governments; or
 - (iii) 1 or more local governments; or
- (f) a corporation whose shares are wholly owned by—
 - (i) a corporation of the type mentioned in paragraph (e); and
 - (ii) 1 or more local governments.

material change of use, of premises, for part 6, means—

- (a) the start of a new use of the premises; or
- (b) the re-establishment on the premises of a use that has been abandoned; or
- (c) a material increase in the intensity or scale of the use of the premises.

Mineral Resources Act, for part 4, see section 24.

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

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

modification order see section 76RH(3).

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

MRA Minister, for part 4, see section 24.

nominated entity, for part 4, see section 24.

notice to decide, for part 5A, see section 76D.

notifiable approval see section 34G(2)(c).

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

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

operational work see the Planning Act, schedule 2.

owner—

- (a) of land, for part 5, division 2, subdivision 2—see section 56C; or
- (b) of land, for part 6A—see section 153L; or
- (c) of a thing that has been seized under part 7A, division 1AD, for part 7A—see section 157AA.

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

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

Planning Act means the *Planning Act 2016*.

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

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

planning instrument see the Planning Act, section 8.

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

plumbing work see the *Plumbing and Drainage Act 2018*, schedule 1.

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

pre-feasibility assessment see section 27AB(d).

premises, for parts 6 and 7A, means—

- (a) a building or other structure; or
- (b) land or water within the State or over which the State claims jurisdiction.

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

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

prescribed decision, for part 5A, see section 76D.

prescribed process, for part 5A, see section 76D.

prescribed project, for part 5A, see section 76D.

prior affected development, for land, means an alternative lawful development, an approved development or an authorised development for the land.

prior affected development request see section 79A(3)(b)(v).

private works means the whole and every part of any work, project, service, utility, undertaking or function that a person is required or permitted to undertake pursuant to an agreement between the person and the Government and, in particular, includes the provision of housing, water, drainage, sewerage, roads, power and other infrastructure pursuant to such an agreement.

progression notice, for part 5A, see section 76D.

properly made submission, for a draft EIS, a draft IAR, a proposed change to a coordinated project, a protected matters report or an amendment application, means a submission that—

- (a) is made to the Coordinator-General in writing; and
- (b) is received on or before the last day of the relevant submission period; and
- (c) is signed by each person who made the submission; and
- (d) states the name and address of each person who made the submission; and
- (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

proponent, of a project, means—

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

protected matters report, for part 4A, see section 54I.

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

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

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

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

recipient, for a provision about an enforcement notice given or proposed to be given, means the person to whom the notice has been, or is proposed to be, given.

reconfiguring a lot see the Planning Act, schedule 2.

referral agency means a referral agency under the Planning Act.

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

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

registered owner, of land, means—

- (a) the registered owner of a lot under the *Land Title Act 1994* in relation to the land; or
- (b) the person registered in the land registry under the *Land Act 1994* as the holder of a lease from the State under that Act or the repealed *Land Act 1962* for the land.

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

regulated development means development identified in an approved development scheme for a State development area as SDA assessable development or SDA self-assessable development.

reinstatement request, for part 4A, see section 54ZJA(2).

relevant application, for part 4, division 4, see section 36(b).

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

relevant law, for part 5A, see section 76D.

relevant local government—

- (a) for a project, for part 4, see section 24; or
- (b) for a prescribed decision, for part 5A, see section 76D; or
- (c) for a State development area, for part 6, division 1B, subdivision 1, see section 85G.

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

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

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

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

responsible entity, for a change application for a development approval, means the entity that is the responsible entity for the application for the Planning Act.

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

revised draft EIS see section 34B(2)(d).

revised draft IAR see section 34J(2)(c).

right line tidal boundary has the same meaning as in the *Land Act 1994*.

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); or
- (f) a road under the *Land Act 1994*.

SDA application means an application for an SDA approval.

SDA approval means a decision notice that approves, wholly or partly, development applied for in an SDA application (whether or not the approval has conditions attached to it).

SDA assessable development means—

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

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

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

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

SDA rules see section 81A(4).

SDA self-assessable development means—

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

specified provision, for part 4A, see section 54I.

State development area means a part of the State or of an area over which the State claims jurisdiction, delineated on a plan, and declared under this Act to be a State development area.

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

State strategic project see section 76D.

step in notice, for part 5A, see section 76D.

strategic infrastructure easement see section 153A.

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

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

submission period, for part 4 or part 4A, see section 33(1)(d).

tidal boundary has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, part 7.

undertake includes to investigate, plan, construct, provide, effect, establish, carry out, maintain, manage and control.

voluntary environmental agreement, for part 5A, see section 76D.

water subject to tidal influence, in relation to a boundary, means the water that is relevant to the identification of the boundary as a tidal boundary or right line tidal boundary.

within the scope of the bilateral agreement, for a coordinated project, for part 4A, see section 54H(3).

works means, other than for section 85, the whole and every part of any work, project, service, utility, undertaking or function—

- (a) that the Crown, the Coordinator-General or other person or body who represents the Crown, or any local body is or may be authorised under any Act to undertake; or
- (b) that is or has been (before or after the date of commencement of this Act) undertaken by the Crown, the Coordinator-General or other person or body who represents the Crown, or any local body under any Act; or
- (c) that is included or is proposed to be included by the Coordinator-General as works in a program of works, or that is classified by the holder of the office of Coordinator-General as works.